

Manuel A. Gurdian
Attorney

AT&T Florida
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

April 16, 2007

Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

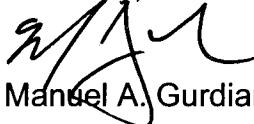
Re: Petition by AT&T Florida for Declaratory Statement

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Petition for Declaratory Statement, which we ask that you file in the captioned *new* docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: All Parties of Record
Jerry D. Hendrix
E. Earl Edenfield, Jr.
James Meza III


CERTIFICATE OF SERVICE
Petition by AT&T Florida for Declaratory Statement

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and First Class U.S. Mail this 16th day of April, 2007 to the following:

Patrick K. Wiggins
General Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Tel. No. (850) 413- 6212
Fax. No. (850) 413-6213
pwiggins@psc.state.fl.us

Wanzo Galloway, Jr.
Assistant County Attorney
Orange County Attorney's Office
201 South Rosalind Avenue
3rd Floor
Orlando, FL 32801
Tel. No. (407) 836-7320
Fax. No. (407) 836-5888
wanzo.galloway@ocfl.net



Manuel A. Gurdian

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by AT&T Florida)
for Declaratory Statement regarding)
911 Fee and TASA Charges to Florida)
Counties and Agencies)
_____)

Docket No. _____

Filed: April 16, 2007

**PETITION FOR DECLARATORY STATEMENT BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida (“AT&T Florida”), pursuant to Rules 28-105.001 and 28-105.002, Florida Administrative Code, and Section 120.565, Florida Statutes, hereby files this Petition for a Declaratory Statement (“Petition”) from the Florida Public Service Commission (“Commission”). Specifically, AT&T Florida requests that the Commission determine whether AT&T Florida is required to bill and collect certain fees and charges pursuant to Florida Statutes §§ 365.171 and 427.704 and Rule 25-4.160, Florida Administrative Code, from the Orange County Sheriff’s Office (“Orange County”) even when Orange County claims that they are not subject to and therefore objects to said fees and charges. AT&T Florida takes no position on the issue and instead seeks direction from the Commission as it finds itself in the middle of a dispute regarding differing interpretations of the subject provisions. In support of this Petition, AT&T Florida states the following:

1. AT&T Florida is a local exchange telecommunications company lawfully doing business in the State of Florida whose regulated operations in Florida are subject to the jurisdiction of the Commission pursuant to Chapter 364, Florida Statutes.

2. AT&T Florida’s principal place of business is 675 W. Peachtree St., NE, Suite 4500, Atlanta, GA 30375. Pleadings and process may be served upon:

James Meza III¹
Manuel A. Gurdian
c/o Nancy H. Sims
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(305) 347-5558
(305) 577-4491 (fax)

911 Fee

3. Florida Statutes § 365.171, “The Florida Emergency Telephone Act”, was enacted by the Legislature to establish and implement a cohesive statewide emergency telephone number “911” plan which provides citizens with rapid direct access to public safety agencies.

4. It was the intent of the Legislature that by dialing “911”, citizens could obtain law enforcement, fire, medical, rescue, and other emergency services in a timely and efficient manner. *See* Florida Statutes § 365.171(2).

5. The State Technology Office was required to develop a statewide emergency telephone number “911” system plan. *See* Florida Statutes § 365.171(4). The plan was required to provide for the following: establishment of the public agency emergency telephone communications requirements for each entity of local government in the state; a system to meet specific local requirements; identification of the mutual aid agreements necessary to obtain an effective “911” system; a funding provision which identified the cost necessary to implement the “911” system; and a firm implementation schedule which included the installation of the “911” system in a local community within

¹ The undersigned is licensed in Louisiana only, is certified by the Florida Bar as Authorized House Counsel (No. 464260) per Rule 17 of the Rules Regulating the Florida Bar, and has been granted qualified representative status by the Commission in Order No. PSC-07-0211-FOF-OT.

24 months after the designated agency of the local government gave a firm order to the telephone utility for a “911” system. *See Florida Statutes § 365.171(4)(a)-(e).*

6. Pursuant to Florida Statutes § 365.171(13)(a), following approval of a referendum or by majority vote of the board of county commissioners, a county may impose a “911” fee (“911” Fee) to be paid by the local exchange subscribers within its boundaries served by the “911” service.

7. The telephone company, at the request of the county subscribing to “911” service, insofar as is practicable, is required to bill the “911” Fee to the local exchange subscribers served by the “911” service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered). *See Florida Statutes § 365.171(13)(a)(1).*

8. The “911” Fee collected by the telephone company is returned to the county, less the costs of administration retained by the telephone company. *See Florida Statutes § 365.171(13)(a)(2).*

9. The telephone company is not required to take any legal action to enforce collection of the “911” Fee. *See Florida Statutes § 365.171(13)(a)(4).* The telephone company shall provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee. *Id.*

TASA Surcharge

10. In 1991, the Telecommunications Access System Act (“TASA”) (Sections 427.701 to 427.708) was enacted.

11. The intent of TASA is to provide access terminals required for basic telecommunications services for Deaf, Hard of Hearing, Speech Impaired and Dual Sensory Impaired persons, in the most cost effective way. *See Florida Statutes § 427.702.*

12. TASA required the Commission to designate a non-profit corporation to administer the telecommunications relay service system and distribute specialized telecommunications devices. *See Florida Statutes § 427.704(1).*

13. Florida Telecommunications Relay, Inc. (“FTRI”), a non-profit corporation, was formed at the direction of the Commission to be the administrator of the telecommunications access system. *See Rule 25-4.150, Florida Administrative Code.*

14. As the administrator of the telecommunications access system, FTRI is obligated to establish and maintain an operational fund with appropriate financial institutions and receive monies from the local exchange telecommunications companies² and deposit such monies in the operational fund. *See Florida Statutes § 427.705(1)(d).*

15. The costs incurred by FTRI of providing telecommunications relay services and distributing specialized telecommunications devices is spread equitably among and collected from customers of all local exchange telecommunications companies in the State of Florida. *See Florida Statutes § 427.702(3)(i).*

16. Florida Statutes § 427.704(4)(a) provides that the Commission is required to establish a mechanism to recover the costs of implementing and maintaining the services required to each basic telecommunications access line.

