



Public Service Commission

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DATE: NOVEMBER 19, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYD)

FROM: DIVISION OF APPEALS (CALDWELL) *OWEN DES*
DIVISION OF COMMUNICATIONS (KENNEDY, MOSES, SHELFER) *REK R*
DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *AKS*

RE: DOCKET NO. 960312-TI - PROPOSED AMENDMENTS TO RULES 25-4.002, F.A.C., APPLICATION AND SCOPE; 25-24.600, F.A.C., APPLICATION AND SCOPE; 25-24.610, F.A.C., TERMS AND DEFINITIONS; RULES INCORPORATED; 25-24.620, F.A.C., SERVICE REQUIREMENTS FOR COMPANIES PROVIDING OPERATOR SERVICES; 25-24.630, F.A.C., RATE AND BILLING REQUIREMENTS; AND 25-24.800, F.A.C., SCOPE.

AGENDA: DECEMBER 1, 1998 - REGULAR AGENDA - RULE ADOPTION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

RULE STATUS: ADOPTION SHOULD NOT BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\APP\WP\960312#2.RCM

CASE BACKGROUND

Subsection 364.3376(3), Florida Statutes, relating to operator services provides:

For operator services, the commission shall establish maximum rates and charges for all providers of such services within the state.

No specific rates are referenced in the current rules. The Commission approved rate cap has been interpreted as being the comparable AT&T tariffed rate for interexchange carriers in accordance with Order No. 20489 issued on December 21, 1988.

DOCUMENT NUMBER-DATE

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FFSC-RECORDS/REPORTING

The current rules governing Operator Service Providers (OSPs) apply to companies, other than local exchange companies, that provide operator services as defined in Section 364.02, Florida Statutes. Because the current rules exempt LECs from the rate cap, LECs may charge rates in accordance with a Commission approved tariff. The rules apply to call aggregators and companies that bill and collect in their own name for operator services provided by other entities. The rules prohibit such companies from charging end users more than the Commission approved rate for intrastate calls. The current rule is silent regarding alternative local exchange companies (ALECs).

Notice of Proposed Rules appeared in the Florida Administrative Weekly. Comments were timely filed by AT&T Communications of the Southern States, Inc. ("AT&T"), BellSouth Telecommunications, Inc. ("BellSouth"), GTE of Florida, Inc., and GTE Communications Corp. (collectively as "GTE"). There was no request for a hearing.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission adopt amendments to the following rules: Rule 25-4.002, Application and Scope; Rule 25-24.600, F.A.C., Application and Scope; Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated; Rule 25-24.620, F.A.C., Service Requirements for Companies providing Operator Services; Rule 25-24.630, F.A.C., Rate and Billing Requirements; and Rule 25-24.800, F.A.C., Scope.

RECOMMENDATION: Yes, the Commission should propose the amendments.

STAFF ANALYSIS: In addition to the comments filed by AT&T, BellSouth, and GTE, a staff attorney for the Joint Administrative Procedures Committee (JAPC) suggested several technical changes be made. Staff agrees and recommends these changes be made to the proposed rules. Those changes include deleting references to the 1995 statutes and adding statutory references in the laws implemented.

AT&T filed comments and lower cost alternatives. The lower cost alternatives are specifically addressed in the Statement of Estimated Regulatory Cost that is attached to this recommendation.

AT&T makes the argument that setting the caps lower than AT&T's current tariffed rates constitutes a change in Commission policy. However, that change in policy occurred prior to the proposal of these rules. AT&T's rates were regulated by the Commission when it was the dominant carrier and the Commission found that the non-dominant carriers could not charge any more than the dominant carrier. By Order number 20489 the Commission found AT&T no longer was the dominant carrier and ceased regulating AT&T's rates. Because AT&T is no longer the dominant carrier, it is reasonable for the Commission to no longer require other rates to be no greater than what AT&T is charging. To do so would be arbitrary.

The caps for operator service and usage rates are for those customers who have no relationship with the preselected carrier at a pay telephone or in a hotel. Therefore, it is in the public interest to set rates at a reasonable level. Because AT&T is no longer the dominant carrier and many companies charge rates lower than AT&T, staff believes it is time to change Commission policy regarding tying the cap to AT&T. Staff has proposed rates for both operator assistance and per minute usage that we believe are fair and reasonable. While staff does not have current cost studies to support these rates, staff believes that technological advancement in this area has reduced the cost rather than increased it. Therefore, staff recommends that the operator rates should be set at \$1.75 for non-person-to-person, \$3.25 for person-to-person, and a usage rate of \$.30 per minute.

In addition, AT&T suggested two further changes to Rule 25-24.630, F.A.C. The first allows an annual increase to the rate caps set by the rule of no more than 20 percent. AT&T argued that the caps were similar to the procedure by which price-regulated LECs may raise their rates for nonbasic services¹ and costs associated with regulatory proceedings to revisit the capped rates and the loss of revenue associated with the provision would be eliminated.

Staff rejected this proposal. Competition is supposed to drive prices down. When caps are set, there seems to be the

¹ 364.051(6)(a), Florida Statutes, provides in part:

. . . except that a price increase for any non-basic service category shall not exceed [six] percent within a 12-month period until there is another provider providing local telecommunications service in an amount not to exceed 20 percent in a 12-month period,

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tendency for companies to price their services near or at the cap regardless of cost. If additional increases are allowed such as 20 percent per year, the rates could increase as companies price their services near or at the cap.

AT&T also suggests amending Rule 25-24.630(1) to add the phrase: "0+ or 0- [call] made from a pay [tele]phone or in a call aggregator context". Staff agrees that this language is necessary as it clarifies which services rates will be capped.

BellSouth's filing was more a statement of understanding or interpretation of the rules than comments. Because BellSouth's interpretation is consistent with the Commission's, nothing further need be addressed.

GTE suggests the Commission prescribe caps for per-minute and surcharge rates that do not exceed existing Commission-approved, tariffed rates. GTE argues that companies could not raise rates any higher than the highest rate on file for the various types of services and the Commission will avoid unduly interfering with companies' marketing and pricing strategies.

Section 364.3376(3), Florida Statutes, provides:

For operator services, the commission shall establish maximum rates and charges for all providers of such services within the state.

Staff believes that GTE's suggestion does not meet the purpose of the statute which is to establish maximum rates and charges for all providers of such services. GTE's suggestion seems to establish maximum rates and charges for each provider. End users of operator services who do not dial around to their preferred carrier are captive to the operator service chosen by the provider and may not have other choices available to him. Staff believes it is in the public interest to set the rates of those specific services uniformly for all providers.

Pursuant to the forgoing discussion, Staff recommends the following changes be made to the rules as it was proposed:

Rule 25-24.002 - Delete the reference to "and regulations" as agencies only have authority to adopt rules. Add sections 364.335 and 364.3376, Florida Statutes, to the law implemented.

Rules 25-24.600 and 25-24.610 - Delete reference to "1995" Florida Statutes. Years should not be included in the rules when citing statutes.

Rule 25-24.630 - Add "0+ and 0-" and "made from a pay telephone or in a call aggregator context". As discussed earlier, this language clarifies the services to which the rate caps apply

Statement of Estimated Regulatory Cost Summary:

Operator service providers will be able to increase or decrease their rates dependent upon whether they are presently charging at or below the current cap. Staff defines the present cap as the rates contained in staff's memorandum to all interexchange carriers dated August 18, 1998. Therefore, if an operator service provider is charging at the present interLATA rate cap, it could increase its per-minute rates by \$.02 (from \$.28 to \$.30) but would have to decrease its operator surcharges by \$1.65 for a Person-to-Person call (from \$4.90 to \$3.25) and by \$.50 for a Non-Person-to-Person call (from \$2.25 to \$175). To the best of staff's knowledge all incumbent local exchange companies are presently charging at or below the cap. AT&T is the only respondent to staff's data request that stated it would be required to decrease rates below its present rates as a result of the proposed rule amendment. According to AT&T, the annual impact of reducing its rates to the proposed rate cap would be \$5.169 million.

Under the proposed rules, an operator service provider wishing to raise its rates above the cap would have to petition the Commission for a waiver of the rules or seek to have the rate caps changed through a rulemaking proceeding. Rulemaking proceedings generally take about nine months and would consume staff resources. Otherwise, the rule is not expected to result in any direct costs to this agency or other state or local government entities.

Several parties (AT&T, MCI and WorldCom) stated placing specific rate caps in the rules would increase their costs because they would have to go to rulemaking each time they wanted to increase rates above the cap. AT&T stated it would incur annual costs of \$150,000 plus possible forgone revenues during the time the rulemaking proceeding took place. Neither MCI nor WorldCom quantified their costs. Though a rulemaking proceeding would be costly for both regulated entities and the Commission, simply allowing companies to file tariffs listing their rates would not accomplish the objective of Section 364.3376(3), F.S., which

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requires the Commission to establish maximum rates and charges for all intrastate operator services.

ISSUE 2: Should a notice of change for the rule amendments as adopted be noticed in the Florida Administrative Weekly and if no challenge is filed, filed with the Secretary of State, and the docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Unless a rule challenge is filed, the rules as adopted should be noticed and then filed with the Secretary of State without further Commission action. The docket may then be closed.

MEMORANDUM

November 19, 1998

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KLZ*
C.C. AM

SUBJECT: REVISED STATEMENT OF ESTIMATED REGULATORY COST, PROPOSED AMENDMENTS TO RULE 25-4.002, F.A.C., APPLICATION AND SCOPE; RULE 25-24.600, F.A.C., APPLICATION AND SCOPE; RULE 25-24.610, F.A.C., TERMS AND DEFINITIONS; RULE INCORPORATED; RULE 25-24.620, F.A.C., SERVICE REQUIREMENTS FOR COMPANIES PROVIDING OPERATOR SERVICES; RULE 25-24.630, F.A.C., RATE AND BILLING REQUIREMENTS; AND RULE 25-24.800, F.A.C., SCOPE. - DOCKET NO. 960312-TP

A Statement of Estimated Regulatory Costs (SERC) was provided on June 4, 1998, and accompanied the recommendation to propose the rule amendments at the June 30, 1998, agenda conference. The SERC has been revised to address modifications made to the proposed rule amendments since the rule was published in the Florida Administrative Weekly and to address the lower cost regulatory alternatives filed by AT&T Communications of the Southern States (AT&T) on August 8, 1998.

SUMMARY OF THE RULE

Amendments have been proposed to six rules. Rule 25-4.002, F.A.C., Application and Scope, states which parts of the Chapters on telecommunications companies apply to which types of telecommunications providers, as those providers are defined in the Commission's rules. The proposed amendments remove references which are no longer accurate due to changes in the Florida Statutes and Commission rules. The proposed amendments add statements clarifying that Part XV of Chapter 25-4, F.A.C., applies to all alternative local exchange companies (ALECs) and that Part XIII of Chapter 25-24, F.A.C., applies to any local exchange company (LEC) that provides operator services in a call aggregator context. The proposed amendments also remove unneeded language.

The language in Rule 25-24.600, F.A.C., Application and Scope, that presently exempts LECs from the rule would be stricken. The language that exempts certificated telecommunications companies from the definition of "call aggregator" would be stricken from Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. Also, language to clarify the definition of "call aggregator" would be added to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. A definition of "person-to-person" would be added to Rule 25-24.610, F.A.C. Another form of access to interexchange carriers, 10XXXX, is proposed for addition to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services.

Rule 25-24.630, F.A.C., Rate and Billing Requirements, presently states that an operator services provider shall charge end users no more than the Commission-approved rate for intrastate calls and does not list specific types of calls. The proposed amendment would remove this language and replace it with specific rate caps for per minute charges for intrastate 0+ or 0- calls made from a pay phone or a call aggregator context, as well as specific rate caps for the operator charges that can be applied to person-to-person and calls that are not person-to-person. Additionally, the proposed amendment requires an operator services provider to remit a \$0.25 set use fee to the pay telephone service provider for all 0- calls completed from a pay telephone station by the provider of local exchange telecommunications services.

Rule 25-24.630(8)(c) presently states that operator services providers shall not bill for calls in increments greater than one minute. The proposed amendment adds language which would provide an exception for coin calls, allowing them to be billed in increments no greater than three minutes.

Finally, ALECs that provide operator services in a call aggregator context would be required to comply with the rules contained in Part XIII of Chapter 25-24, F.A.C., according to the proposed amendment to Rule 25-24.800, F.A.C., Scope.

**ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY
AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED**

Each company that provides operator services as defined in Section 364.02, F.S., (1995) is required to comply. There are currently approximately 87 interexchange carriers identified as operator service providers in the Master Commission Directory. There are approximately 200

certificated ALECs, though it is not known how many provide operator services. Of the ten LECs, BellSouth, GTE Florida Incorporated, Sprint-Florida, Inc., and Vista-United provide their own operator services. It is the understanding of RRR staff that the remainder obtain operator services through contracts with other providers.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE OR LOCAL GOVERNMENT ENTITIES

Specific rate caps will be clearly defined in the rules, and all operator service providers will be subject to the same rate caps. Such standardization should be beneficial for Commission staff who deal with certification, tariffs, and customer complaints. If operator service providers wish to raise rates above the caps, a rulemaking proceeding would have to take place. Such a proceeding generally takes about nine months and would consume staff resources. Otherwise, the rule is not expected to result in any direct costs to this agency. No direct costs to other state or local government entities are foreseen.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Proposed Amendment to Rule 25-4.002, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.600, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated

No provider identified costs for this proposed rule amendment, although AT&T and LDDS WorldCom stated the proposed definition of "call aggregator" was unnecessarily broad and would increase regulatory costs by an unquantified amount. Subsequent to receiving the companies' responses to staff's data request, the proposed definition of "call aggregator" was revised to clarify that it applies to ". . . any person or entity that provides telecommunications service to th transient

public (emphasis supplied)." This narrowing of the definition should alleviate the concerns expressed by AT&T and LDDS WorldCom.

AT&T was also concerned that potential new costs the proposed rule amendments might impose upon call aggregators such as hotels and motels would not be identified, as staff did not send such entities a data request. It is staff's view that the proposed rule amendments do not impose new requirements upon these entities, as the vast majority do not provide their own operator services but obtain them under contract from a certificated operator services provider. Entities such as hotels and motels are regulated under Rule 25-24.640, F.A.C., which is not being amended by these proposed rules. Furthermore, hotel and motel call aggregators are well aware of the Commission's rules because they have been subject to a random inspection and enforcement program conducted by the Commission staff since approximately 1992.

Proposed Amendment to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services

Sprint-Florida, Inc. (Sprint-Florida) was the only company that stated it would incur costs to comply with some of the provisions contained in the proposed amendments to Rule 25-24.620, F.A.C. Sprint-Florida currently provides front-branding on manual Toll Assist calls but not back branding as the proposed rule amendment would require. An estimated 1.5 seconds of work time per call would be added to each call that required manual branding. The annual cost to brand toll assist calls on the back end with the Sprint-Florida name would be approximately \$105,000. Branding for other companies on a call-by-call basis would increase Sprint-Florida's cost by an unquantified amount. However, Sprint-Florida stated that it does not plan to manually brand calls as the company does not believe it would be an efficient or cost effective method of handling calls.

Instead, Sprint-Florida plans to provide automated front and back branding for all Toll Assist calls (including manual). To accomplish this branding, software and possibly hardware changes would be required in the four Nortel TOPS switches in the company's network. The estimated total non-recurring cost of these additions would be approximately \$750,000. No recurring costs were provided. No other provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.630, F.A.C., Rate and Billing Requirements

If the proposed amendment becomes effective, the maximum charge permitted for an intrastate call would be \$0.30 per minute plus other applicable charges. The maximum applicable surcharge would be \$3.25 for a person-to-person call and \$1.75 for a call that is not a person-to-person call. To the best of staff's knowledge, the rates of all of the incumbent local exchange companies are presently at or below the proposed rate caps.

AT&T is the only respondent that stated it would be required to decrease rates below its present rates as a result of the proposed rule amendment. Prior to June 12, 1997, AT&T's tariffed rates were at or below those specified in the proposed rule. On April 30, 1998, AT&T filed a general services tariff listing operator service charges of \$6.50 for a person-to-person interLATA call. Charges for other than person-to-person calls ranged from \$2.45 to \$3.95, depending upon the type of call. AT&T's response to staff's April 8, 1998, data request stated that reducing its rates to the proposed rate cap would have an annual impact of \$5.992 million. However, AT&T has since reduced that estimate to \$5.169 million, citing recent rate reductions.

BellSouth identified non-recurring costs of \$75,000 to assign specific rates to operator served traffic originating from call aggregator locations. Changing its rates to market levels within the rate cap can be achieved for a one-time cost of approximately \$1,000.

Neither Sprint-Florida, Inc. nor GTE Florida expected to incur additional costs to comply with the proposed amendments to Rule 24-24.630, F.A.C.

Rate and billing requirements currently in effect for operator service providers at Rule 25-24.630(1)(b) require rate information to be provided to end users, upon request, prior to connection. IXC's providing operator services are already required to comply with this provision, and proposed amendments to Rule 25-4.002, Application and Scope, extend this requirement to LECs and ALECs providing operator services in a call aggregator context. MCI and T-Netix, Inc. stated there would be costs associated with configuring their systems to provide rates to the called party prior to the party accepting the call. However, both companies agreed that the Federal Communications Commission has mandated this requirement, so the costs were not unique to Florida and would be incurred regardless of this Commission's proposed rules.

MCI and AT&T were both concerned that placing specific rates in a rule would increase their costs. MCI did not quantify its costs. AT&T stated it would have additional regulatory costs of

\$150,000 annually, plus (unquantified) lost revenues if it has to go to rulemaking each time it wants to increase rates above the cap.

Under the proposed rule, a company would have to petition for a rulemaking proceeding to increase its rates over the rate cap. A company could not increase its rates until the rulemaking proceeding was completed (typically about nine months) and, therefore, would lose revenues it might otherwise have earned.

If rates were not capped via rule, a company could simply file a tariff to increase its rates. Such tariffs are effective within 24 hours of filing. If the Commission staff's review of the tariff determined that the rates were excessive, a recommendation that the company modify or withdraw its tariff would be filed. However, in the interim, the company could continue to charge its tariffed rates.

A rulemaking proceeding would be costly for both regulated entities and the Commission. However, simply allowing companies to file tariffs listing their rates would not accomplish the objective of Section 364.3376(3), F.S., which requires the Commission to establish maximum rates and charges for all intrastate operator services providers.

Proposed Amendment to Rule 25-24.800, F.A.C., Scope

No provider identified costs associated with this proposed rule amendment.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

Though some operator service providers may qualify as a small business, it is not known how many. None of the providers responding to staff's data request met the statutory requirement for a small business. Operator service providers who contract with small businesses, such as motels, will be impacted if the proposed rule amendments become effective. These providers will be able to increase or decrease their rates dependent upon whether they are presently charging at or below the current rate cap. If the proposed rule amendments become effective, an operator service provider charging at the present rate cap could increase its per-minute rates by \$.04 (from \$.26 to \$.30) but would have to decrease its operator surcharges by \$1.65 for a Person-to-Person call (from \$4.90 to \$3.25) and by as much as \$2.20 for a Non-Person-to-Person call (from \$3.95 to \$1.75). As rate adjustments directly impact revenues received by operator service providers, such adjustments may

also indirectly impact the commission payments and other terms of the contracts these providers may have with call aggregators such as motels. Some of these call aggregators may qualify as small businesses. As contracts are specific to the parties involved, without knowing the details of each contract, as well as what portion of a small businesses' earnings come from commission payments, staff cannot determine the impact. The proposed rules are not expected to have a negative or disproportionate impact on small businesses, small cities, or small counties.

REASONABLE ALTERNATIVE METHODS AND LOWER COST REGULATORY ALTERNATIVES

Section 120.541, F.S., provides for a substantially affected person to submit a good faith written proposal for a lower cost regulatory alternative to a proposed rule and requires the SERC to either adopt the alternative or give a statement of the reasons for rejecting it in favor of the proposed rule. AT&T's proposals were timely filed in accordance with Section 120.541, F.S., and are addressed below. In addition, informal suggestions or reasonable alternative methods the parties included in their responses to staff's data request are also discussed in this section.

In their response to staff's data request, MCI and WorldCom informally proposed alternatives to the proposed rules. MCI suggested retaining the tariff process as the means for operator service providers to set maximum rates instead of delineating specific maximum rates as in the proposed amendments to Rule 25-24.630, F.A.C., Rate and Billing Requirements. MCI stated its opportunity cost would be very great (unquantified) if it must petition to amend the Commission rules each time it wishes to increase its rates beyond the caps specified in the proposed rule amendments.

Presumably, MCI believes it should be allowed to file tariffs containing its rates which would be effective within 24 hours. Should the Commission staff believe the tariffed rates are excessive, it would have to file its objections in a recommendation to the Commissioners. This procedure may not be in the best interest of consumers as it places the burden on staff to "catch" excessive rates contained in tariff filings and would allow companies to continue charging excessive rates until any action taken by the Commission became final. Such a process could become quite lengthy as it might require a hearing. If excessive rates were determined to have been charged, the problem is compounded because the Commission would then have to determine a method of refunding amounts overcharged. Identifying customers who have placed calls from call aggregator locations can be

difficult, time-consuming, and costly to the company. Therefore, customers who paid excessive rates may not receive a direct refund or would not receive the refund in a timely manner.

WorldCom suggests adopting a rate cap using the current AT&T rates filed on April 30, 1998. WorldCom believes this would reduce its regulatory cost by an unquantified but significant amount. However, adopting a rate cap which caps the rates at AT&T's tariffed rate as of a specific date does not appear to reduce costs, because a rulemaking proceeding would still be required to increase the cap. On March 13, 1996, the Commission decided that AT&T was no longer the dominant carrier, consequently, there is no rationale for linking the operator service rates to AT&T rates.

AT&T's Lower Cost Alternatives

On August 8, 1998, AT&T formally submitted lower costs regulatory alternatives to proposed Rule 25-24.630, F.A.C.

AT&T Alternative No. 1: AT&T requests that the Commission set the non-person-to-person rate cap at AT&T's presently tariffed level. AT&T wrote, "Setting the rates at this level would produce a lower regulatory cost to AT&T and all providers presently governed by the de facto rate cap provided by AT&T's rates, without increasing costs to consumers who currently pay these rates."

RRR Staff Position on Alternative No. 1: Reject. AT&T's August 8, 1998, filing contained no specific cost data to support its claim. Therefore on August 14, 1998, staff wrote AT&T and asked the company to quantify the lower regulatory cost it expected would result from its proposed alternative. AT&T responded that because alternative operator service (AOS) providers are permitted to charge AT&T's tariffed rate, these providers would be forced to reduce their rates if the proposed rate cap is instituted. However, AT&T stated it could not quantify the cost impact of the proposed rate cap on AOS providers or call aggregators because it has no specific information regarding the number of such providers or their call volumes.

Staff believes that AT&T should not make the assumption that the majority of AOS providers are charging the higher rates listed in AT&T's most recent tariff filing. AT&T has not demonstrated that the majority (or any) providers are charging equivalent rates, nor has it specified what rate AOS providers are currently charging. Consequently, no conclusions can be drawn about whether AOS providers would be forced to reduce their rates.

Staff also questions AT&T's claim that setting the rates at its presently tariffed levels would produce a lower regulatory costs to AT&T and other providers, "... without increasing costs to consumers who currently pay these rates." AT&T has provided no information about who these consumers are or how many of them currently pay the higher rates. Are they transients, vacationing tourists, or business people in hotels? Consumers who currently pay these rates could be one-time customers who have no choice. Staff does not know whether the consumers are repeat customers who would view these rates as not increasing their costs.

