

FLORIDA PUBLIC SERVICE COMMISSION  
FLETCHER BUILDING  
101 EAST GAINES STREET  
TALLAHASSEE, FLORIDA 32399-0850

M E M O R A N D U M

AUGUST 15, 1991

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF APPEALS (BELLAK) *RCB*  
DIVISION OF COMMUNICATIONS (BROWN, SHELFER) *DES*  
DIVISION OF RESEARCH (HEWITT) *CBH* *JB* *JK*

RE : ~~DOCKET NO. 910060-TP~~ - PETITION OF THE ATTORNEY GENERAL  
AND THE PUBLIC COUNSEL TO ADOPT RULES GOVERNING 900 AND  
976 SERVICES.

AGENDA: AUGUST 27, 1991 - CONTROVERSIAL - PARTIES MAY  
PARTICIPATE

CRITICAL DATES: NONE

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CASE BACKGROUND

The Commission in its Order dated February 12, 1991, approved initiation of rulemaking to adopt additional protection for consumers relevant to both 900 and 976 services. The Commission bifurcated the rulemaking process to consider sections of the Attorney General's and Public Counsel's proposal on an expedited basis (Phase 1), leaving the remainder of the proposed rules for later consideration (Phase 2).

A hearing on Phase 1 of the proposed rules was held on July 31, 1991, and a final recommendation prepared by the Hearing Officer in the case is expected to be filed on October 3, 1991 for the October 15, 1991 agenda.

Phase 2 is the more lengthy and complex portion of the proposed rules. Staff drafted revised rules and held a Phase 2 workshop on May 8, 1991. The workshop was productive in that LECs, IXCs, representatives of the Public Counsel and Attorney General and information providers attended and provided useful comment on the proposed Phase 2 rules. The staff requested written comments after the workshop to assist the staff in drafting additional changes to respond to concerns raised at the workshop. Staff incorporated the comments into a final draft of

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Phase 2 rules which was then submitted for an Economic Impact Statement (EIS). The EIS has been completed and is attached to this recommendation (see Attachment 2).

This recommendation will address staff's Phase 2 proposed rules only. Due to the expedited nature of this case and the fact that two rule revisions are moving on nearly parallel tracks, there are some overlapping areas which will be identified in the body of the staff analysis.

It should be pointed out that we propose to rename the 900 and 976 services "Pay Per Call" services. Staff believes that Pay Per Call is a more appropriate way to refer to these services since they may not be limited to 900/976 prefixes. Therefore, although these services were originally discussed as 900/976 services at previous agendas, we now refer to those services as Pay Per Call.

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### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission propose the rules comprising Phase 2 of the Pay Per Call (900/976) rulemaking?

**RECOMMENDATION:** Yes, the Commission should propose the rules comprising Phase 2.

**STAFF ANALYSIS:** The Commission has determined that further rulemaking regarding Pay Per Call (900/976) services is appropriate because of the need for additional consumer protection in the area of Pay Per Call services. The proposed rule changes would assist in assuring that customers of Pay Per Call services understand the nature of and associated charges for these services.

The proposed rules (see Attachment 1) are divided into four sections comprising notification, billing, blocking and dispute resolution, and will be discussed section-by-section.

#### Notification

Section 25-4.110 (10) (a), provides increased notice to customers on their telephone bills about Commission policies regarding these services.

First, staff has proposed rule revisions that clarify how LECs should address partial payment of an end user bill. The current Commission rule is unclear as to how partial payments should be applied to regulated and nonregulated services. The proposed rule requires that any partial payment be first applied to a customer's regulated charges before any of the payment is applied to nonregulated charges. The reason for this requirement is to assure that customers are not disconnected for nonpayment of regulated services, when in fact the customer has paid an amount sufficient to cover regulated charges. There was some confusion at the staff workshop about this issue which this language should clarify.

Phase 1 added notification language. However, staff believes that additional information that further clarifies the charges that the customer will be responsible for should be included on the bill. The language in Phase 1 required that telephone bills separate charges for Pay Per Call services from

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other charges and list these charges under a separate heading entitled "Pay Per Call (900 or 976) Nonregulated Charges." Also, the bill must provide notification to the customer that nonpayment of nonregulated charges would not result in disconnection of service and that blocking of Pay Per Call service is available from the LEC.

Phase 2 language states that the following information must be clearly and conspicuously disclosed on each section of the bill containing Pay Per Call service charges: Free blocking of Pay Per Call service will be provided by the LEC upon customer request; a local or toll-free number for the end user/customer to call to dispute charges for 900 service; the name of the IXC carrier providing the service; and, the Pay Per Call service (900 or 976) program name.

The majority of comments received from the parties about this proposed section were from the LECs. The LECs stated that many of their billing systems were currently unable to provide this information on customer bills. The companies did not express concerns about providing free blocking. IXCs and information providers (IPs) did express concerns about the requirements of additional information, separate sections and the resulting additional cost.

This section of the proposed rule remains largely unchanged from the initial proposal. Staff views this portion of the rule as mainly implementation of current Commission policy (except for the requirement that free blocking be made available). Staff believes that the additional notification and information should reduce customer confusion.

### Billing

Section 25-4.110(10)(b) provides clarification on billing arrangements between LECs, IXCs and IPs. This section provides that LECs and IXCs which have a contractual relationship with a Pay Per Call service provider would not be allowed to provide transmission service and/or billing services unless the provider does the following:

- \* Provides during an introductory 18-second preamble (message before the actual service message) the price for the Pay Per Call service whenever the total charge for the call exceeds \$3;

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- \* Provides the end user/customer the ability to disconnect without charge within 18 seconds of the beginning of the preamble;
- \* Provides in clear language on each program targeted at children (16 years and under) the requirement to obtain parental permission to make the call. The parental consent notification is to appear in all advertising and promotional materials and rates for children's programs. Children's programs shall not have rates that exceed \$5 per call or include the offer of a gift or premium;
- \* Promotes the service without the use of an autodialer or broadcasting of tones that dial a Pay Per Call number;
- \* Prominently discloses the additional cost per minute or per call charge for any other number that the end user/customer is referred to;
- \* Discloses clearly and conspicuously in all advertising and promotional materials all charges and the name of the information provider or sponsor;
- \* Provides, on all Pay Per Call services that involve sales of products or merchandise (regardless of the total charge for the call), a preamble concerning the price that will be incurred and a local or toll-free number for complaints;
- \* Meets the internal standards of the LEC or IXC as defined in the applicable tariffs or contractual agreement.