² A “local exchange telecommunications company” means a telecommunications company certificated by the commission to provide telecommunications services within a specific geographic area. *See Florida Statutes § 427.703(7).*

17. Florida Statutes § 427.704(4)(a)(1) states that the Commission shall require all local exchange telecommunications companies to impose a monthly surcharge³ (“TASA Surcharge”) on all local exchange telecommunications company subscribers on an individual access line basis, except that the TASA Surcharge may not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.

18. Similarly, Rule 25-4.160(3), Florida Administrative Code, provides that in order to fund the telecommunications access system established under Part II of Chapter 427, F.S., all local exchange telecommunications companies are required to impose the TASA Surcharge on all local exchange telecommunications company subscribers, excluding federal and state agencies, on an individual access line basis, except that the TASA Surcharge shall not be imposed upon more than twenty-five (25) basic telecommunications access lines per account bill rendered.

19. Florida Statutes § 427.704(4)(a)(2) requires the Commission to compel local exchange telecommunications companies to include the TASA Surcharge as a part of the local service charge that appears on the customer’s bill.

20. The Commission has the authority to determine the amount of the TASA Surcharge based upon the amount of funding necessary to accomplish the purposes of the act and provide the services on an ongoing basis; however, the TASA Surcharge cannot exceed 25 cents per month. *See* Florida Statutes § 427.704(4)(b).

³ A “surcharge” is defined as an additional charge which is to be paid by local exchange telecommunications company subscribers pursuant to the cost recovery mechanism established under Florida Statutes § 427.704(4) in order to implement the telecommunications relay service system. *See* Florida Statutes § 427.703(12).

21. All monies received by the local exchange telecommunications company, less an administrative charge of 1 percent, are required to be remitted to the administrator for deposit in appropriate financial institutions and are to be used exclusively to fund the telecommunications access system. *See Florida Statutes § 427.704(4)(c).*

Orange County Sheriff's Office Claims That The "911" Fee And TASA Surcharge Do Not Apply To Governmental Agencies

22. On or about October 27, 2003, AT&T Florida, along with a number of other telecommunications providers, received correspondence from Orange County Sheriff's Office indicating that it was "not liable for 911 fees, surcharges, or taxes or the Communication Tax" and that this division of Orange County no longer intended to pay said charges. *See* October 27, 2003 correspondence from Nancy M. Cole of the Sheriff's Office attached hereto as Exhibit "A."

23. Orange County's position that it is not liable for the "911" Fee (and by extension the TASA Surcharge) is based primarily upon Attorney General Opinion 87-29 (April 8, 1987)⁴ ("the Opinion"). The Opinion determined that the "911" Fee is "not a fee imposed upon the telephone company which, as authorized by tariff of the Public Service Commission, is passed on to the consumer of such utility services; but rather is a fee or charge on the consumer for which the telephone company merely acts as a collection agent" and "appears to be in the nature of a tax imposed to defray nonrecurring charges incurred by a county in implementing the "911" service in that county." Moreover, the Opinion provided that "Section 365.171(13), F.S., does not, either expressly or by implication, make provision for imposing the '911' fee upon agencies of the state or upon the state itself. Furthermore, the Opinion provided that a state agency

⁴ AT&T Florida notes that there are no Florida Judicial or Commission decisions addressing this issue.

was “not authorized to pay the ‘911’ fee imposed by counties for ‘911’ emergency telephone services provided to state agencies as such fee is in the nature of a tax from which the state and its agencies are immune in the absence of an express legislative waiver of such immunity.”

24. The Attorney General, in the Opinion noted that, in general, taxes are defined as burdens or charges which are imposed by the legislative power on persons or property to raise money for public purposes. The Opinion provided that “the essential characteristics of a tax [are] that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority, the contribution being of a proportionate character, payable in money, and imposed, levied, and collected for the purpose of raising revenue, to be used for public or governmental purposes and not as payment for some special privilege granted or service rendered.”

25. The Opinion further provides that as a “general rule, which Florida follows, the various instrumentalities of government are not subject to taxation and taxes may not be imposed upon the agencies or instrumentalities of the state unless they are specifically rendered subject to taxation.” The Opinion quoting *Dickinson v. City of Tallahassee*, 325 So.2d 1 (Fla. 1975) states that “[t]he state’s immunity from taxation is well established in Florida’s jurisprudence.”

26. In the Opinion, the Attorney General determined that the “911” Fee was a tax because it was imposed pursuant to Florida law by the counties and collected from users of telephone services via the LECs. In addition, the “911” Fee was a fixed payment for the nonrecurring charges for the “911” service and equipment. Furthermore, the “911” Fee was not imposed on the basis of any special benefit which accrued to each

citizen in proportion to the amount paid. The Opinion concluded that the “911” Fee was in the nature of a tax, and, therefore until judicially or legislatively determined otherwise, Florida state agencies and instrumentalities were immune from paying the “911” Fee.

27. While the Opinion does not discuss the TASA Surcharge, the TASA Surcharge is similar to the “911” Fee in that it is imposed pursuant to Florida law and is a fixed monthly charge to be collected from telecommunications company customers. In addition, the funds are raised to provide for specialized telecommunications equipment and service for hearing, speech, and dual sensory impaired citizens. Furthermore, the local exchange companies, such as AT&T Florida, act as collection agents for the TASA Surcharge as the funds are required to be remitted to the administrator in order to fund the telecommunications system.

Based Upon Orange County’s Objection, AT&T Florida Advised Staff That It Intended to Cease Billing Counties the “911” Fee and TASA Surcharge

28. On or about December 7, 2005 in correspondence to Beth Salak, Director, Division of Competitive Markets and Enforcement, AT&T Florida advised it would no longer bill “911” or TASA fees to the access lines of the counties (such as lines used at county administrative offices and other county departments) in its service territory because “counties, as political subdivisions of the State, may be considered immune from the fee.” *See* December 7, 2005 correspondence to Beth Salak from AT&T Florida attached hereto as Exhibit “B.” AT&T Florida also advised that the cessation of billing to county access lines would reduce the collections by AT&T Florida, and, thus, the remittances of the collected surcharges to the counties and FTRI, respectively. *See id.* AT&T Florida also advised FTRI and the State of Florida of the above. *See* December 7, 2005 correspondence to James Forstall, Executive Director of FTRI, and December 13,

2005 correspondence to Jim Martin, State of Florida “911” Coordinator, Department of Management Service, attached hereto as Exhibits “C” and “D” respectively.

**Staff Requests that AT&T Florida Re-Implement Collection of
“911” Fee and TASA Surcharge**

29. On or about December 4, 2006, the Commission Staff advised AT&T Florida that, in essence, it disagreed with the position of Orange County and requested that “BellSouth immediately re-implement the collection of ‘911’ fees and TASA surcharges from state and county agencies” and that it “back-bill for any amounts that would have been collected had it not discontinued collection.”⁵ See December 4, 2006 correspondence from Patrick K. Wiggins to AT&T Florida attached hereto as Exhibit “E”.

30. With regard to the “911” fee, the Commission Staff contends that “BellSouth did not follow the prescribed statutory procedure for dealing with objections to the ‘911’ fee” and that the proper course would have been to continue collection while reporting to the county that one of its agencies was refusing to pay the ‘911’ fee that the county itself had chosen to impose under the Florida Emergency Telephone Act.” See *id.*

31. With regard to the TASA fee, the Commission Staff believes that “billing disputes over TASA surcharges should be handled under the same procedures used by the Commission to handle other billing disputes” and “if a state or county agency were to refuse to pay the TASA surcharge for any reason, BellSouth must continue billing the surcharge and should report the specific billing dispute to the Commission.” See *id.*

⁵ AT&T Florida does not take issue with Staff’s well-reasoned and thorough analysis; however, in order to protect its rights, it has been forced to file the subject Petition because of the differing interpretation put forth by Orange County and AT&T Florida’s lack of enforcement power over the payment of the “911” Fee and TASA Surcharge.

**Orange County Continues to Object to Paying
The “911” Fee and TASA Surcharge**

32. On or about December 18, 2006, AT&T Florida contacted the 911 Coordinator for Orange County, Florida. *See* December 18, 2006 correspondence from AT&T Florida to Deborah S. Caruthers attached hereto as Exhibit “F”. In its correspondence, AT&T Florida asked whether Orange County continued to object to paying the “911” Fee and TASA Surcharge. In addition, AT&T Florida attached a copy of the Commission Staff’s correspondence to AT&T Florida directing AT&T Florida to re-implement billing and to backbill Counties the “911” Fee and TASA Surcharge.

33. On or about January 11, 2007, the 911 Coordinator for Orange County, Deborah S. Caruthers, confirmed that Orange County continues to object to payment of the “911” Fee and TASA Surcharge. *See* January 11, 2007 correspondence from Deborah S. Caruthers to AT&T Florida attached hereto as Exhibit “G”.

34. In addition, AT&T Florida, on numerous occasions, contacted the Orange County Attorneys’ Office in an attempt to ascertain whether Orange County agreed with its 911 Coordinator’s position. *See* correspondence by and between the Orange County Attorney’s Office and AT&T Florida attached hereto as Exhibit “H”. Since AT&T Florida’s initial contact in January 2007, the Orange County Attorneys’ Office has indicated that Orange County is reviewing the issue and would provide feedback; however, to date, AT&T Florida has not received a communication from Orange County indicating that it has changed its position.⁶

⁶ Prior to filing this Petition, AT&T Florida wanted confirmation by the County Attorney of Orange County’s position; however, AT&T Florida is unable to delay the subject filing any longer.

Declaratory Statement

35. A petition seeking a declaratory statement is appropriate when there is a need for “resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.” Florida Statutes § 120.565(1). *See also*, Rule 28-105.001, Florida Administrative Code.

36. The Commission has exclusive jurisdiction over the regulation of telecommunications companies. Florida Statutes § 364.01(2).

37. Specifically, with regard to the “911” Fee, the Commission has previously determined that it has the authority to enforce the provisions of Florida Statutes § 365.171. *See In re: Determination of appropriate method of collecting and remitting 911 fees to the appropriate counties and providing accurate customer record information to the 911 coordinators*, Docket No. 990342, Order No. PSC-99-1992-PAA-TP (Issued October 12, 1999)(“The Commission’s authority to enforce the provisions of *Section 365.171, Florida Statutes*, derives from both Chapters 365 and 364, Florida Statutes.”)

38. With regard to TASA, the Commission has the general duty of administering the telephone access system. *See* Florida Statutes § 427.704. The Commission also has the duty of requiring each local exchange company to assess and collect the TASA Surcharge. *See* Florida Statutes § 427.704(4)(a). Furthermore, the Commission is required to take “action necessary to implement” TASA’s provisions. *See* Florida Statutes § 427.704(8).

39. Thus, it is appropriate for the Commission to enter a declaratory statement as to whether Orange County is correct that AT&T Florida should not bill and collect

“911” Fee and the TASA Surcharge from Florida counties and their agencies or subdivisions.

40. AT&T Florida is substantially affected by the above-referenced statutes and rules and is in need of a declaratory statement to resolve questions or doubts as to whether the “911” Fee and TASA Surcharge must be billed and collected to counties and their agencies or subdivisions.

41. For the reasons set forth herein, AT&T Florida requests that the Commission issue a Declaratory Statement:

a. whether Orange County is correct that AT&T Florida should not bill and collect the “911” Fee and TASA Surcharge from Florida counties and their agencies or subdivisions;

b. whether it is appropriate for counties to be billed and/or back-billed the “911” Fee and TASA Surcharge;

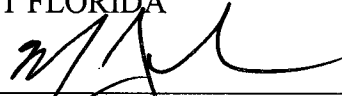
c. whether AT&T Florida is required to include on the list sent to the counties quarterly, any county, county agency, or county subdivision that refuses to pay the “911” Fee; and

d. whether AT&T Florida is required to report to the Commission that a county or county agency refuses to pay the TASA Surcharge.

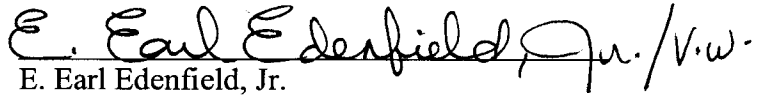
WHEREFORE, AT&T Florida respectfully requests that this Commission grant the declaratory statements requested herein.

Respectfully submitted this 16th day of April, 2007.

AT&T FLORIDA



James Meza III
Manuel A. Gurdian
c/o Nancy H. Sims
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(305) 347-5558



E. Earl Edenfield, Jr.
AT&T Southeast
675 West Peachtree Street, Suite 4300
Atlanta, Georgia
(404) 335-0763

-----Original Message-----

From: Nancy.Cole@ocfl.net [mailto:Nancy.Cole@ocfl.net]
Sent: Monday, October 27, 2003 4:00 PM
To: Darwin.Akins@Nextel.com; Laura.Falon@bellsouth.com; pearl.p.taylor@mail.sprint.com;
paula.nichols@cingular.com; Michelle.Collier@arch.com; shannon.smith.1@wcom.com;
Andy.DiLoreto@ocfl.net; pearl.p.taylor@mail.sprint.com; Michelle.Hansen@mail.sprint.com;
Michelle.Collier@arch.com; paula.nichols@cingular.com; shannon.smith.1@wcom.com
Cc: Andy.DiLoreto@ocfl.net; Rob.Harper@ocfl.net; Perry.Pierce@ocfl.net
Subject: 911 Taxes; Communications Taxes

Over the past several weeks I have talked or emailed several of you in reference to the fact that the Sheriff's Office is not liable for 911 fees, surcharges or taxes or the Communication Tax. I am again attached information regarding these issues. However effective immediately I must stop paying this fees. I appreciate your input and assistance but I have people to answer to and they prefer that this issue is put to rest. Attached you will again find the emails reference the 911 taxes and the persons to contact if you wish. Also the Florida Statute that covers the Communications Tax.

Beside the information in the above email Ms. Caruthers may be able to help you.

Deborah Caruthers
9-1-1 Coordinator, Orange County
3511 Parkway Center Court
Orlando, Fla. 32808
Office: 407-836-9666
Fax: 407-521-4681
Mobile: 407-222-1835

The statute covering the Communication Tax is 12819.042

Nancy M. Cole
Information Management Services
Orange County Sheriff's Office
Ph: 407.254.7310
Fax: 407.254.7320
Email: nancy.cole@ocfl.net

Exhibit A



BellSouth Telecommunications, Inc.
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301

nancy.sims@bellsouth.com

Nancy H. Sims
Director
Regulatory Relations

Phone: (850) 577-5555
Fax (850) 222-8640

December 7, 2005

Mrs. Beth Salak
Director, Division of Competitive Markets and Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: 911 Fee and TASA Surcharge

Dear Mrs. Salak:

As you are aware, under Section 365.171, Florida Statutes, counties have imposed a 911 fee to be paid by local exchange subscribers, and BellSouth bills the fee to subscribers by access line and remits the fees collected to the counties on a monthly basis. It has come to BellSouth's attention that counties, as political subdivisions of the State, may be considered to be immune from the fee.

BellSouth has been billing the fees to access lines of the counties in our service territory (for example, lines used at county administrative offices and other county departments) and then remitting the fees back to the counties. Given the above, beginning in mid-December 2005, BellSouth will cease charging the fee to county access lines.

As the cessation of billing to county access lines will reduce the collections by BellSouth, and, thus, the monthly remittances of the collected fee to the counties, we wanted to notify you of the above.

Also, as you are aware, under Section 427.704, Florida Statutes, BellSouth imposes the TASA surcharge on local exchange subscribers by access line and remits the surcharges collected to Florida Telecommunications Relay, Inc. (FTRI) on a monthly basis. It has come to BellSouth's attention that counties, as political subdivisions of the state, may be considered to be immune from the surcharge.

BellSouth has been billing the TASA surcharge to access lines of the counties in its service territory (for example, lines used at county administrative offices and other county departments) and then remitting the surcharges collected to TASA. Given the above, beginning in mid-December 2005, BellSouth will cease charging the surcharge to county access lines.

Exhibit B

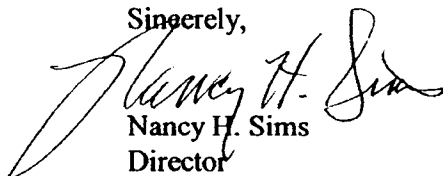
Mrs. Beth Salak
December 7, 2005
Page 2 of 2

As the cessation of billing to county access lines will reduce the collections by BellSouth, and, thus, the monthly remittances of the collected surcharges to FTRI, we wanted to notify you of the above.

We are separately notifying (1) the 911 Coordinators for each county in our service territory and the 911 Coordinator at the Florida Department of Management Services of the information above regarding the 911 fee and (2) FTRI of the information above regarding the TASA surcharge.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy H. Sims".

Nancy H. Sims
Director



BellSouth Telecommunications, Inc.
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301

nancy.sims@bellsouth.com

Nancy H. Sims
Director
Regulatory Relations

Phone: (850) 577-5555
Fax (850) 222-8640

December 7, 2005

Mr. James Forstall
Executive Director
Florida Telecommunications Relay, Inc.
1820 East Park Avenue, Suite 101
Tallahassee, Florida 32301

Re: 911 Fee and TASA Surcharge

Dear Mr. Forstall:

As you are aware, under Section 427.704, Florida Statutes, BellSouth imposes the TASA surcharge on local exchange subscribers by access line and remits the surcharges collected to Florida Telecommunications Relay, Inc. (FTRI) on a monthly basis. It has come to BellSouth's attention that counties, as political subdivisions of the state, may be considered to be immune from the surcharge.

BellSouth has been billing the TASA surcharge to access lines of the counties in its service territory (for example, lines used at county administrative offices and other county departments) and then remitting the surcharges collected to TASA. Given the above, beginning in mid-December 2005, BellSouth will cease charging the surcharge to county access lines.

As the cessation of billing to county access lines will reduce the collections by BellSouth, and, thus, the monthly remittances of the collected surcharges to FTRI, we wanted to notify you of the above.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Nancy H. Sims".

Nancy H. Sims
Director

BELLSOUTH

BellSouth Business Systems, Inc.
1820 E. Park Ave.
Suite 200
Tallahassee, FL 32301-2824

December 13, 2005

Jim Martin
State of Florida
911 Coordinator
Department of Management Services
4030 Esplanade Way, Suite 125F
Tallahassee, Fl. 32399

Re: 911 Fee

Dear Jim,

As you are aware, under Section 365.171, Florida Statutes, counties have imposed a 911 fee to be paid by local exchange subscribers, and BellSouth bills the fee to subscribers by access line and remits the fees collected to the counties on a monthly basis. It has come to BellSouth's attention that counties, as political subdivisions of the State, may be considered to be immune from the fee.

BellSouth has been billing the fees to access lines of the counties in our service territory (for example, lines used at county administrative offices and other county departments) and then remitting the fees back to the counties. Given the above, beginning in mid-December 2005, BellSouth will cease charging the fee to county access lines.

As the cessation of billing to county access lines will reduce the collections by BellSouth, and, thus, the monthly remittances of the collected fee to the counties, we wanted to notify you of the above. We are separately notifying the 911 Coordinators for each county in our service territory.

If you have any questions, please contact me.

Sincerely,

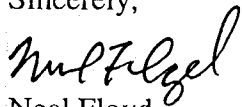

Neal Floyd

Exhibit D

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

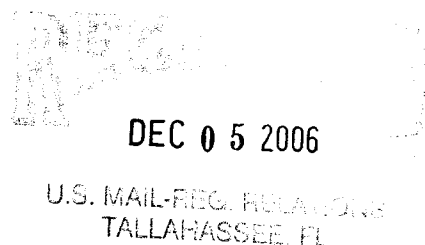


OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

December 4, 2006

Ms. Sharon R. Liebman
State Operations Counsel
BellSouth Telecommunications
150 N. Monroe Street
Suite 400
Tallahassee, FL 32301



Re: Collection of "911" Fees and TASA Surcharges from State and County Agencies

Dear Ms. Liebman:

BellSouth informed¹ the Commission that it had discontinued collection of "911" fees² and TASA surcharges³ from state and county agencies. As I understand, this was in response to a county agency's informal objection to paying the "911" fee. The county agency argued that the "911" fee is a tax that may not be imposed on county agencies under the doctrine of sovereign immunity.⁴

"911" Fee

BellSouth did not follow the prescribed statutory procedure for dealing with objections to the "911" fee. This procedure is provided in Section 365.171(13)(a) 5., Florida Statutes, as follows:

The telephone company shall have no obligation to take any legal action to enforce collection of the "911" fee. The telephone company shall provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee.

The proper course would have been to continue collection while reporting to the county that one of its agencies was refusing to pay the "911" fee that the county itself had chosen to impose under the Florida Emergency Telephone Act.

¹ Email from Nancy Sims, Director, Regulatory Relations, to Rick Moses, Chief, Bureau of Telecommunications Service Quality, Certification, and Enforcement, dated December 14, 2005.

² Section 365.171(13), Florida Statutes. Section 361.171, Florida Statutes, is known as the "Florida Emergency Telephone Act."

³ Section 427.703 (12) Florida Statutes, defines the surcharges to be collected under the Telecommunications Access System Act of 1991 ("TASA"), which is found at Sections 427.701 – 427.708, Florida Statutes.

⁴ The county agency cited AGO 87-29, which opined that the 1985 version of the "911" fee was "in the nature of a tax."

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

TASA Surcharge

TASA imposes on the Florida Public Service Commission the general duty of administering the telephone access system⁵ and the specific duty of requiring each local exchange company to assess and collect the TASA surcharge.⁶ TASA also imposes on the Commission the explicit statutory duty to take "action necessary to implement" its provisions.⁷

I believe billing disputes over TASA surcharges should be handled under the same procedures used by the Commission to handle other billing disputes. In this context, if a state or county agency were to refuse to pay the TASA surcharge for any reason, BellSouth must continue billing the surcharge and should report the specific billing dispute to the Commission.

BellSouth Must Comply with Specific Statutory Duties

In sum, BellSouth and the Commission are both subject to specific statutory duties with respect to "911" fees and TASA surcharges. BellSouth's duties include billing and collecting them, and reporting non-payment of "911" fees and TASA surcharges respectively to the appropriate county and to the Commission. The Commission's duties include requiring BellSouth to bill TASA surcharges and arguably "911" fees.

Given these statutory duties, I request that BellSouth immediately re-implement the collection of "911" fees and TASA surcharges from state and county agencies. I also request BellSouth back-bill for any amounts that would have been collected had it not discontinued collection. If BellSouth chooses not to re-implement collection, or not to back-bill, or both, I ask that further explanation be provided.

If you have any questions about this letter or my views, please do not hesitate to contact me. I do appreciate BellSouth's commitment to communicate with staff about matters of regulatory compliance.

Sincerely,



Patrick K. Wiggins
Attorney Supervisor, Competitive Markets and
Enforcement

PKW:js

⁵ See generally Section 427.704, Florida Statutes, which sets out the powers and duties of the Commission.

⁶ Section 427.704(4)(a), Florida Statutes.

⁷ Section 427.704(8), Florida Statutes.

-----Original Message-----

From: Burton, Linda [mailto:Linda.Burton@bellsouth.com]

Sent: Monday, December 18, 2006 1:50 PM

To: Caruthers, Deborah

Cc: Gurdian, Manuel; Liebman, Sharon ; Meza, James; Phillips, Sharon; Shipp, Janet; Pride, Wanda

Subject: FW: Letter From FL PSC RE 911 Fees

Hi Debbie,

Here is the email we discussed today from the Public Service Commission concerning the 911 Fee's and TASA Charges. As I understand from our brief conversation that the County should still be exempt from the charges according to the Attorney General's ruling.

Please review the attachment and outline your reasoning for not paying the charges so that I can share with our BellSouth Legal Department.,

Thanks

Linda Burton

BBS Customer Care Manger

Orlando Florida

407 245-2204

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA623

Exhibit F

Gurdian, Manuel

Subject: FW: Letter From FL PSC RE 911 Fees

-----Original Message-----

From: Deborah.Caruthers@ocfl.net [mailto:Deborah.Caruthers@ocfl.net]
Sent: Thursday, January 11, 2007 7:44 PM
To: Burton, Linda
Cc: Randy.Singh@ocfl.net; Patti.Guzman@ocfl.net; Jeff.Ballard@ocfl.net
Subject: RE: Letter From FL PSC RE 911 Fees

Yes we will dispute. "The Attorney General of the State of Florida has ruled that state statutes prevent state agencies from paying 9-1-1 fees".

Our legal has addressed this before but, I can certainly get them involved again.

Since we are working on current legislation with the Governor's E911 board at this time, I will ask that this is defined similar to what we did last year when we were writing the wireless side.

Let me know if you need something further.

Regards, Deb

Deborah S. Caruthers, ENP
911 Coordinator, Orange County Florida
3511 Parkway Center Court
Orlando, Florida 32808
Office 407-836-9666 Fax 407-521-4681
Pager 407-527-0195 Mobile 407-222-1835 Deborah.Caruthers@ocfl.net

-----Original Message-----

From: Burton, Linda [mailto:Linda.Burton@bellsouth.com]
Sent: Thursday, January 11, 2007 1:53 PM
To: Caruthers, Deborah
Subject: RE: Letter From FL PSC RE 911 Fees

Debbie,

I guess I didn't ask the question correctly. If BellSouth places the charge back on the bills due to PSC request will Orange County still dispute those charges.

Thanks
Linda

-----Original Message-----

From: Deborah.Caruthers@ocfl.net [mailto:Deborah.Caruthers@ocfl.net]
Sent: Wednesday, January 10, 2007 3:49 PM
To: Burton, Linda
Cc: Gurdian, Manuel; Liebman, Sharon ; Meza, James; Phillips, Sharon; Shipp, Janet; Pride, Wanda
Subject: RE: Letter From FL PSC RE 911 Fees

Here is the portion of the E911 Statewide Plan under 365.171 that I was referring to.