Staff asked AT&T to quantify the lower regulatory cost, including the assumptions and basis for the cost savings AT&T expects to result from its proposed lower cost alternative to set the non-person-to-person charge at its presently tariffed rate. AT&T stated the estimated impact of imposing a \$1.75 rate cap on non-person-to-person calls is \$5.169 million. Staff does not have sufficient information about the profit margins of AT&T or other operator service providers to determine the financial impact of such a reduction in revenues.

In its lower cost alternative filing dated August 8, 1998, AT&T also stated that though many telecommunications costs have decreased and some of the company's rates have been lowered, operator costs have increased. In particular, costs associated with a live operator have increased according to AT&T. Staff asked AT&T to explain how operator costs had increased since 1996 and to provide costs associated with both automated and live operator services for intrastate 0+ and 0- calls made from pay telephones and call aggregator locations.

In its response, AT&T stated that since 1996 its costs, as measured by Operator Work Second, have increased by 28%. AT&T cited annual increases in operator wages and reduced 0+ call volume as contributors to increased costs. AT&T did not provide the requested breakdown of costs associated with automated and live operator services for intrastate 0+ and 0- calls made from pay telephones and call aggregator locations.

AT&T Alternative No. 2: The Commission could further reduce the regulatory cost of this rule amendment by allowing operator service providers the option of raising their capped rates by an amount not to exceed twenty percent within a twelve month period, similar to the procedure by which price-regulated LECs may raise their rates for non-basic services. This would eliminate the costs associated with regulatory proceedings to revisit the capped rates.

as well as help alleviate the loss of revenue associated with the provision. AT&T requests the Commission add the following language to Rule 25-24.630, F.A.C., after (1)(b):

Beginning September 1, 1999, the rates for operator services set by this paragraph may be increased in an amount not to exceed twenty percent within a twelve month period.

RRR Staff Position on Alternative No. 2: Reject. It appears that AT&T means for the Commission to adopt this alternative in addition to its first proposed alternative. As staff has already rejected the first alternative, we also reject this alternative if it must be a companion to the first. We also reject this alternative because AT&T has provided insufficient justification for an increase of twenty percent every twelve months. Staff believes the appropriate percentage increase cannot be determined from available information. However, an alternative that would allow operator service providers to increase their rates by some capped percentage annually has some appeal, as it would eliminate the costs associated with holding a rulemaking hearing each time an operator service provider wants to raise its rates above the cap. Furthermore, prohibiting the rates from increasing more than a specific percentage every twelve months would permit companies to adjust their prices within a wider range but not to the extent that consumers would experience rate shock.

AT&T Alternative No. 3: AT&T requested that language be added to the proposed amendment to Rule 25-24.630, F.A.C., which would clarify the intended scope and purpose of the proposed rate caps.

RRR Staff Position on Alternative No. 2: Accept. Language to more closely describe the situations in which the proposed rule is intended to apply was developed during a meeting between staff and industry representatives and has been added to proposed Rule 25-24.630, F.A.C.

KDL:tf/e-osp2.tmf

1 ~~introduces unusual hardship, or if unreasonable difficulty is~~
2 ~~involved in immediate compliance with any particular rule, written~~
3 ~~application may be made to the Commission for modification of the~~
4 ~~rule or for temporary exemption from its requirements.~~

5 ~~(3) The adoption of these rules shall in no way preclude the~~
6 ~~Commission, upon complaint, upon its own motion or upon the~~
7 ~~application of any utility, upon due notice and opportunity for~~
8 ~~hearing, from altering or amending them, in whole or in part, or~~
9 ~~from requiring any other or additional service, equipment,~~
10 ~~facility, or standard, or from making such modifications with~~
11 ~~respect to the application as may be found necessary to meet~~
12 ~~exceptional conditions.~~

13 ~~(4) Except as provided in Parts X and XI of Chapter 25-24,~~
14 ~~the adoption of these rules shall not in any way relieve any~~
15 ~~utility from any of its duties under the laws of this State.~~

16 Specific Authority: 350.127(2), F.S.

17 Law Implemented: 364.01, ~~364.337~~, 364.337, ~~364.3376~~, F.S.

18 History: Revised 12-1-68, formerly 25-4.02, Amended 2-23-87, 1-8-
19 95, _____.

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CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

1 **25-24.600 Application and Scope.**

2 (1) This Part applies to:

3 (a) Every company, ~~other than a local exchange~~
4 ~~telecommunications company~~, that provides operator services as
5 defined in Section 364.02, Florida Statutes ~~(1995)~~,

6 (b) Every company that bills and collects in its own name for
7 operator services provided by other entities, and

8 (c) Call aggregators as defined in this Part.

9 (2) In addition to the rules contained in this Part, every
10 company providing operator services shall also comply with the
11 rules contained in Part X of Chapter 25-24, F.A.C.

12 (3) Each company subject to this Part may petition for exemption
13 from applicable portions of Chapter 364, Florida Statutes, or for
14 application of different requirements than those prescribed for
15 telecommunications companies in Chapter 364, Florida Statutes,
16 under the authority of Section 364.337, Florida Statutes ~~(1995)~~.