This section of the proposed rule caused the most discussion at the workshop. The LECs and IXCs see this portion of the rule as a requirement that they become regulators of Pay Per Call providers. The information providers believe that the requirements are too stringent. The parties' comments were evaluated after the workshop and many of the suggestions were used to modify the then-existing staff proposed rule. Staff changes included (but are not limited to) adding language not to require a preamble for calls with rates of \$3.00 or less, reducing the preamble time, modification of the child-related

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requirements and changing the procedures when sales of products or merchandise are involved in Pay Per Call services. Staff believes that the concerns raised at the workshop have now been appropriately addressed (though are certainly not agreed to by all parties) and this portion of the rule should be proposed by the Commission.

### Blocking

Section [25-4.110 (10) (c) ] further clarifies provisions concerning the availability of free blocking to be provided by the LECs. In addition to free blocking, each LEC and IXC must implement a bill adjustment and tracking system to aid its efforts in adjusting for or sustaining Pay Per Call service charges. LECs and/or IXCs will also adjust the end user/customers' first bill containing Pay Per Call charges upon the end user/customers' stated lack of knowledge that Pay Per Call service has a charge. At that time, should the charges prove to be valid the LEC may implement free blocking of Pay Per Call service.

### Dispute/Resolution

Section 25-4.110(10)(d)-(g), dealing with dispute/resolution explains how LECs and IXCs should adjust end user/customer bills when there is a dispute. The rule provides that a bill shall be automatically adjusted upon complaint that:

- \* The end user/customer did not receive a price advertisement, the price was misrepresented, or the price advertisement was false, misleading, or deceptive;
- \* The end user/customer was misled, deceived, or confused by the Pay Per Call advertisement;
- \* The Pay Per Call service provided out-of-date information;
- \* The end user/customer terminated the call during the 18-second preamble but was charged for the Pay Per Call service.

The rule also provides that if an end user/customer refused to pay a disputed Pay Per Call service charge which was

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subsequently determined by the LEC or IXC to be valid, the LEC or IXC would then be able to implement Pay Per Call service blocking on the end user/customer line. We believe that these measures are needed to protect the LEC, IXC or Pay Per Call provider to avoid potential abuse of the services by customers.

In addition, LECs and IXCs would not be able to: collect or attempt to collect Pay Per Call service charges that are being disputed or that have been removed from an end user/customer's bill; or report the end user/customer to a credit bureau or collection agency for nonpayment of Pay Per Call charges. However, this would not restrict the information provider itself from attempts to collect for Pay Per Call services. Further, LECs and IXCs would be required to implement safeguards to prevent accidental disconnection of regulated telephone service for nonpayment of Pay Per Call service charges.

This section of the rule should provide customers with more ability to have disputed Pay Per Call charges removed from their bills. Only minor modifications were made to this section after the workshop.

#### E.I.S. Results

The Division of Research outlined the costs and benefits of Phase 2 in its Economic Impact Statement (EIS). The EIS (Attachment 2), states that adoption of the proposed rules is not expected to cause additional expense or cost savings to the Commission. It concludes that ratepayers should receive additional benefits due to increased information about billing procedures and easier removal of incorrect charges.

The LECs and IXCs would experience significant impacts in the areas of billing and dispute/resolution. Many of the companies stated that their billing systems would have to be adapted and revised to implement the proposed changes. The companies also indicated that they may experience an increase in uncollectibles because of provisions requiring automatic adjustment of bills upon complaint.

Only one Pay Per Call provider provided an estimate of the additional cost which could be incurred because of the proposed changes, a nonrecurring software charge of \$1,000 for internal reporting changes and re-recording the preamble.

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Summary

Staff believes that the proposed rules are appropriate. The Commission has received increased complaints (In 1990, 489 protest/inquiries and 81 complaints, for January 1, 1991 through July 24, 1991, 385 protest/inquires and 72 complaints) relating to Pay Per Call services and customers are increasingly confused. After review of the comments, workshop and EIS, staff concludes that, based on the increased protection afforded customers by the proposed rule, the potential of increased cost to regulated firms is outweighed by the benefits to consumers. Accordingly, staff recommends that the Commission propose Phase 2 of the Pay Per Call rules.

**ISSUE 2:** If no hearing is requested as to Phase 2, should the rules comprised therein be submitted to the Department of State for adoption?

**RECOMMENDATION:** Yes. If no hearing is requested, Phase 2 should be submitted to the Department of State for adoption. If a hearing is requested, the hearing is scheduled for September 30, 1991 before the full Commission.

910060-TP.STB

## 25-4.110 Customer Billing.

(1) Each company shall issue bills monthly. Each bill shall show the delinquent date, set forth a clear listing of all charges due and payable, and ~~not later than December 1, 1982,~~ contain the following statement: "Written Itemization of local billing available upon request."

~~Charges for 900 and 976 service shall be segregated from charges for regular long distance or local charges by appearing separately under a heading that reads as follows: "900 or 976 nonregulated charges". The following information shall be clearly and conspicuously disclosed on each page of the bill containing 900 or 976 service charges:~~

- ~~1. Nonpayment of 900 or 976 service charges will not result in disconnection of local service;~~
- ~~2. End users can obtain blocking of 900 or 976 service from the local exchange telephone company. (The name of the company is to be inserted).~~

(a) By July 1, 1987, each local exchange company shall provide an itemized bill for local service:

1. with the first bill rendered after local exchange service to a customer is initiated or changed; and
2. to every customer at least once each twelve months.

(b) The annual itemized bill shall be accompanied by a bill stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. The itemized

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1 bill provided to residential customers and to business customers  
2 with less than 10 access lines per service location shall be in  
3 easily understood language. The itemized bill provided to business  
4 customers with 10 or more access lines per service location may be  
5 stated in service order code, provided that it contains a statement  
6 that, upon request, an easily understood translation is available  
7 in written form without charge. An itemized bill shall include,  
8 but not be limited to the following information, separately stated:

- 9 1. Number and types of access lines
- 10 2. Charges for access to the system, by type of line;
- 11 3. Zone charges;
- 12 4. Equipment lease charges (tariff);
- 13 5. Maintenance charges for equipment (tariff);
- 14 6. Lease charges for inside wire (tariff);
- 15 7. Maintenance charges for inside wire (tariff);
- 16 8. Touch tone service charges;
- 17 9. Charges for custom calling features, separated by  
18 feature;
- 19 10. Unlisted number charges;
- 20 11. Local directory assistance charges; and
- 21 12. Other tariff charges contained in the bill.

22 (c) By July 1, 1987, each bill rendered by a local exchange  
23 company shall:

- 24 1. Separately state the following items:
  - 25 a. Any discount or penalty, if applicable,

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- 1           b. Past due balance,  
2           c. Non-tariff charges,  
3           d. Long distance charges, if included in the bill,  
4           e. Franchise fee, if applicable,  
5           f. Taxes, as applicable on purchases of local and long  
6           distance service; and  
7           2. Contain a statement that nonpayment of regulated  
8           charges may result in discontinuance of service and  
9           that the customer may contact the business office  
10           (at a stated number) to determine the amount of  
11           regulated charges in the bill.

12           (2) Each company shall make appropriate adjustments or  
13           refunds where the subscriber's service is interrupted by other than  
14           the subscriber's negligent or willful act, and remains out of order  
15           in excess of twenty-four (24) hours after the subscriber notifies  
16           the company of the interruption. The refund to the subscriber  
17           shall be the pro rata part of the month's charge for the period of  
18           days and that portion of the service and facilities rendered  
19           useless or inoperative; except that the refund shall not be  
20           applicable for the time that the company stands ready to repair the  
21           service and the subscriber does not provide access to the company  
22           for such restoration work. The refund may be accomplished by a  
23           credit on a subsequent bill for telephone service.

24           (3)(a) Bills shall not be considered delinquent prior to the  
25           expiration of fifteen (15) days from the date of mailing or

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1 | delivery by the utility. However, the company may demand immediate  
2 | payment under the following circumstances:

- 3 | 1. Where service is terminated or abandoned.
- 4 | 2. Where toll service is two (2) times greater than  
5 | the subscriber's average usage as reflected on the  
6 | monthly bills for the three (3) months prior to the  
7 | current bill or, in the case of a new customer who  
8 | has been receiving service for less than four (4)  
9 | months, where the toll service is twice the  
10 | estimated monthly toll service.

11 | (b) The demand for immediate payment shall be accompanied by  
12 | a bill which itemizes the charges for which payment is demanded or,  
13 | if the demand is made orally, an itemized bill shall be mailed or  
14 | delivered to the customer within three (3) days after the demand is  
15 | made.

16 | (c) If the company cannot present an itemized bill, it may  
17 | present a summarized bill which includes the customer's name and  
18 | address and the total amount due. However, a customer may refuse  
19 | to make payment until an itemized bill is presented. The company  
20 | shall inform the customer that he may refuse payment until an  
21 | itemized bill is presented.

22 | (4) Each telephone company shall include a bill insert  
23 | advising each subscriber of the directory closing date and the  
24 | subscriber's opportunity to correct any error or make such changes  
25 | as the subscriber deems necessary in advance of the closing date.

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1 It shall also contain information about the residential  
2 subscriber's option to have "No Sales Solicitation Calls" printed  
3 next to their name, and the rate for such an option. It shall also  
4 state that at no additional charge and upon the request of any  
5 residential subscriber, the exchange company shall list an  
6 additional first name or initial under the same address, telephone  
7 number and surname of the subscriber. Such notice shall be  
8 included in the billing cycle closest to sixty (60) days preceding  
9 the directory closing date.

10 (5) Where any undercharge in billing of a customer is the  
11 result of company mistake, the company may not backbill in excess  
12 of twelve months. Nor may the company recover in a ratemaking  
13 proceeding any lost revenue which inures to the company's detriment  
14 on account of this provision.

15 (6) Franchise fees.

16 (a) When a municipality charges a company any franchise fee,  
17 the company may collect that fee only from its subscribers  
18 receiving service within that municipality. When a county charges  
19 a company any franchise fee, the company may collect that fee only  
20 from its subscribers receiving service within that county.

21 (b) A company may not incorporate any franchise fee into its  
22 other rates for service.

23 (c) Each company shall implement the provisions of this  
24 subsection at the time of its next general rate increase or  
25 decrease, or after the expiration of two years from the effective

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1 date of this subsection, whichever occurs first.

2 (d) This subsection shall not be construed as granting a  
3 municipality or county the authority to charge a franchise fee.  
4 This subsection only specifies the method of collection of a  
5 franchise fee if a municipality or county, having authority to do  
6 so, charges a franchise fee.

7 (7) (a) When a company elects to add the Gross Receipts Tax  
8 onto the customer's bill as a separately stated component of that  
9 bill, the company must first remove from the tariffed rates any  
10 embedded provisions for the Gross Receipts tax.

11 (b) If the tariffed rates in effect have a provision for  
12 gross receipts tax, the rates must be reduced by an amount equal to  
13 the gross receipts tax liability imposed by Chapter 203, Florida  
14 Statutes, thereby rendering the customer's bill uneffected by the  
15 election to add the Gross Receipts Tax as a separately stated tax.

16 (c) This subsection shall not be construed as a mandate to  
17 elect to separately state the Gross Receipts Tax. This subsection  
18 only specifies the method of applying such an election.

19 (d) All services sold to another telecommunications vendor,  
20 provided that the applicable rules of the Department of Revenue are  
21 satisfied, must be reduced by an amount equal to the gross receipts  
22 tax liability imposed by Chapter 203, Florida Statutes, unless  
23 those services have been adjusted by some other Commission action.

24 (e) When a nonrate base regulated telecommunications company  
25 exercises the option of adding the gross receipts tax as a

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1 separately stated component on the customer's bill then that  
2 company must file a tariff indicating such. No corresponding rate  
3 reduction is required for nonrate base regulated telephone  
4 companies.

5 (8) As part of its annual report required by Rule 25-4.018,  
6 each local exchange company shall submit a reconciliation of its  
7 billed and booked revenues from the prior calendar year.

8 (9) Each local exchange company shall apply partial payment  
9 of an end user/customer bill first to regulated charges. The  
10 remaining portion of the payment (if any) shall be applied to  
11 nonregulated charges.

