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March 14, 2001

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Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: Docket No. 992037-TI

PROPRIETARY INFORMATION ENCLOSED

Dear Mrs. Bayo:

Enclosed for filing is the confidential and proprietary version of AT&T Communications of the Southern States, Inc.'s proposed resolution in the above-referenced docket. Since this proposal contains proprietary confidential business information of AT&T, please treat the enclosed pursuant to Rule 25-22.006. Staff has been provided with a redacted copy.

Thank you for your assistance in this matter.

Sincerely,


Marsha Rule

Enclosure
MER:kj

cc: Ray Kennedy (cover letter only)

This claim of confidentiality was filed by or on behalf of a "telco" for Confidential DN 03301-01. The document is in locked storage pending advice on handling. To access the material, your name must be on the CASR. If undocketed, your division director must obtain written EXD/Tech permission before you can access it.

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Rhonda P. Merritt
Law & Government Affairs
Assistant Vice President - Florida

March 14, 2001

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REDACTED VERSION

Mr. Ray Kennedy
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: Docket No. 992037-TI, Investigation of Operator Service Provider Surcharges;
AT&T Proposed Resolution

Dear Mr. Kennedy:

The purpose of this letter is to convey AT&T's proposed resolution of this docket. As you know, on December 30, 1999, the Commission Staff initiated this docket to investigate AT&T's application of its nonsubscriber service charge ("NSSC") and whether this charge violated the operator service rate caps. AT&T believes that the NSSC did not violate the Commission's rate caps, but the company nevertheless withdrew the approved tariff. In an effort to resolve the remaining questions pertaining to the revenues associated with this tariff rate, AT&T offers this proposed resolution and supporting information.

The NSSC became effective in AT&T's intrastate Florida tariff on February 26, 1999. As specified in the tariff, the \$2.50 NSSC was applied to Dial Station, Operator Station, Person-to-Person or Real Time Rated calls that were billed to residential lines that were not presubscribed to AT&T or were not presubscribed to any interexchange carrier. The purpose of the NSSC was to attempt to recover some of the extra costs of billing and collection that were associated with long distance telephone calls where there was no preexisting billing relationship with AT&T. The NSSC was billed by the appropriate local exchange company, usually the ILECs, to customers who were not presubscribed to AT&T. While AT&T disagreed with the Commission Staff position that this charge violated the operator services rate caps specified in Rule 25-24.630, AT&T nevertheless voluntarily quit charging the NSSC effective February 29, 2000.

AT&T and the Commission Staff have continued to meet, correspond, and discuss the application of this charge and the amount of revenue collected by AT&T since the time that the tariff was withdrawn. AT&T believes that it has at all times attempted to work with the Staff in good faith to resolve the Staff's concerns. However, the NSSC is not actually assessed or billed by AT&T, so AT&T's records do not reflect the amount of revenue it received in connection with this charge. Rather, AT&T sends usage information to its billing agents, the ILECs, along with different billing rating mechanisms depending upon whether the customer is presubscribed to AT&T. Using the presubscribed information in the ILEC database, the ILEC then bills the customer based upon the correct billing requirements. Thus, looking exclusively at the AT&T database does not answer the question, nor can we identify the customers that may have been charged the NSSC by examining just the ILEC database.

Further complicating this analysis is the fact that the NSSC was not to be applied in every instance in which the customer was not presubscribed to AT&T. For example, excluded from the charge were intraLATA, directory assistance, 1-800-CALLATT, and other calls. Finally, even when billed, not all of the revenue was collected since there is a significant amount of uncollectables in the pay telephone service market, particularly when the billed party is not an AT&T subscriber.

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To further understand how much might have been billed, on March 7, 2000, the Commission Staff initiated a formal audit. While AT&T responded timely to the Staff requests for data, numerous technical problems delayed the actual start of the audit. AT&T compiled, copied, and forwarded to the Staff auditors numerous billing tapes over a seven month period for the Staff to analyze. In addition, AT&T and Staff talked with the three large Florida ILECs, BellSouth, GTE, and Sprint, to determine their ability to provide billed information to assist in the Staff audit and to assist in any refund that might eventually be undertaken.

Based upon the available billing tapes for a four week period, the Staff audit randomly chose 114 messages from 54 accounts. The end user customer billing records corresponding to these calls were obtained from BellSouth, GTE, and Sprint. Of the 114 messages, 52 messages were for accounts that were presubscribed to AT&T, so these were not subject to the charge. With respect to the remaining 62 messages, the Staff audit found that only 3 calls were actually charged the nonsubscriber charge—all billed by carriers other than BellSouth. Moreover, none of the calls in the sample that were billed by BellSouth were subjected to the charge.

On February 7, 2001, the Staff issued its audit report. At Audit Exception No. 1, the Staff found that of the [REDACTED] calls in the sample period, only [REDACTED] contained the billing determinants which could trigger the NSSC. However, the audit reports that the Staff was unable to determine how many of the [REDACTED] calls were billed to lines presubscribed to AT&T since the billing tapes do not contain that information.