(D) Past amendments do not exclude governmental agencies from payment of the 9-1-1 access line fees. However, the Comptroller General of the United States has ruled that the 9-1-1 fee is, in fact, a tax and that federal statutes make

federal agencies immune from paying.
Similarly, the Attorney General of the State of Florida has ruled that state statutes prevent state agencies from paying 9-1-1 fees.
Therefore, 9-1-1 county coordinators should take these immunities into account in determining the projected revenue from 9-1-1 fees.

Let me know if you need something further.

Deborah S. Caruthers, ENP
911 Coordinator, Orange County Florida
3511 Parkway Center Court
Orlando, Florida 32808
Office 407-836-9666 Fax 407-521-4681
Pager 407-527-0195 Mobile 407-222-1835 Deborah.Caruthers@ocfl.net

-----Original Message-----

From: Burton, Linda [mailto:Linda.Burton@bellsouth.com]
Sent: Monday, December 18, 2006 1:50 PM
To: Caruthers, Deborah
Cc: Gurdian, Manuel; Liebman, Sharon ; Meza, James; Phillips, Sharon; Shipp, Janet; Pride, Wanda
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Please review the attachment and outline your reasoning for not paying the charges so that I can share with our BellSouth Legal Department.

Thanks
Linda Burton
BBS Customer Care Manger
Orlando Florida
407 245-2204

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Gurdian, Manuel

From: Gurdian, Manuel
Sent: Friday, February 02, 2007 3:54 PM
To: 'wanzo.galloway@ocfl.net'
Cc: Gurdian, Manuel
Subject: 911 fee/TASA surcharge

Wanzo

In follow-up to our discussion on January 26, 2007, have you heard an opportunity to confirm that the Orange County Attorney's Office agrees with the position of its 911 coordinator, Deborah Carruthers, that county agencies have no statutory obligation to pay the 911 fee/TASA surcharge to telecommunications providers?

We would like to confirm your position prior to filing our Petition for Declaratory Statement with the Florida Public Service Commission.

Thanks.
Manny

Manuel A. Gurdian
Attorney
BellSouth Telecommunications, Inc.
150 West Flagler St., Suite 1910
Miami, FL 33130
email: manuel.gurdian@bellsouth.com
phone: (305) 347-5561
facsimile: (305) 577-4491

Gurdian, Manuel

From: Wanzo.Galloway@ocfl.net
Sent: Friday, February 02, 2007 4:50 PM
To: Gurdian, Manuel
Cc: Robert.Guthrie@ocfl.net; Lori.Melle@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

As we discussed, I immediately forwarded your request up the chain to obtain the required approval for Orange County's official position that concerns BellSouth's filing of a Petition for Declaratory Statement with the Florida Public Service Commission.

Unfortunately, since this issue may require activating an external interagency feedback process, I was informed today that we should have a confirmed position or further feedback by the beginning of next week. I hope this timeline works for you and your client BellSouth Telecommunications, Inc.

If you should have any further questions or concerns, please do not hesitate to contact me accordingly.

Thank you for your patience with this necessary Orange County procedural protocol.

Sincerely,
Wanzo

Wanzo Galloway Jr.
Assistant County Attorney
Orange County Attorney's Office
Orlando, Florida 32802-1393
Phone: (407) 836-7320
Fax: (407) 836-5888

-----Original Message-----

From: Gurdian, Manuel [mailto:Manuel.Gurdian@BellSouth.com]
Sent: Friday, February 02, 2007 3:54 PM
To: Galloway, Wanzo
Cc: Gurdian, Manuel
Subject: 911 fee/TASA surcharge

Wanzo

In follow-up to our discussion on January 26, 2007, have you heard an opportunity to confirm that the Orange County Attorney's Office agrees with the position of its 911 coordinator, Deborah Carruthers, that county agencies have no statutory obligation to pay the 911 fee/TASA surcharge to telecommunications providers?

We would like to confirm your position prior to filing our Petition for Declaratory Statement with the Florida Public Service Commission.

Thanks.
Manny

4/6/2007

Gurdian, Manuel

From: Gurdian, Manuel
Sent: Friday, February 09, 2007 10:12 AM
To: 'Wanzo.Galloway@ocfl.net'
Subject: RE: 911 fee/TASA surcharge

Wanzo

As follow-up, any feedback from your client?

Thanks.
Manny

From: Wanzo.Galloway@ocfl.net [mailto:Wanzo.Galloway@ocfl.net]
Sent: Friday, February 02, 2007 4:50 PM
To: Gurdian, Manuel
Cc: Robert.Guthrie@ocfl.net; Lori.Melle@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

As we discussed, I immediately forwarded your request up the chain to obtain the required approval for Orange County's official position that concerns BellSouth's filing of a Petition for Declaratory Statement with the Florida Public Service Commission.

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Wanzo Galloway Jr.
Assistant County Attorney
Orange County Attorney's Office
Orlando, Florida 32802-1393
Phone: (407) 836-7320
Fax: (407) 836-5888

-----Original Message-----

From: Gurdian, Manuel [mailto:Manuel.Gurdian@BellSouth.com]
Sent: Friday, February 02, 2007 3:54 PM
To: Galloway, Wanzo
Cc: Gurdian, Manuel
Subject: 911 fee/TASA surcharge

Wanzo

4/6/2007

Gurdian, Manuel

From: Wanzo.Galloway@ocfl.net
Sent: Friday, February 09, 2007 11:31 AM
To: Gurdian, Manuel
Cc: Robert.Guthrie@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

As we discussed today, since Orange County recently had some organizational changes in some key positions that will provide the required input on this matter, please be aware that we are still working on obtaining the necessary review and feedback on this issue for you in order to proceed one way or the other. Therefore, in brief, I have not as yet received that necessary feedback for Orange County's official position.