12 (10) This section applies to local exchange companies and  
13 interexchange carriers that provide transmission services and/or  
14 bill and collect on behalf of Pay Per Call providers. Pay Per Call  
15 services are defined as switched telecommunications services  
16 between locations within the State of Florida which permit  
17 communications between an end use customer and an information  
18 provider's program at a per call charge to the end user/customer.  
19 Pay Per Call services include 976 Services provided by the local  
20 exchange companies and 900 services provided by interexchange  
21 carriers.

22 (a) Charges for Pay Per Call service (900 or 976) shall be  
23 segregated from charges for regular long distance or local charges  
24 by appearing separately under a heading that reads as follows:  
25 "Pay Per Call (900 or 976) nonregulated charges". The following

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1 information shall be clearly and conspicuously disclosed on each  
2 section of the page of the bill containing Pay Per Call service  
3 (900 or 976) charges:

- 4 1. Nonpayment of Pay Per Call service (900 or 976)  
5 charges will not result in disconnection of local  
6 service;
- 7 2. End users/customers can obtain free blocking of Pay  
8 Per Call service (900 or 976) from the local  
9 exchange telephone company;
- 10 3. The local or toll-free number the end user/customer  
11 can call to dispute charges;
- 12 4. With 900 service, the name of the interexchange  
13 carrier providing 900 service; and
- 14 5. The Pay Per Call service (900 or  
15 976) program name.

16 (b) Pay Per Call Service (900 and 976) Billing. Local  
17 exchange companies and interexchange carriers who have a tariff or  
18 contractual relationship with a Pay Per Call (900 or 976) provider  
19 shall not provide Pay Per Call transmission service and/or billing  
20 services, unless the provider does each of the following:

- 21 1. Provides an introductory 18 second preamble to the  
22 program which describes the nature of the price for  
23 the Pay Per Call service (900 and 976) is clearly  
24 announced; programs that do not exceed \$3.00 in  
25 total charges may omit the preamble, and the

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1 program may allow an end user/customer to  
2 affirmatively bypass a preamble.

3 2. Provides the end user/customer the ability to  
4 disconnect the call within 18 seconds of the  
5 beginning of the preamble without incurring a  
6 charge;

7 3. Provides on each program promotion targeted at  
8 children (defined as 16 years and younger) clear  
9 and conspicuous notification, in language  
10 understandable to children, of the requirement to  
11 obtain parental permission before placing or  
12 continuing with the call. The parental consent  
13 notification shall appear prominently in all  
14 advertising and promotional materials, and in the  
15 program preamble. Children's programs shall not  
16 have rates in excess of \$5.00 per call, and shall  
17 not include the enticement of a gift or premium.

18 4. Promotes its services without the use of an  
19 autodialer or broadcasting of tones that dial a Pay  
20 Per Call (900 and 976) number;

21 5. Prominently discloses the additional cost per  
22 minute or per call for any other telephone number  
23 that an end user/customer is referred to either  
24 directly or indirectly;

25 6. Discloses clearly and conspicuously in all

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1 advertising and promotional materials all charges  
2 for Pay Per Call services and the name of the  
3 information provider or sponsor;

4 7. Provides on Pay Per Call services that involve  
5 sales of products or merchandise clear preamble  
6 notification of the price that will be incurred if  
7 the end user/customer stays on the line, and a  
8 local or toll free number for consumer complaints;

9 8. Meets internal standards established by the local  
10 exchange company or the interexchange carrier as  
11 defined in the applicable tariffs or contractual  
12 agreement between the LEC and the IXC; or between  
13 the LEC/IXC and the Pay Per Call (900 or 976)  
14 provider which when violated, would result in the  
15 termination of a transmission and/or billing  
16 arrangement.

17 (c) Pay Per Call (900 and 976) Blocking. Each local exchange  
18 company shall provide blocking (where technically feasible) of Pay  
19 Per Call service (900 and 976), at the request of the end  
20 user/customer at no charge. Each local exchange company or  
21 interexchange carrier must implement a bill adjustment tracking  
22 system to aid its efforts in adjusting and sustaining Pay Per Call  
23 charges. The carrier will adjust the first bill containing Pay Per  
24 Call charges upon the end user's/customer's stated lack of  
25 knowledge that Pay Per Call service (900 and 976) has a charge. At

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1 the time the charge is removed, the end user/customer may agree to  
2 free blocking of Pay Per Call service (900 and 976).

3 (d) Dispute resolution for Pay Per Call service (900 and  
4 976). Charges for Pay Per Call service (900 and 976) shall be  
5 automatically adjusted upon complaint that:

6 1. The end user/customer did not receive a price  
7 advertisement, the price of the call was  
8 misrepresented to the consumer, or the price  
9 advertisement received by the consumer was false,  
10 misleading, or deceptive;

11 2. The end user/customer was misled, deceived, or  
12 confused by the Pay Per Call (900 or 976)  
13 advertisement;

14 3. The Pay Per Call (900 or 976) program was  
15 incomplete, garbled, or of such quality as to  
16 render it inaudible or unintelligible, or the end  
17 user/customer was disconnected or cut off from the  
18 service;

19 4. The Pay Per Call (900 and/or 976) service provided  
20 out-of-date information;

21 5. The end user/customer terminated the call during  
22 the eighteen (18) second preamble described in 25-  
23 4.110 (10) (b) (1), but was charged for the Pay Per  
24 Call service (900 or 976).

25 e) If the end user/customer refuses to pay a disputed Pay

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1 Per Call service (900 or 976) charge which is subsequently  
2 determined by the LEC to be valid, the LEC or IXC may implement Pay  
3 Per Call (900 and 976) blocking on that line.

4 (f) Credit and Collection. Local exchange companies and  
5 interexchange carriers billing Pay Per Call (900 and 976) charges  
6 to an end user/customer in Florida shall not:

- 7 1. Collect or attempt to collect Pay Per Call service  
8 (900 or 976) charges which are being disputed or  
9 which have been removed from an end  
10 user's/customer's bill;
- 11 2. Report the end user/customer to a credit bureau or  
12 collection agency for non-payment of Pay Per Call  
13 (900 or 976) charges.

14 (g) Local exchange companies and interexchange carriers  
15 billing Pay Per Call service (900 and 976) charges to an end  
16 users/customers in Florida shall implement safeguards to prevent  
17 the accidental disconnection of phone service for non-payment of  
18 Pay Per Call (900 or 976) charges.

19 Specific Authority: 350.127, F.S.

20 Law Implemented: 364.17, 350.113, 364.03, 364.04, 364.05, F.S.

21 History: New 12/1/68, Amended 3/31/78, 12/31/78, 9/8/81, 5/3/82,  
22 11/21/82, 4/13/86, 10/30/86, 11/28/89.

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**M E M O R A N D U M**

August 7, 1991

**TO:** DIVISION OF APPEALS (BELLAK)  
**FROM:** DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *CBH-OMA*  
**SUBJECT:** ECONOMIC IMPACT STATEMENT FOR ADDITIONS TO RULE 25-4.110, FAC,  
CUSTOMER BILLING; DOCKET NO. 910060-TP

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**SUMMARY OF THE RULE**

Rule 25-4.110, FAC, Customer Billing, contains regulations for local exchange company (LEC) and interexchange carrier (IXC) bills. Customer notices, bill forms, deadlines, etc., are in the current rule to give LECs and IXCs guidance on the issue of billing customers.

The proposed rule changes would assist in assuring that customers of 900 and 976 pay per call (PPC) service providers understand the nature and associated charges of these services. The rules require LECs and IXCs to use Commission-established standards in providing transmission and/or billing and collection services to 900 and 976 PPC providers. Guidelines are proposed that provide remedies for disputed 900 and 976 charges. Telephone bills would have to segregate charges for PPC 900 and 976 calls from charges for regular long distance or local calls by listing them separately under a heading that reads, "Pay per Call (900 or 976) Nonregulated Charges." The following information would be required to be disclosed clearly and conspicuously on each section of the bill: Nonpayment of PPC charges would not result in disconnection of local service; free blocking of PPC service would be provided upon request from the LEC; a local or toll-free number for the end user/customer to call to dispute charges; for 900 service, the name of the IXC carrier providing the service; and, the PPC service (900 or 976) program name.

LECs and IXCs who have a tariff or contractual relationship with a PPC (900 or 976) provider would not be allowed to provide transmission service and/or billing services unless the provider does the following:

- Provides an introductory 18-second preamble

describing the nature of the price unless the total charge does not exceed \$3;

- Provides the end user/customer the ability to disconnect without charge within 18 seconds of the beginning of the preamble;
- Provides in clear language on each program targeted at children (16 years and under) the requirement to obtain parental permission to make the call; the parental consent notification would have to appear in all advertising and promotional materials; rates for children's programs could not exceed \$5 per call or include the offer of a gift or premium;
- Promotes the service without the use of an autodialer or broadcasting of tones that dial a PPC number;
- Prominently discloses the additional cost per minute or per call for any other number that the end user/customer is referred to;
- Discloses clearly and conspicuously in all advertising and promotional materials all charges and the name of the information provider or sponsor;
- Provides, on PPC services that involve sales of products or merchandise, a preamble of the price that will be incurred and a local or toll-free number for complaints;
- Meets the internal standards of the LEC or IXC as defined in the applicable tariffs or contractual agreement.

In addition to providing free PPC (900 and 976) blocking, each LEC or IXC would have to implement a bill adjustment tracking system to aid efforts in adjusting and sustaining PPC charges. The carrier would adjust the first bill containing PPC charges at the end user/customer's stated lack of knowledge that 900 or 976 has a charge. Charges for PPC service would also be automatically adjusted upon complaint that:

- The end user/customer did not receive a price advertisement, the price was misrepresented, or the price advertisement was false, misleading, or deceptive;
- The end user/customer was misled, deceived, or confused by the PPC advertisement;
- The PPC service provided untimely or out-of-state information;

- The end user/customer terminated the call during the 18-second preamble but was charged for the PPC service.

If an end user/customer refused to pay a disputed PPC service charge which was subsequently determined by the LEC to be valid, the LEC or IXC would then be able to implement 900 and 976 service blocking on that line.

With the proposed rule changes, LECs and IXCs would not be able to: collect or attempt to collect PPC service charges that are being disputed or that have been removed from an end user/customer's bill; or report the end user/customer to a credit bureau or collection agency for nonpayment of PPC charges. Further, LECs and IXCs would have to implement safeguards to prevent the accidental disconnection of telephone service for nonpayment of PPC (900 or 976) charges.

#### DIRECT COSTS TO THE AGENCY

Currently, the Commission regularly receives complaints concerning charges for 900 and 976 service calls that are too high, billed improperly, made by a second party, or made in ignorance of a charge for such calls. The proposed rule changes would give guidelines for removing disputed calls from customer bills and discourage 900 and 976 service providers from taking advantage of uninformed customers. Staff time could be saved which has been used to deal with complaints about PPC charges of unregulated businesses that are included in regulated telephone bills. The additional reasons to adjust PPC charges that would be placed on customer bills may generate some additional disputes and complaints. However, the net effect should be minimal because the 900/976 complaints are a small fraction of total complaints. There should be no additional Commission staff paperwork generated by the proposed rule changes.

#### COSTS AND BENEFITS TO THOSE PARTIES DIRECTLY AFFECTED BY THE RULE

LECs and IXCs that provide transmission and/or bill and collect services on behalf of PPC telephone services would be directly affected by the proposed additions to Rule 25-4.110. Also affected would be the LEC and IXC customers who use PPC numbers. Indirectly affected would be those businesses which use LECs and IXCs for transmission and/or billing and collection, the information providers.

Data responses were received from ten of the thirteen LECs surveyed, two of three large IXC's, and one of fifteen PPC vendors. Information was provided on estimates of additional costs to meet the proposed second phase of 900/976 PPC rulemaking.

Ratepayers. Some end users/customers/ratepayers would benefit from the rule. PPC (900/976) services are a relatively new option for telephone customers. Some customers have called 900/976 prefix numbers after seeing an advertisement or commercial without realizing that there was a charge. Some end users have called 900/976 numbers repeatedly, thereby incurring large telephone bills. Other telephone customers have had a second party, a relative or someone with access to their telephone, make numerous calls to PPC numbers without their knowledge. Customers in some of these cases would have benefitted from the proposed rule. After much publicity and self-policing by the PPC industry, many more customers should now be aware of the pitfalls and charges for 900/976 calls. However, the Division of Consumer Affairs reports a rising number of protests/inquiries and complaints. In 1990, 489 protests/inquiries and 81 complaints were reported for the entire year; for January 1 through July 24, 1991, 385 protests/inquiries and 72 complaints have been received resulting in \$23,445 in credits to customer bills. Many more credits could be made to customer bills by LECs with the proposed rule revisions, but the amount is uncertain.

Although the proposed rule changes would adjust telephone bills for certain situations, and ratepayers would be notified in their telephone bill that nonpayment of the 900/976 charges would not result in disconnection of local service, ratepayers would not necessarily be aware that nonpayers of 900/976 charges could still be pursued by PPC providers in the courts and nonpayers may be reported to credit bureaus.

Also, in the longer term, if the stricter requirements and lost revenues cause some firms to stop providing 900/976 services, or some firms to not enter the 900/976 business, ratepayers would have fewer choices in the market and prices may rise for the remaining PPC services.

LECs and IXCs. Data requests were sent to LECs, IXC's, and PPC companies. Many of the proposed changes and conditions have already been implemented by some LECs and would not cause additional costs for them. Only the costs and benefits that are due to the proposed changes in the second part of the

rule revision process and that are reported by the affected companies are identified.

LECs and IXCs still have some concerns with parts of the proposed rule revision. These concerns include: free call blocking; billing procedure changes; automatic adjustment of charges if an end user claims a lack of knowledge of a charge; developing a bill tracking system; implementation of safeguards for accidental disconnection; nonprovision of transmission or billing/collection for tariffed or contractual relationships for not following guidelines.

Table 1 contains the estimated costs of the LECs to comply with the proposed rule amendments. Table 2 contains detailed estimated costs for the largest LEC, Southern Bell. A discussion of the estimated costs for the various rule changes follows.

**Free Call Blocking.** Free 900/976 call blocking would be required when a customer requested it and, although this would be a benefit to the customer, there would still be associated costs to the telephone company. In the short run, companies would bear this cost burden and, in the longer term, rate case proceedings would provide for the whole body of ratepayers sharing the cost.

Centel states it would still have to issue a service order for free call blocking to assure all company records reflected the blocking, which would cost the same as a secondary service order or \$10 per customer. GTE also currently charges a one-time \$10 fee to install blocking of PPC service and would incur the expense of taking and processing the order for free blocking with no compensation to cover that cost.

United Telephone estimates its identifiable costs associated with call blocking to be \$3 per customer for customer contact and central office work. Southern Bell has nonrecurring costs for providing blocking of \$11.57 for each residential line and \$20.97 for each business line. Southern Bell has been able to recover part of these costs through a nonrecurring charge of \$10 per line which would be the additional cost to Bell for free call blocking.

Floral Telephone Company does not have the capability to block calls. Indiantown Telephone System estimates recurring blocking costs would be \$50 per month or \$600 per year. Northeast Florida Telephone Company would incur a central office cost of \$20, blocking cost of \$10, and a service order cost of \$8, or \$38 total cost to offer free blocking.

***Billing Changes, Bill Tracking and Automatic Adjustments.*** Centel estimates the additional nonrecurring cost associated with changing its billing system to be \$120,000. Also, although no estimate was made, Centel believes additional pages would be necessary to segregate 900/976 charges on the bill which could cause additional printing costs and possibly additional postage.

Centel estimated that having automatic adjustment of charges for PPC disputes would reduce costs by \$5,000 per year in the business office. But, not being allowed to attempt to collect charges that are being disputed or have been removed from the end user/customer's bill, would add \$3,600 per year in additional costs in the business office. Centel is unable to estimate the loss of billing and collecting revenue it would incur if this procedure was implemented.

Alltel estimated that the cost of handling multibalance billing situations would be approximately \$30,000.

Southern Bell has committed to provide IXCs with information on adjusted 900 charges for end user/customer accounts and on adjusted charges for 900 programs. Therefore, information to provide tracking for 900 service IXCs would not result in additional costs for Southern Bell. However, Southern Bell believes that any type of on-line tracking system could be cost prohibitive for LECs and should be optional. Southern Bell is experimenting with an on-line system and estimates the cost to be about \$4,000 to provide service representatives with 900 service charges. However, the monitor field can only hold a limited amount of information and is currently full. Therefore, some other important data would have to be deleted to accommodate 900 service charge information. Also, Southern Bell believes that separating unregulated balances would be cost prohibitive.

GTE currently tracks PPC adjustments by placing a remarker on the customer's account when the "first" time adjustment is made. However, no estimate of time and cost involved to generate a mechanized report is currently available. Automatic adjustments for improper charges due to violation of Section 10(d)(1)-(5) would result in additional labor costs due to stimulation of bill inquiries that would result from the bill messages proposed. They include service representative wages, on-line system time, and supervisor head count, but GTE provided no quantitative estimate.

AT&T would most likely experience a substantial increase in

uncollectibles from having to automatically adjust customers' bills upon complaint, rather than upon verification of a complaint.

Floralia Telephone Company, St. Joseph Telephone and Telegraph, and Gulf Telephone Company each report that it would cost approximately \$4,620 in computer programming time to redesign their billing systems so that partial payments could be credited to certain balances. They also estimate that it would cost \$2,310 to disclose the required information on each section of the bill containing PPC charges. A bill adjustment tracking system would also cost \$2,310 to implement.

Indiantown Telephone estimated that there would be a \$1,200 nonrecurring cost to program the proposed billing changes. Recurring charges for material, postage, and labor would be approximately \$150 per month or \$1,800 per year.

Northeast Florida does not know the cost of reprogramming for bill tracking at this time but thinks it would be expensive. Northeast would incur a loaded labor cost of \$3.26 per 900/976 complaint that called for automatic bill adjustment.

**Implementation of Safeguards for Accidental Disconnection.** GTE believes that it would have to manually sort through each affected customer's bill to ensure that service was not accidentally disconnected for nonpayment of PPC charges. This would result in increases in service representative expenses, on-line system time, and increased management head count in the collection area. However, GTE is converting to a new billing system, Customer Billing Services System (CBSS) in November and modifications to comply with safeguard requirements are planned to be available January 1, 1992. Floralia, St. Joseph, and Gulf Telephone would have to implement a manual procedure to prevent accidental disconnection of telephone service but have no means of identifying the cost. Northeast Florida Telephone Company would incur a cost of \$1,000 to reprogram to prevent accidental disconnection for nonpayment of PPC charges.

**Nonprovision of Transmission and/or Billing for Tariffed or Contractual Relationships.** GTE stated that the requirements in Section 10(b)(1)-(8) may require billing changes but costs to make the changes were not currently available. Also, the section would require changes to the current GTE Florida General Services Tariff for 976 service and the GTE Dial-It Service Agreement, as well as the current billing and collection agreements, but GTE provided no

estimate of costs to make these changes.

Pay per Call Providers. A primary concern of 900/976 service providers with the proposed rule amendments is the potential loss of revenue when telephone end users dispute PPC charges and have their bills adjusted. PPC respondents fear a large portion of their revenues could be lost when the LECs and IXC adjust billings for disputed 900 and 976 calls.

As the economic impact statement for Phase 1 notes:<sup>1</sup>

The major concern of 900/976 providers regarding these rule amendments was the required notification to the customer that nonpayment of 900/976 charges would not result in discontinuance of service. The constant reminder that service would not be disconnected is perceived as an open invitation for consumer abuse. To quote AB Communications, "The proposed rule would basically require IPs to place revenue on the honor system of its customers." The 900/976 information providers indicated that current estimates of bad debt range from 10 to 30 percent of booked revenues. The companies also indicated that under current tariff provisions and agreements, the LEC/IXC has little incentive to make extra efforts to collect disputed billings. The LEC/IXC receives its billing and collection charges and any appropriate transport fee regardless of whether the billed revenues are collected or charged back to the information provider. The bad debt is ultimately borne by the 900/976 information provider. Therefore, there is no incentive for the LEC or IXC to change collection procedures if a dramatic increase in uncollectibles associated with 900/976 services occurs. If the proposed rule amendment results in such usage increases, the information providers would not only absorb any increases in bad debt, but also would pay the LEC/IXC the associated increases in billing, collection, and transport fees.

The companies estimated that bad debt could increase to 50 to 80 percent of billed revenues. AB Communications, Inc., estimated that monthly collections would decrease from \$30,000 to less than \$5,000 per month. All of the responding 900/976 information providers indicated they would eventually have to cease operations in the State of Florida if continued patterns in such charge-backs materialized.

In efforts to limit both customer and 900/976 information provider abuse, several suggestions were made by the companies. These included free blocking, informative preambles, no LEC billings for children-related services, prominent price disclosure, and telephone company initiated blocking for nonpayment by consumers who

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<sup>1</sup> Economic Impact Statement for Docket No. 910060-TP, Petition of the Attorney General and Public Counsel to Initiate Rulemaking Proceedings Governing 900/976 Service, Commission Rule 25-4.110, FAC, Customer Billing; March 29, 1991.

abuse the service.

There are many benefits that consumers of 900/976 services and society receive from having access to quality information services. Any proposed regulation to curb abuse of 900/976 customers should recognize that there are satisfied customers of 900/976 services who may be adversely affected by such regulation through higher rates and possible elimination of particular services if companies remove themselves from the market due to uncontrollable cost increases. In addition, to the extent that customers use this rule amendment to avoid paying legitimate bills, the quality 900/976 service providers will be unduly penalized.

In Phase 2 of the proposed 900/976 billing rule revisions, LECs would lose revenues from the free call blocking proposal ranging from \$3 to \$38 per customer block. The proposed billing changes would cost an estimated \$1,200 nonrecurring and \$1,800 recurring for the smallest LEC to \$64,680 nonrecurring and \$302,605 recurring for the largest LEC, Southern Bell. A bill tracking system would incur additional costs, with estimates ranging from \$2,310 to \$4,000. Billing system costs to handle partial payments ranged from \$4,620 to \$30,000.

In addition, although estimates were not provided, some LECs stated they would lose billing and collection revenues from disputed charges. Also, there could be additional costs to change tariffs and billing and collection agreements to comply with the proposed rule revisions.

For Phase 2, only one PPC provider made an estimate of the additional cost which could be incurred with the proposed changes, a nonrecurring software charge of \$1,000 for internal reporting changes and re-recording the preamble.

#### IMPACT ON SMALL BUSINESSES

Some of the IXC's are small businesses and may be affected by the rule changes. Also, many of the PPC service providers are small businesses. The costs of potential write-offs referred to above could cause a loss of revenues to the information providers. The exact amount is indeterminable in advance but could be a significant percentage of these companies' gross revenues. At a hearing to gather testimony from affected persons and businesses (including small businesses), PPC representatives stated that some companies may suffer 50 to 80 percent losses if the proposed changes are implemented. Small businesses which offer PPC services or merchandise could be put out of business if the amount of adjusted charges are significant. One company, Tele-Rose, testified it offers

merchandise, a dozen roses for \$39.95, on a PPC basis. The automatic adjustment by carriers for the first bill for PPC charges upon the end user/customer's stated lack of knowledge that PPC service (900/976) has a charge, could be very harmful to such small businesses providing services or merchandise in advance of payment. Although the majority of end users/customers would not try to get something for nothing, even a small fraction of the total number of customers abusing this option could substantially harm many small businesses providing PPC services and merchandise. Also, end users/customers may not realize from the bill statements that they are still liable for valid charges, and the PPC business may still pursue adjusted charges that were lost, through the courts, and report nonpayment to credit bureaus. Also, small businesses would have limited resources to provide adequate billing and collection services for themselves.

In addition to the adjustments for disputed charges being netted out against billings collected by the LECs and IXC's for the 900 and 976 PPC provider, billing and transmission charges for those disputed calls would still be incurred and borne by the PPC firms, including small businesses.

#### IMPACT ON COMPETITION

Those LECs and IXC's that have a high volume of 900 and 976 traffic through their systems could eventually lose billing and transmission revenues if 900 and 976 providers go out of business or leave the state due to excessive charge-offs from disputed calls. Although the amount of the lost revenues may not be significant to LECs and the larger IXC's, smaller IXC's could be significantly harmed, go out of business, and decrease the number of IXC's offering competitive services, which could lead to higher prices for long distance transmission.

As the proposed rule revisions apply only to intrastate PPC charges, non-Florida PPC companies would not be affected, giving them an advantage over Florida companies. Some Florida PPC providers may also go out of business or leave the state, potentially harming the level of competition within Florida for PPC services, which could decrease supply and increase prices to end users/customers.