17 **Specific Authority:** 350.127(2), 364.3376(8), F. S.

18 **Law Implemented:** 364.01, 364.3376, F.S.

19 **History:** New 9-6-93, amended 9-10-97, _____.

20
21 **25-24.610 Terms and Definitions; Rules Incorporated.**

22 (1) For purposes of this Part, the following definitions apply:

23 (a) "Call aggregator" is any person or entity ~~other than a~~
24 ~~certificated telecommunications company~~ that provides
25 telecommunications service to the transient public, in the ordinary

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1 ~~course of its operations, provides telecommunications service to~~
2 ~~any end user.~~ Subject to the definition above, "call aggregator"
3 includes but is not limited to the following:

4 1. Hotel as defined in Section 509.242 (1)(a), Florida Statutes
5 ~~(1995),~~

6 2. Motel as defined in Section 509.242 (1)(b), Florida Statutes
7 ~~(1995),~~

8 3. Resort condominium as defined in Section 509.242 (1)(c),
9 Florida Statutes ~~(1995),~~

10 4. Transient apartment as defined in Section 509.242 (1)(e),
11 Florida Statutes ~~(1995),~~

12 5. Roominghouse as defined in Section 509.242 (1)(f), Florida
13 Statutes ~~(1995),~~

14 6. Resort dwelling as defined in Section 509.242 (1)(g),
15 Florida Statutes ~~(1995),~~

16 7. Schools required to comply with any portion of Chapters 228
17 and 246, Florida Statutes ~~(1995),~~ or Section 229.808, Florida
18 Statutes ~~(1995),~~

19 8. Nursing home licensed under Section 400.062, Florida
20 Statutes ~~(1995),~~

21 9. Assisted living facility licensed under Section 400.407,
22 Florida Statutes ~~(1995),~~

23 10. Hospital licensed under Section 395.003, Florida Statutes
24 ~~(1995),~~

25 11. Timeshare plan as defined in Section 721.05(31), Florida

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1 Statutes ~~XXXXXX~~,

2 12. Continuing care facility certificated under Section 651.023,
3 Florida Statutes ~~XXXXXX~~, and

4 13. Homes, communities, or facilities funded or insured by the
5 United States Department of Housing and Urban Development (HUD)
6 under 12 U.S.C.S. § 1701q (Law. Co-op. 1994) that sets forth the
7 National Housing Act program designed to aid the elderly.

8 (b) "Conversation time" is the time during which two-way
9 communication is possible between the calling and called party.

10 (c) "End user" means a person who initiates or is billed for a
11 telephone call.

12 (d) "Person-to-person" is a service whereby the person
13 originating the call specifies to the operator service provider's
14 operator a particular person to be reached.

15 ~~(e)-(d)~~ "Surcharge" means an amount billed to an end user by a
16 call aggregator that is in excess of the rate information that may
17 be obtained pursuant to Section 364.3376(5), Florida Statutes
18 ~~(1995)~~. "Surcharge" includes any charge billed by a call aggregator
19 that is associated with a call billed by another entity.

20 (2) In addition to the above, the following rules are
21 incorporated herein by reference:

Section	Title	Portions Applicable
23 25-4.003	Definitions	All
24 25-4.019	Records and Reports	All

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1 in General
2 25-4.020 Location and Preservation (2) and (3)
3 of Records
4 Specific Authority: 350.127(2), 364.3376(8), F.S.
5 Law Implemented: 364.01, 364.016, 364.3376, F.S.
6 History: New 9-6-93, Amended 9-10-97, _____.

8 25-24.620 Service Requirements for Companies Providing
9 Operator Services.

10 (1) Every company providing operator services shall clearly
11 state the name of the company upon answer and again after accepting
12 billing information before the call is connected.

13 (2) In its tariffs for and contracts with billing and
14 collection agents and other companies providing operator services,
15 every company providing operator services shall require the other
16 party to:

17 (a) Allow end users to access, at no charge, all locally
18 available interexchange companies via all locally available methods
19 of access, such as including 10XXX, 10XXXX, 101XXXX, 950-XXXX, and
20 toll free access codes, such as 800, 877, and 888; except that
21 Feature Group A (seven-digit local number) access lines are exempt
22 from this requirement;

23 (b) Allow end users to access the universal telephone number
24 "911", where operable, at no charge to the end user, and where not
25 operable, to allow end users to access the operator of the provider

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1 of local exchange telecommunications services at no charge;

2 (c) Route all end user dialed 0 + local and all 0- calls to
3 the provider of local exchange telecommunications services unless
4 the end user dials the appropriate access code for his carrier of
5 choice, such as 950, 800, 877, 888, 10XXXX, 101XXXX, or 10XXX; and

6 (d) Route all end user dialed 1 + and 0+ toll calls to the
7 preselected carrier unless the end user dials the appropriate
8 access code for his carrier of choice, such as 950, 800, 877, 888,
9 10XXXX, 101XXX, or 10XXX; and

10 (e) Route all end user dialed 0- calls to the operator of the
11 provider of local exchange telecommunications services at no charge
12 to the end user when no additional digits are dialed after five
13 seconds.

