

Ruth Nettles

060476-TL

From: patrick Finn [magoo41@hotmail.com]
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To: Filings@psc.state.fl.us; magoo41@hotmail.com
Subject: Comment for the Public Service Commission
Attachments: FL-CURE_Draft_Comment_31Aug09.[1] PSC.doc

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

s/Patrick Finn-Shultz
2143 Ernest St.
Jacksonville, FL 32204
904-861-7659
magoo41@hotmail.com

b. This filing is made in Docket No. 060467-TL, In re: Petition by BellSouth Telecommunications, Inc., to Initiate Rulemaking to Amend Rules 25-24.630(1) and 25-24.516(1), Florida Administrative Code.

c. This document is filed on behalf of myself, Patrick Finn-Shultz, and on behalf of Florida-Cure (FL-CURE).

d. There is a total of 5 pages in the document.

e. The attached document is Comments of Florida Citizens United for the Rehabilitation of Errants (FL-CURE) by Patrick Finn-Shultz

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Petition By BellSouth Telecommunications,
Inc., to Initiate Rulemaking to Amend Rules
25-24.630(1) and 25-24.516(1), Florida
Administrative Code**

Docket No. 060576-TL

Filed August 31, 2009

Comments of Florida Citizens United for the Rehabilitation of Errants (FL-CURE)

Patrick Finn-Shultz, Co-Chair of Florida Citizens United for the Rehabilitation of Errants (FL-CURE) submits these comments for myself and on behalf of FL-CURE in response to the Florida Public Service Commission Staff's Memorandum of August 6, 2009. These comments are responsive to Staff's request for interested parties to address the continuing applicability of rate caps to inmate telephone calls in light of amendments to Section 364.3376, Florida Statutes.

FL-CURE, a state chapter of the national organization (CURE-national), is a membership organization of families, prisoners, former prisoners, and other citizens concerned about the welfare and rehabilitation of incarcerated people. FL-CURE's goals are to ensure that prisons are reserved for only those who must be incarcerated and, as to those prisoners, to advocate for programs and services which protect their health and promote their welfare, affording meaningful opportunities for rehabilitation. FL-CURE has over 500 active members throughout the state and represents thousands of inmates and their families.

Correctional officials have recognized the usefulness of telephones to aid in prison administration. By requiring good behavior as a precondition to telephone privileges, prisoners have added incentive to comply with prison rules and regulations. In addition, both experience and research attest to the utility of telecommunications as an aid to rehabilitation, allowing prisoners to maintain relationships with their families and communities. A statutory gloss that would deregulate the industry would result in an accelerated increase in rates and fees that would

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diminish prisoner access to telephones and damage bonds between parents and their children, as well as causing injury to other familial relationships.

Recognizing the importance of telecommunication services, including services provided to prisoners, the Florida Legislature granted the Public Service Commission broad jurisdiction and authority to regulate service providers in the public interest to foster the “availability of the widest possible range of consumer choice in the provision of **all** telecommunications services,” and to ensure “that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.” That language appears in Section 364.01 (4), Florida Statutes, but the word “all” appears in a bold font to emphasize the breadth of the PSC’s jurisdiction.

Senate Bill 2626 did not narrow the jurisdiction or authority of the Commission in any relevant sense. Amendments seem to have been made primarily to clarify statutory language in several sections of the law and to eliminate redundancy in other areas, but one cannot in good faith discern any diminution in the Commission’s charge to protect the public with respect to telecommunications that originate in a correctional facility. Indeed, the “Consumer Choice and Protection Act” expressly states that the commission has jurisdiction over matters affecting the public interest. Section 364.3376 (1)(b)(section does not apply to certain providers except “as required by the commission in the public interest;” and (c)(“All intrastate operator service providers are subject to the jurisdiction of the commission”). The Public Service Commission is the last line of defense against the exploitation of Florida’s prisoners. It would be naïve to assume that current business ethics alone will prevent telecommunication corporations from taking unjust advantage of the prison population with disregard for the social consequences.

It is disingenuous to suggest that correctional phone services are other than a monopoly, or that there is any competition among prison phone service providers which is advantageous to the consumer. True, prison payphone service corporations compete among each other by offering “commissions” to correctional professionals in order to secure contracts to provide monopoly services to incarcerated people and their families. The payment of these commissions increases the cost of calls and related services to consumers. But neither prisoners nor the people who pay for the calls have any legitimate alternative to using the carrier selected by correctional professionals, and competition for the benefit of the consumer is entirely lacking.

Section 364.02, Florida Statutes, at paragraph 9 provides: “‘monopoly service’ means a telecommunications service for which there is no effective competition, either in fact or by operation of law.” From the perspective of the people who pay to speak with prisoners, there is no effective competition – but there’s plenty of exploitation. Deregulation of the prison payphone industry would remove the only constraint on the prices charged by prison payphone providers for calls and related services.

In short, it is abundantly clear that the Legislature did not divest the PSC of jurisdiction to regulate the prison phone industry, either directly or by implication (attenuated claims to the contrary notwithstanding). If such a result were intended, it would have been simple to say so directly.

Conclusion

As shown above, the PSC has broad statutory jurisdiction, and it is charged with the responsibility of regulating prison payphone service providers in the public interest.

Respectfully submitted this 31st day of August 2009.

FL-CURE
s/Patrick Finn-Shultz
2143 Ernest St.
Jacksonville, FL 32204
904-861-7659
magoo41@hotmail.com

Certificate of Service

I certify that I have provided a complete copy of the foregoing comment by electronic mail or by U.S. Mail to the following people and corporations this 31st day of August 2009.

FL-CURE
s/Patrick Finn-Shultz
2143 Ernest St.
Jacksonville, FL 32204
904-861-7659
magoo41@hotmail.com

Richard Bellak
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
rbellak@psc.state.fl.us
Davis Graham & Stubbs LLP

Verizon Florida LLC.

Mr. David Christian
106 East College Avenue, Suite 710
Tallahassee, FL 32301-7721
David.christian@verizon.com

Steven H. Denman
9040 Town Center Parkway, Suite 213
Bradenton, FL 34202
steve.denman@dgsllaw.com
Florida Public Telecommunications
Association, Inc. (FPTA)

Dulaney L. O'Roark III
Vice President & General Counsel SE
Region Verizon
5055 North Point Parkway
Alpharetta, GA 30022
de.oroark@verizon.com

Bruce W. Renard, Executive Director
9432 Baymeadows Road, Suite 140
Jacksonville, FL 32256-7988
brenard@fpta.com
Qwest Communications Corporation

Intellicall Operator Services, Inc.!
ILD Telecommunications
Ms. Marsha Pokorny
1049 N.E. Macedonia Church Avenue
Lee, FL 32059-7419
marsha.pokorny@ildmail.com

Ms. Cathy Hansen
1801 California Street, 4th Floor
Denver, CO 80202-2605

Jeff.Wirtzfeld@qwest.com

Pay Tel Communications, Inc. !SE
Vincent Townsend
P.O. Box 8179
Greensboro, NC 27419
vtownsend@paytel.com

Administrative Procedures Committee
Scott Boyd
Executive Director and General Counsel
Holland Building, Room 120
Tallahassee, FL 32399-1300
Boyd.scott@leg.state.fl.us

AT&T Florida
Manuel Gurdian
Gregory Follensbee
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1561
Manuel.gurdian@att.com
Greg.follensbee@att.com

Jon C. Moyle, Jr.
Vicki Gordon Kaufman
Keefe Anchors Gordon & Moyle
Tallahassee, FL 32301
jmoyle@kagmlaw.com
vkaufman@kagmlaw.com