

ORIGINAL



Public Service Commission

APR 24 11:34 AM
REPORTING

DATE: April 24, 2001
TO: Blanco Bayo, Division of Records and Reporting
FROM: Dale Buys, Division of Competitive Services
 Mary Anne Helton, Division of Appeals
 Jason Fudge, Division of Legal Services
RE: REVISED RECOMMENDATION FOR DOCKET NO. 992037-TI - ITEM 8 FOR MAY 1, 2000 AGENDA CONFERENCE, INVESTIGATION AND DETERMINATION OF APPROPRIATE METHOD FOR REFUNDING INTEREST AND OVERCHARGES ON INTRASTATE 0+ CALLS MADE FROM PAY TELEPHONES AND IN A CALL AGGREGATOR CONTEXT BY AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC. D/B/A CONNECT 'N SAVE AND D/B/A LUCKY DOG PHONE CO. AND D/B/A ACC BUSINESS.

A revised recommendation for Docket No. 992037-TI is attached. The changes are:

Page 1 DIVISION OF APPEALS (HELTON) added to FROM:

THIS RECOMMENDATION IS A REVISION TO AND REPLACEMENT OF STAFF'S APRIL 19, 2001, RECOMMENDATION. added to SPECIAL INSTRUCTIONS:

r added to FILE NAME AND LOCATION:

Page 4 (BUYS, FUDGE, HELTON)

Page 5 AT&T has also indicated that it believes the FCC has preempted the Commission's rules and allowed AT&T to apply the payphone surcharge in addition to the charges allowed under the rate caps. Specifically, AT&T does not believe that the Commission has jurisdiction over payphone charges and thus does not have jurisdiction over the payphone surcharge currently collected by the company. AT&T argues that it should be allowed to collect the payphone surcharge over and above the current rate cap which it believes only applies to operator service charges. Staff believes that the payphone surcharge AT&T has been collecting is the fee that AT&T pays the payphone owner when AT&T acts as the operator service provider. Simply designating a charge as a payphone

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surcharge does not preempt the Commission's jurisdiction. The Commission clearly has jurisdiction over operator service provider charges. Thus, sStaff disagrees with AT&T and asserts that the rate cap includes all charges, including a payphone surcharge, for intrastate 0+ calls made from payphones.

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AT&T argues that when Rule 25-24.630 was last amended, at no time during the rulemaking proceeding did AT&T understand that the operator service provider rate cap was intended to limit charges approved by another jurisdiction. AT&T believes that Rule 25-24.630 applies only to operator service provider surcharges and not payphone surcharges. This argument is not persuasive because on its face, Rule 25-24.630(1) pertains to the maximum charges that may be applied to 0+ and 0- calls made from a pay telephone. Rule 25-24.630(1), Florida Administrative Code, states: