

**Ruth Nettles**

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**From:** Slaughter, Brenda [bs3843@att.com]  
**Sent:** Wednesday, May 07, 2008 4:19 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Gurdian, Manuel; Tyler, John; Randa, Johna A; Woods, Vickie; Holland, Robyn P; Smith, Debbie N.  
**Subject:** Docket 000475-TP  
**Attachments:** 000475-TP Motion to Compel.pdf

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brenda.slaughter@att.com
- B. Docket No.: 000475-TP – Complaint Against Thrifty Call, Inc. Regarding Practices in Reporting PIU for Compensation For Jurisdictional Access Services
- C. AT&T Florida  
on behalf of Manuel A. Gurdian
- D. 17 pages total (including letter and certificate of service)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion to Compel

<<000475-TP Motion to Compel.pdf>>

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May 7, 2008

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

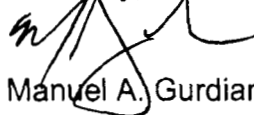
Re: **FL Docket 000475-TP - Complaint Against Thrifty Call, Inc.  
Regarding Practices in Reporting PIU for Compensation  
For Jurisdictional Access Services**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Motion to Compel, which we ask that you file in the captioned docket.

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  
Gregory R. Follensbee  
E. Earl Edenfield, Jr.  
Lisa S. Foshee

**CERTIFICATE OF SERVICE**  
**Docket No. 000475-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via  
Electronic Mail and First Class U.S. Mail this 7<sup>th</sup> day of May, 2008 to the following:

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\_\_\_\_\_  
Manuel A. Gurdian

(+) Signed Protective Agreement

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: )  
 ) Docket No. 000475-TP  
Complaint by BellSouth Telecommunications, Inc. )  
against Thrifty Call, Inc. regarding practices )  
in the reporting of percent interstate usage for )  
compensation for jurisdictional access services )  
\_\_\_\_\_ ) Filed: May 7, 2008

**AT&T FLORIDA'S MOTION TO COMPEL**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") submits this Motion to Compel Thrifty Call, Inc. ("Thrifty Call") to respond to AT&T Florida's Fifth Request for Production of Documents Nos. 32-44. For the following reasons, the Florida Public Service Commission ("Commission") should compel Thrifty Call to respond to AT&T Florida's discovery.

**Argument**

Thrifty Call objects to responding to AT&T Florida's Fifth Request for Production Nos. 32-44. See Thrifty Call's Objections to AT&T Florida's Fifth Request for Production of Documents attached hereto as Exhibit "A".

As the Commission has previously recognized, the scope of discovery under the Florida Rules of Civil Procedure is liberal.<sup>1</sup> Rule 1.280(b)(1), Florida Rules of Civil Procedure, provides:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party...

Applying the applicable standard, the information AT&T Florida seeks is relevant to the subject matter of the issues in this proceeding and is clearly reasonably calculated

<sup>1</sup> See Order Nos. PSC-05-0837-PCO-TP, PSC-07-0787-PHO-TP, and PSC-04-1152-PCO-WS.

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to lead to the discovery of admissible evidence. AT&T Florida specifically addresses each of the discovery requests to which Thrifty Call objected below.

Request for Production Nos. 32-39

AT&T Florida served the following Requests for Production of Documents upon Thrifty Call:

32. Produce all correspondence by and between Thrifty Call and its non-retail customers who terminated traffic within the State of Florida utilizing AT&T Florida's termination facilities during the period of January 1, 1998 to December 1, 2000
33. Produce all bills submitted by Thrifty Call to MCI Worldcom or any other non-retail customer of Thrifty Call during the period of January 1, 1998 to December 1, 2000
34. Produce all agreements between MCI Worldcom and Thrifty Call for the termination of traffic in the state of Florida during the period of January 1, 1998 to December 1, 2000.
35. Produce all agreements between MCI Telecommunications Corporation and Thrifty Call, Inc. in effect during the period of January 1, 1998 to December 1, 2000.
36. Produce all agreements between WorldCom Network Services, Inc. and Thrifty Call, Inc. in effect during the period of January 1, 1998 to December 1, 2000.
37. Produce The Services Agreement, dated May 10, 1999, entered into by and between MCI Telecommunications Corporation and Thrifty Call, Inc.
38. Produce all correspondence by and between Thrifty Call and MCI Telecommunications Corporation regarding The Services Agreement, dated May 10, 1999.
39. Produce all correspondence by and between Thrifty Call and WorldCom Network Services, Inc. regarding The Services Agreement, dated May 10, 1999.