#### IMPACT ON EMPLOYMENT

### IMPACT ON EMPLOYMENT

Some Commission staff time may be saved if there is a decrease in complaints concerning 900/976 PPC charges. However, the amount should not be of a magnitude to require a decrease in work force.

The need for some LECs to reprogram their billing systems to accommodate the proposed rule changes could lead to higher demand for computer and accounting labor. Some companies may have to go into the open marketplace and hire additional consulting services which could temporarily boost employment in that sector of the economy. The larger LECs may have need for additional service representatives to handle a possible heavier complaint level due to the bill notices of free blocking and adjustment of PPC charges. The exact change in employment by the LECs cannot be determined at this time.

The provisions in the proposed rule revision pertaining to automatic bill adjustments for end users/customers complaining about 900/976 PPC charges could cause loss of revenues to 900/976 information, service, and merchandise providers. If revenue losses to these firms are significant, which testimony indicates may be the case, some may decrease the quantity of labor hired and decrease employee hours and some may go out of business or leave the state and increase the unemployment rate in the telemarketing and PPC service sector.

The net change in employment due to the proposed rule changes cannot be determined with certainty, but the gain in employment at the LECs is likely to be short term as the level of complaints decreases over time. The decrease in employment in the telemarketing sector is likely to be long term as firms leave the industry and the restrictive regulations discourage entry by new firms.

### METHODOLOGY

The analysis was prepared using data collected from surveys ten LECs, two IXCs, and one PPC provider; workshop testimony; and discussions with staff from the Divisions of Communications and Consumer Affairs. Standard microeconomic analysis was used to determine the likely economic impacts of the proposed rule revision.

CBH:em/e-9001ec

Table 1  
Costs to Local Exchange Companies Except Southern Bell

Billing Changes, No Accidental Disconnect

Alltel	Nonrecurring	\$30,000
Centel	Nonrecurring	\$120,000
	Recurring	Cost of printing additional pages, additional postage
Floralta		\$4,620
GTE		Partial billing available Jan 1992; cost unknown for system change
Gulf		\$4,620
Indiantown	Nonrecurring	\$1,200 - programming costs
	Recurring	\$150 - materials, postage, and labor costs
Northeast		\$1,000 - programming costs
St. Joseph		\$4,620
United		\$600

Free Blocking Cost

Centel	\$10 per customer block
GTE	\$10 per customer block
Indiantown	\$50 per month
Northeast	\$38 - central office, blocking, and service order
United	\$3

Automatically Adjusting Charges Upon Complaint

Centel	\$5,000 - business office expense
Floralta	Unknown, but would prefer automatic credit
GTE	Additional service representative wages, on-line system time, supervisor head count
Gulf	Same as Floralta response
Northeast	\$3.26 per 900/976 service complaint
St. Joseph	Same as Floralta response

Costs of Not Collecting or Attempting to Collect  
Disputed Charges

Centel	\$3,600
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Table 1 (continued)

Costs of Not Providing Transmission and/or Billing Services for Noncomplying PPC ServicesAlltel  
GTEMinimal  
Some, but unknownBill Tracking SystemFloral  
GTE  
Gulf  
Northeast  
St. Joseph\$2,310  
Not available  
\$2,310  
Expensive, but unknown  
\$2,310Other CommentsFloral  
GTE  
Gulf  
Northeast  
  
St. Joseph  
UnitedRequirements of the proposed rule  
appear overly burdensome  
Would like six-month  
transition period  
Same as Floral response  
All 900/976 should be blocked  
unless subscriber agrees to  
be responsible  
Same as Floral response  
Additional monitoring and  
enforcement costs

Table 2  
Summary of Costs - Southern Bell

Southern Bell costs for disclosing on each section of a bill containing PPC charges: (1) the local or toll-free number the customer can call to dispute charges, (2) the name of the IXC providing 900 service, and (3) the PPC service program name.

<u>900 Service</u>	<u>1 IXC per Bill</u>	<u>4 IXCs per Bill</u>
<i>Nonrecurring:</i>		
Cost of segregating, sorting, creating disclaimer and header	\$31,624.98	\$ 31,624.98
Cost of adding number	2,256.22	2,256.22
Cost to add program name	<u>0.00</u>	<u>0.00</u>
Total Nonrecurring Charge	\$33,881.20	\$ 33,881.20
<i>Annual Recurring:</i>		
Ongoing program maintenance	\$ 2,991.75	\$ 2,991.75
Bill rendering cost to add disclaimer/header	69,763.80	279,055.20
Bill rendering cost to add contact number	<u>27,119.31*</u>	<u>108,477.23*</u>
Total Annual Recurring Cost	\$99,874.86	\$390,524.18

976 Service

<i>Nonrecurring:</i>		
Cost of segregating, sorting, creating disclaimer and header	\$ 0.00	
Cost of adding number	2,256.22*	
Cost to add program name	<u>7,901.33</u>	
Total Nonrecurring Charge	\$ 10,157.55	
<i>Annual Recurring:</i>		
Ongoing program maintenance	\$ 2,991.75	
Bill rendering cost to add disclaimer/header	130,952.11	
Bill rendering cost to add contact number	<u>63,631.32*</u>	
Total Annual Recurring Cost	\$197,575.18	

\*Note: These costs are avoidable if the contact number is listed in the "Helpful Numbers" section of the bill and does not have to be repeated in the carrier section of the bill.

## Table 2 (continued)

Costs of implementing and complying with proposed Section (10)(b) where LECs or IXC's who have a tariff or contractual relationship with a PPC (900 or 976) provider do not provide transmission and/or billing services for those that do not comply with each subsection 1 through 8.

900 Service

BellSouth would depend on the IXC's to monitor the PPC providers' programs and so would not incur additional costs for Item 5 for 900 service.

976 Service

*Nonrecurring:* \$16,641.76

Cost includes time to update operating standards, advertising guidelines and other procedures, tariffs and program development, and testing.

*Annual Recurring:* \$ 5,155.20

Cost includes additional time spent in monitoring 976 service providers' programs to ensure compliance with Section 10(b)(1)-(8) of the proposed revisions.

Bill Tracking System

*Nonrecurring:* \$ 4,000.00

*Recurring:* Displacement of other data on service representative computer screen.

Free Blocking

*Recurring:* \$10 per customer block - total amount unknown.