Thank you again for your patience and I look forward to gladly updating you with hopefully more substantive feedback next week.

Sincerely,
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Subject: RE: 911 fee/TASA surcharge

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Thanks.
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Sent: Friday, February 02, 2007 4:50 PM
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Cc: Robert.Guthrie@ocfl.net; Lori.Melle@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

As we discussed, I immediately forwarded your request up the chain to obtain the required approval for Orange County's official position that concerns BellSouth's filing of a Petition for Declaratory Statement with the Florida Public Service Commission.

4/6/2007

Gurdian, Manuel

From: Gurdian, Manuel
Sent: Wednesday, February 21, 2007 6:15 PM
To: 'Wanzo.Galloway@ocfl.net'
Subject: RE: 911 fee/TASA surcharge

Wanzo

Any change in status?

Thank you again for your assistance.

Manny

From: Wanzo.Galloway@ocfl.net [mailto:Wanzo.Galloway@ocfl.net]
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Wanzo

As follow-up, any feedback from your client?

Thanks.
Manny

4/6/2007

Gurdian, Manuel

From: Wanzo.Galloway@ocfl.net
Sent: Thursday, February 22, 2007 12:50 PM
To: Gurdian, Manuel
Cc: Robert.Guthrie@ocfl.net; Chris.Testerman@ocfl.net; Lori.Melle@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

On Monday February 26, 2007, I will be attending a meeting on the above-referenced matter. Afterwards, I should have some further feedback for you.

Thank you again for your patience.

Wanzo

Wanzo Galloway Jr.
Assistant County Attorney
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Thank you again for your patience and I look forward to gladly updating you with hopefully more substantive

4/6/2007

Gurdian, Manuel

From: Wanzo.Galloway@ocfl.net
Sent: Tuesday, February 27, 2007 2:34 PM
To: Gurdian, Manuel
Cc: Robert.Guthrie@ocfl.net; Chris.Testerman@ocfl.net; Lori.Melle@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

As an update following the below-referenced meeting, please be informed that Orange County Administration will need more time to obtain and process further feedback on this statewide interagency matter.

If you need additional information, please do not hesitate to call me.

Thanks,
Wanzo

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Assistant County Attorney
Orange County Attorney's Office
Orlando, Florida 32802-1393
Phone: (407) 836-7320
Fax: (407) 836-5888

From: Galloway, Wanzo
Sent: Thursday, February 22, 2007 12:50 PM
To: 'Gurdian, Manuel'
Cc: Guthrie, Robert; Testerman, Chris; Melle, Lori
Subject: RE: 911 fee/TASA surcharge

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From: Gurdian, Manuel [mailto:Manuel.Gurdian@BellSouth.com]

4/6/2007

Gurdian, Manuel

From: Gurdian, Manuel
Sent: Tuesday, February 27, 2007 2:49 PM
To: 'Wanzo.Galloway@ocfl.net'
Subject: Re: 911 fee/TASA surcharge

Wanzo

Thank you for the update. Is there anyway you could give me an estimate on when the County might be able to respond? I would like to be able to pass it along to the client.

Thanks.
Manny

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From: Wanzo.Galloway@ocfl.net <Wanzo.Galloway@ocfl.net>
To: Gurdian, Manuel
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Sent: Tue Feb 27 14:33:56 2007
Subject: RE: 911 fee/TASA surcharge

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Assistant County Attorney
Orange County Attorney's Office

Gurdian, Manuel

From: Wanzo.Galloway@ocfl.net
Sent: Tuesday, February 27, 2007 6:03 PM
To: Gurdian, Manuel
Cc: Robert.Guthrie@ocfl.net
Subject: RE: 911 fee/TASA surcharge

Manny:

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Cc: Robert.Guthrie@ocfl.net <Robert.Guthrie@ocfl.net>; Chris.Testerman@ocfl.net <Chris.Testerman@ocfl.net>;
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4/6/2007

Gurdian, Manuel

From: Wanzo.Galloway@ocfl.net
Sent: Thursday, March 15, 2007 3:19 PM
To: Gurdian, Manuel
Subject: RE: 911 fee/TASA surcharge

Manny:

Unfortunately, I am not able to provide any change to current status. What is Bell South's intention and/or position at this time? Are you still able to move forward with a Petition for Declaratory Statement with the Florida Public Service Commission with other jurisdictions?

Thanks,
Wanzo

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Orlando, Florida 32802-1393
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Fax: (407) 836-5888

4/6/2007

Gurdian, Manuel

From: Gurdian, Manuel
Sent: Thursday, March 15, 2007 3:52 PM
To: 'Wanzo.Galloway@ocfl.net'
Subject: RE: 911 fee/TASA surcharge

Wanzo

We would like to wait to hear from Orange County in order to avoid an unnecessary filing.

Thanks again for your help.
Manny

From: Wanzo.Galloway@ocfl.net [mailto:Wanzo.Galloway@ocfl.net]
Sent: Thursday, March 15, 2007 3:19 PM
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