Thrifty Call stated the following "boilerplate" objections to every single one of the above requests: "Relevance, Unduly Burdensome and Overly Broad".

First, the Requests are clearly relevant. Thrifty Call witness, Timothy Gates, has stated in his Rebuttal Testimony that “[w]hile there was traffic that was not correctly jurisdictionalized, that was at least in part, a function of technology at the time and the clients of Thrifty Call.” (emphasis added) Gates Rebuttal Testimony at p.2, lines 15-18. Moreover, in response to AT&T Florida’s Fourth Set of Interrogatories No. 74, which requested Thrifty Call to identify all “clients of Thrifty Call” that Mr. Gates was referencing in the above-referenced testimony, Thrifty Call stated that MCI and Worldcom were the clients that Mr. Gates was referring to in his testimony.

The above discovery requests are specifically designed to explore: (1) Thrifty Call’s contractual relationship with its clients, i.e. the non-retail customers on whose behalf Thrifty Call terminated intrastate and interstate traffic to AT&T Florida during the relevant time period; (2) how Thrifty Call billed its non-retail customers for MOUs for intrastate and interstate traffic terminated to AT&T Florida during the relevant time period; (3) Thrifty Call’s relationship with its two primary customers, MCI and Worldcom, on whose behalf Thrifty Call terminated traffic to AT&T Florida; (4) the agreements Thrifty Call had with MCI and Worldcom during the relevant time period for the termination of traffic; and (5) any correspondence by and between Thrifty Call and MCI Worldcom regarding a specific agreement. The information requested is clearly information that is relevant to the issues raised in this proceeding.

Second, Thrifty Call has failed to quantify how the Requests are unduly burdensome or “overly broad” and its objection should be overruled on this basis alone. *See First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass’n, Inc.*, 545 So.2d 502, 503 (Fla. 4<sup>th</sup> DCA 1989)(“it is incumbent upon [the objecting

party] to quantify for the trial court the manner in which such discovery might be overly broad or burdensome. They must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so.”). In any event, the Requests are not over broad or unduly burdensome and are narrowly tailored to the issues in the case.

Request for Production Nos. 40 and 41

AT&T Florida served the following Requests for Production of Documents upon Thrifty Call:

40. Produce all documents on which Thrifty Call based its decision to block the delivery of calling party information for calls carried over its network.
41. Produce all documents by and between Thrifty Call and “regulatory experts Jerry James and Martha Smiley” during the period of January 1, 1998 to December 1, 2000.

Thrifty Call stated the following “boilerplate” objections to the above requests: “Relevance, Unduly Burdensome and Overly Broad”.

First, the Requests are clearly relevant. In response to Staff’s Second Set of Interrogatories No. 27 and AT&T Florida’s Fourth Set of Interrogatories No. 92, Thrifty Call indicated that it was Thrifty Call’s corporate policy to block the delivery of calling party information for all calls carried on its network and that MCI and WorldCom requested that Thrifty Call block the delivery of calling party information for all of their calls on Thrifty Call’s network. Thrifty Call also stated that it utilized “regulatory experts Jerry James and Martha Smiley to assess whether Thrifty Call could lawfully block the delivery of calling party information for the calls. Thrifty Call was advised Mr. James and Ms. Smiley that it could lawfully do so.” The above discovery requests are specifically designed to discover the documents that formed the basis for Thrifty Call’s

decision that it was permitted to block the delivery of calling party information on its network. This is clearly information that is relevant to the subject matter of the issues in this proceeding.

Second, Thrifty Call has failed to quantify how the Requests are unduly burdensome or “overly broad” and its objection should be overruled on this basis alone. *See First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass'n, Inc.*, 545 So.2d 502, 503 (Fla. 4<sup>th</sup> DCA 1989)(“it is incumbent upon [the objecting party] to quantify for the trial court the manner in which such discovery might be overly broad or burdensome. They must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so.”). In any event, the Requests are not over broad or unduly burdensome and are narrowly tailored to the issues in the case.

Request for Production Nos. 42-44

42. Produce all documents identified in response to the Interrogatories set forth above.
43. Produce all workpapers, reports, analyses, calculations, correspondence and documents which Timothy Gates, Harold Lovelady or Thrifty Call reviewed, relied upon, support, evidence, pertain, or otherwise relate to Timothy Gates, Harold Lovelady or Thrifty Call’s responses to AT&T Florida’s Interrogatory Nos. 98-123.
44. Produce all workpapers, reports, analyses, calculations, correspondence and documents which Timothy Gates, Harold Lovelady or Thrifty Call reviewed, relied upon, support, evidence, pertain, or otherwise relate to Timothy Gates, Harold Lovelady or Thrifty Call’s responses to AT&T Florida’s Requests for Admissions Nos. 1-17.

Thrifty Call stated the following “boilerplate” objections to the above requests:

“Relevance, Unduly Burdensome and Overly Broad”.



First, the Requests are clearly relevant. The Requests are designed to obtain: (1) any documents that Thrifty Call identified in its responses to Interrogatories and (2) the documents that Thrifty Call and its witnesses “reviewed, relied upon, support, evidence, pertain, or otherwise relate” to Thrifty Call’s responses to AT&T Florida’s Interrogatories and Requests for Admissions served concurrently with its Request for Production of Documents. AT&T Florida is clearly entitled to obtain the documents that Thrifty Call relied upon and used in preparing its responses to AT&T Florida’s Fifth Set of Interrogatories and First Request for Admissions.

Second, Thrifty Call has failed to quantify how the Requests are unduly burdensome or “overly broad” and its objection should be overruled on this basis alone. *See First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass’n, Inc.*, 545 So.2d 502, 503 (Fla. 4<sup>th</sup> DCA 1989)(“it is incumbent upon [the objecting party] to quantify for the trial court the manner in which such discovery might be overly broad or burdensome. They must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so.”). In any event, the Requests are not over broad or unduly burdensome and are narrowly tailored to the issues in the case.

### **Conclusion**

By objecting to afore-mentioned discovery, Thrifty Call is, in essence, attempting to play “keep away” with the facts by refusing to produce documents responsive to AT&T Florida’s Fifth Request for Production of Documents Nos. 32-44. This discovery is relevant, is reasonably calculated to lead to the discovery of admissible evidence and is not overbroad or unduly burdensome. AT&T Florida is in need of the information

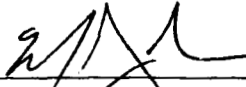
requested in the above-referenced discovery to properly prepare its case for hearing and respectfully requests that the Commission grant its Motion to Compel.

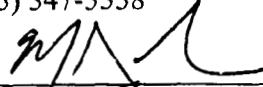
Undersigned counsel attempted to contact Thrifty Call's counsel prior to the filing of the Motion to ascertain whether Thrifty Call would withdraw any of its objections; however, Thrifty Call's counsel was unavailable and had not responded to counsel's call prior to the filing of the Motion.

WHEREFORE, for the foregoing reasons, AT&T Florida respectfully requests that the Commission grant its Motion to Compel.

Respectfully submitted this 7<sup>th</sup> day of May, 2008.

AT&T FLORIDA

  
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710894

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: )  
 ) Docket No. 000475-TP  
Complaint by BellSouth Telecommunications, Inc. )  
against Thrifty Call, Inc. regarding practices in the ) Filed: April 18, 2008  
reporting of percent interstate usage for compensa- )  
tion for jurisdictional access services )

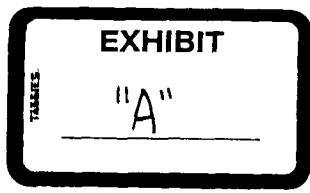
**THRIFTY CALL, INC.'S OBJECTIONS TO AT&T FLORIDA'S FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS**

Thrifty Call, Inc. ("Thrifty Call"), by and through undersigned counsel and pursuant to Florida Public Service Commission Order No. PSC-07-1027-PCO-TP, hereby files its objections to BellSouth Telecommunications, Inc. d/b/a AT&T Florida's ("AT&T") Fifth Request for Production of Documents. These objections are preliminary in nature and should additional grounds for objections be discovered by Thrifty Call through its preparation of these responses, Thrifty Call reserves the right to supplement, revise, or modify its objections at the time responses are served.