AT&T agrees with the audit report statement that “no statistical inference can be derived from the audit staff’s customer selection process.” However, several valid conclusions can be drawn from the audit and some reasonable inferences can be made. First, not every pay telephone-originated call received the NSSC. Second, not every call that was eligible under the tariff to be billed the NSSC was in fact billed the charge. Third, if BellSouth did not at any time bill the NSSC as is suggested by the sample, and which is indicated in correspondence from BellSouth to the Commission Staff, then that would eliminate approximately 65% of the access lines in this state from possible application of the NSSC. Fourth, if the 3 calls found in the audit that were billed the NSSC (roughly 5%) were to be consistent with the results of a wider sampling, then less than 5% of the eligible calls would have received the NSSC. Fifth, the period audited, January 31, 2000, through February 27, 2000, would have included one of the peak calling days in the year, with the overall February calling volumes being fairly typical for the network. Sixth, data from the Florida PSC’s published report entitled “Statistics of Florida Telecommunications Companies” suggests that approximately 70% of the lines remain presubscribed to AT&T so the NSSC would not be applied to calls to these customers. Finally, there is nothing to suggest that if a more detailed audit were done that the results would be materially different from those presented in this audit.

Using the numbers in the audit as a starting point and the assumption that 70% of the lines are presubscribed to AT&T, then only 5% of the remaining 30% of the lines would have been impacted by the NSSC. Rounding up, this means that [REDACTED] messages times 30%, would leave [REDACTED] messages eligible for the NSSC each month. Multiplying the [REDACTED] potential messages by the 5% factor results in [REDACTED] messages a month that would have received the NSSC. These [REDACTED] messages represent [REDACTED] in potential revenue a month, or [REDACTED] in potential revenue for the entire 13 month period that the NSSC tariff was in effect. If you reduce this figure by 5% for bad debt, recourse, and uncollectables (5% being a fairly low number for these), leaves [REDACTED] in potential revenue to be collected by AT&T. Assuming a refund to customers with interest, there would be less than \$5,000 in additional interest due, making a potential refund of approximately \$30,000. Of course, this assumes that none of the calls were billed to BellSouth customers, which is highly unlikely since BellSouth serves approximately 58% of the total customers in Florida.

AT&T recognizes that this approach is not as satisfactory as analyzing every call from the affected period. To undertake a complete accounting would involve reviewing over 300 million phone call records of AT&T and obtaining between 500,000 and 1 million phone records from the ILECs. Assuming all of those records could at

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this point be compiled, and much of this investigation would have to be manual at this point since the calls at issue are now all over one year old, such an investigation would be extremely time consuming and costly.

The sample undertaken in the Staff audit may be limited, but it does provide a sufficient basis to enable AT&T to propose a means of concluding this matter. In consideration of all of these facts and issues, AT&T is prepared to settle this matter by paying \$50,000 to the General Revenue fund of the State of Florida as directed by the Commission. AT&T would make this payment within 30 days of the order approving this proposal becoming a final order under Florida law.

AT&T believes that this amount, nearly double what the audit numbers would suggest, should more than account for any variance in the audit data as well as the application of interest. As we have said throughout this investigation, AT&T believes that the rate caps do not apply to a charge such as this. However, given the low levels of revenue derived from the charge, AT&T withdrew its tariff and stopped the charge. It would be inappropriate to seek to recover from AT&T more than the revenue actually suggested by the available information.

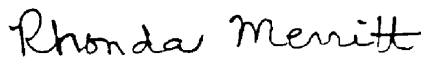
In making this proposal, AT&T recognizes that the Commission's preferred method of returning revenues to customers is by a direct refund to the customers that are affected. In this particular situation, such a refund is impractical, excessively burdensome, and prohibitively expensive. Given the nature of this issue, it has not been possible to identify the customers or the calls that have been subjected to the NSSC; to do so might involve another 6 to 12 months and still not successfully identify the potential customer base. Assuming the customers could be identified, they must be refunded back through the applicable local exchange company that billed them in the first place. Such ILEC billing would require special processes to identify and credit the customers that one ILEC estimated could be between \$140,000 and \$220,000 depending upon the approach used. Moreover, given the fact that some of these calls are as far back as two years ago, actually finding each person becomes more problematic each day, which means that notwithstanding the herculean effort that would be required, probably upwards of 50% of the money may not be returnable to the affected customers. Finally, given the low total amount of the proposed refund, only \$50,000, it simply would not be cost effective to spend what could be 10 times as much to actually effectuate any refund to end user customers. Therefore, AT&T believes that the most appropriate means of resolving this matter quickly and without any further delay would be by a direct payment to the General Revenue fund as directed by the Commission.

AT&T makes this offer solely in connection with its effort to settle and resolve this investigation, and it may not be used for any other purpose. AT&T does not admit to any wrongdoing, and submission of this proposal and its acceptance by the Commission shall not be construed as any admission of liability on the part of AT&T or any of its agents, employees, or officers, or affiliates. AT&T fully reserves all of its rights, positions, and arguments if this proposal is not accepted and approved by the Commission and incorporated into a final order in accordance with its terms.

This proposal shall be valid and binding upon AT&T only to the extent it is adopted in its entirety as presented to the Commission. If this proposal is accepted by the Commission, then AT&T shall not request reconsideration or appeal of the order of the Commission approving this proposal in accordance with its terms.

If you wish to further discuss this matter or require any additional information, please let me know.

Sincerely,


Rhonda Merritt