**GENERAL OBJECTIONS AND RESERVATION OF RIGHTS**

1. Any document production shall be made without waiving or intending to waive, but on the contrary intending to preserve and preserving: (a) the right to object, on the grounds of competency, relevancy, materiality, privilege or admissibility as evidence for any purpose, or any other ground, to the use of the documents produced or the subject thereof, in this or any subsequent or other proceeding; and (b) the right to object on any ground to other document requests, interrogatories or other discovery proceedings involving or relating to the subject matter of the Request.

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2. Thrifty Call will make a reasonable effort to respond to each and every individual Request for Production ("Request") that is not subject to a Specific Objection as Thrifty Call understands and interprets such Request. If AT&T should assert an interpretation of any Request that differs from Thrifty Call's, Thrifty Call reserves the right to supplement or amend its Specific Objections.

3. Thrifty Call objects to each and every one of the requests for documents that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, the consulting expert privilege, third-party confidentiality agreements or protective order, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. Thrifty Call in no way intends to waive such privilege or protection, subject to the executed Agreement.

4. Thrifty Call objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. Thrifty Call has not had sufficient time in every case to determine whether the discovery requests call for the disclosure of confidential information. However, if it so determines, it will either file a motion for protective order requesting confidential classification and procedures for protection or take other actions to protect the confidential information requested. Thrifty Call in no way intends to waive claims of confidentiality, subject to the executed Agreement.

5. Where Thrifty Call states herein that it will produce or has produced documents in accordance with the Florida Rules of Civil Procedure, it will produce such documents to the extent that they exist and can be reasonably obtained.

6. Thrifty Call objects to each Request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

7. Thrifty Call objects to the Instructions and to each Request to the extent that they purport to impose upon Thrifty Call obligations that Thrifty Call does not have under the law or applicable rules of procedure.

8. Thrifty Call objects to each Request to the extent it requires Thrifty Call to create documents not already in existence.

9. Thrifty Call objects to each and every Request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests. Any answers provided by Thrifty Call in response to these Requests for Production will be provided subject to, and without waiver of, the foregoing objection.

10. Thrifty Call objects to providing information to the extent such information is already in the public record before the Commission.

11. Thrifty Call objects to each Request that seeks to obtain "all," "each," or "every" document to the extent that such discovery is *Overly Broad* and *Unduly Burdensome*. Any documents that Thrifty Call may provide in response to Requests will be provided subject to, and without waiver of, this objection.

12. Thrifty Call objects to each Request to the extent it is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is *Overly Broad* and *Unduly Burdensome*.

13. Thrifty Call expressly reserves and does not waive any and all objections it may have to the admissibility, authenticity or relevancy of the documents produced pursuant to the Requests.

14. The Specific Objections that Thrifty Call makes are applicable to more than one of the Requests. For this reason, Thrifty Call provides the following definitions of those objections and, where applicable, repeats only the defined term in stating its Specific Objections.

a. Relevance: the Request is not relevant to any specific claims, defenses, issues or questions presented in this proceeding and is not reasonably calculated to lead to the discovery of documents relevant to resolution of these issues.

b. Unduly Burdensome: the Request is unduly burdensome in that providing the requested data (i) would require an unreasonable expenditure of time and resources to search for documents or information, (ii) is cumulative and/or has only a limited likelihood of leading to the discovery of documents relevant to resolution of the specific issue and either (a) the value of providing the document is outweighed by the burden of production or (b) AT&T can obtain the document through publicly available information.

c. Overly Broad: the Request seeks a general category of information within which only certain portions of the information are reasonably related to the subject matter of this proceeding.

15. The information and documents supplied herein are for use in this litigation and for no other purpose.

16. Any inadvertent production of any document shall not be deemed or construed to constitute a waiver of any privilege or right, and Thrifty Call reserves its right to demand the return of any such document and all copies thereof.

17. Thrifty Call objects to the Requests to the extent that they seek the production of documents that are not within Thrifty Call's possession, custody, or control.

### **OBJECTIONS TO DEFINITIONS**

18. Thrifty Call objects to the definition of "document" on the grounds that it is Vague, Ambiguous, Overly Broad, and Unduly Burdensome. Thrifty Call also objects to this definition to the extent that it exceeds the requirements of the Florida Rules of Civil Procedure.

### **RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS FOR PRODUCTION**

The General Objections and Reservations of Rights noted above apply to, and are incorporated in, the individual response herein, whether or not expressly incorporated by referenced in such individual response. Thrifty Call objects specifically to the individual Requests as follows:

32. Produce all correspondence by and between Thrifty Call and its non-retail customers who terminated traffic within the State of Florida utilizing AT&T Florida's termination facilities during the period of January 1, 1998 to December 1, 2000.

Objection. Relevance, Unduly Burdensome and Overly Broad.

33. Produce all bills submitted by Thrifty Call to MCI Worldcom or any other non-retail customer of Thrifty Call during the period of January 1, 1998 to December 1, 2000.

Objection. Relevance, Unduly Burdensome and Overly Broad.

34. Produce all agreements between MCI Worldcom and Thrifty Call for the termination of traffic in the state of Florida during the period of January 1, 1998 to December 1, 2000.

Objection. Relevance, Unduly Burdensome and Overly Broad.

35. Produce all agreements between MCI Telecommunications Corporation and Thrifty Call, Inc., in effect during the period of January 1, 1998 to December 1, 2000.

Objection. Relevance, Unduly Burdensome and Overly Broad.

36. Produce all agreements between Worldcom Network Services, Inc. and Thrifty Call, Inc. in effect during the period of January 1, 1998 to December 1, 2000.

Objection. Relevance, Unduly Burdensome and Overly Broad.

37. Produce The Services Agreement, dated May 10, 1999, entered into by and between MCI Telecommunications Corporation and Thrifty Call, Inc.

Objection. Relevance, Unduly Burdensome and Overly Broad.

38. Produce all correspondence by and between Thrifty Call and MCI Telecommunications Corporation regarding The Services Agreement, dated May 10, 1999.

Objection. Relevance, Unduly Burdensome and Overly Broad.

39. Produce all correspondence by and between Thrifty Call and WorldCom Network Services, Inc. regarding The Services Agreement, dated May 10, 1999.

Objection. Relevance, Unduly Burdensome and Overly Broad.

40. Produce all documents on which Thrifty Call based its decision to block the delivery of calling party information for calls carried over its network.

Objection. Relevance, Unduly Burdensome and Overly Broad.

41. Produce all documents by and between Thrifty Call and "regulatory experts Jerry James and Martha Smiley" during the period of January 1, 1998 to December 1, 2000.

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42. Produce all documents identified in response to the Interrogatories set forth above.

Objection. Relevance, Unduly Burdensome and Overly Broad.



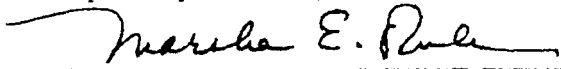
43. Produce all workpapers, reports, analyses, calculations, correspondence and documents which Timothy Gates, Harold Lovelady or Thrifty Call reviewed, relied upon, support, evidence, pertain, or otherwise relate to Timothy Gates, Harold Lovelady or Thrifty Call's responses to AT&T Florida's Interrogatory Nos. 98-123.

Objection. Relevance, Unduly Burdensome and Overly Broad.

44. Produce all workpapers, reports, analyses, calculations, correspondence and documents which Timothy Gates, Harold Lovelady or Thrifty Call reviewed, relied upon, support, evidence, pertain, or otherwise relate to Timothy Gates, Harold Lovelady or Thrifty Call's responses to AT&T Florida's Requests for Admissions 1-17.

Objection. Relevance, Unduly Burdensome and Overly Broad.

Respectfully submitted,

  
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MARTIN P. MCDONNELL, ESQUIRE  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished by U.S. Mail to the following this 18 day of April, 2008:

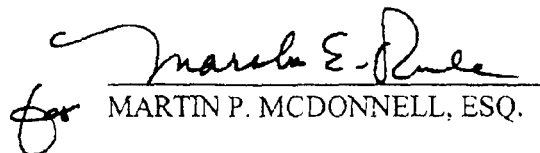
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Rick Mann  
Nancy Pruitt

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for MARTIN P. MCDONNELL, ESQ.