14 (3) Each operator services provider shall provide an
15 opportunity for each caller to be identified by name to the called
16 party before any collect calls may be completed.

17 Specific Authority: 350.127(2), F.S.

18 Law Implemented: 364.01, 364.3376, F.S.

19 History: New 9/6/93, Amended 1/16/96, 9/10/97, _____.

20
21 25-24.630 Rate and Billing Requirements.

22 (1) Services charged and billed to any end user by an An
23 operator services provider for an intrastate 0+ or 0- call made
24 from a pay telephone or in a call aggregator context shall not
25 exceed a rate of \$.30 per minute plus the applicable charges for

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1 the following types of telephone calls:

2 (a) A person-to-person call -- a charge of \$3.25; charge and
3 bill end users no more than the Commission approved rate for
4 intrastate calls;

5 (b) A call that is not a person-to-person call -- a charge of
6 \$1.75.

7 (2) For 0- calls from pay telephone stations completed by the
8 provider of local exchange telecommunications services, a set use
9 fee of \$0.25 shall apply and shall be remitted by the local exchange
10 company to the pay telephone service provider.

11 (3) An operator services provider shall have current rate
12 information readily available and provide this information orally
13 to end users ~~end-users~~ upon request prior to connection.†

14 (4) ~~(e)~~ An operator services provider shall require that its
15 certificated name ~~or the name of its certificated billing agent~~
16 appear on any telecommunications company's bill for regulated
17 charges.†

18 (5) ~~(d)~~ An operator services provider shall require all calls
19 ~~are~~ to be individually identified on each bill from a
20 telecommunications company ~~on~~ ~~to~~ an end user's ~~end-user~~ bill,
21 including the date and start time of the call, call duration,
22 origin and destination (by city or exchange name and telephone
23 number), and type of call.† ~~and~~

24 (6) ~~(e)~~ An operator services provider shall provide a toll-free
25 number for customer inquiries on the bill and maintain procedures

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1 adequate to allow the company to promptly receive and respond to
2 such inquiries, ~~and~~

3 ~~(7)(f)~~ An operator services provider shall charge only for
4 conversation time as rounded according to company tariffs.

5 ~~(8)(2)~~ An operator services provider shall not:

6 (a) ~~Bill~~ or charge for uncompleted calls in areas where
7 answer supervision is available or knowingly bill or charge for
8 uncompleted calls in areas where answer supervision is not
9 available, ~~and~~

10 (b) ~~Bill~~ for any collect call that has not been affirmatively
11 accepted by a person receiving the call regardless of whether the
12 call was processed by a live or automated operator, ~~and~~

13 (c) ~~Bill~~ for calls in increments greater than one minute
14 except for coin calls that may be in increments no greater than
15 three minutes. ~~and~~

16 (d) ~~Bill~~ or collect a surcharge levied by any entity, either
17 directly or through its billing agent, except Commission-approved
18 charges for pay telephone providers.

19 Specific Authority: 350.127(2), F.S.

20 Law Implemented: 364.01, 364.3376, F.S.

21 History: New 9/6/93, _____.

22
23 25-24.800 Scope

24 (1) This part applies only to Alternative Local Exchange
25 Companies. The provisions of Chapters 25-4, 25-9 or 25-14 shall

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1 | not apply to Alternative Local Exchange Companies, unless
2 | specifically provided by this part.

3 | In addition to the rules contained in this part, any
4 | Alternative Local Exchange Company which provides operator services
5 | in a call aggregator context shall also comply with the rules
6 | contained in Part XIII of Chapter 25-24, F.A.C.

7 | Specific Authority: 350.127(2), F.S.

8 | Law Implemented: 364.01, 364.337, F.S.

9 | History: New 12/27/95, _____.

10 | amend\25600.dwc November 19, 1998

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TONI JENNINGS
President



DANIEL WEBSTER
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

Representative Jerrold Barroughs, Chairman
Senator Charles Williams, Vice Chairman
Senator Glassy Brown-Walks
Senator Fred R. Dudley
Representative Adam H. Putnam
Representative Jamey Westbrook

**CARROLL WEBB, EXECUTIVE DIRECTOR
AND GENERAL COUNSEL**
Room 128, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

MEMORANDUM

TO: Diana W. Caldwell

FROM: John Rosner 

DATE: August 20, 1998

SUBJECT: Public Service Commission Rule Chapter 25-24

In reviewing the rules referenced above, I note that there are numerous citations to statutory provisions which include the then-current date of the statute. For example, §364.02, F.S., (1995). In light of the fact that statutes are subject to amendment and, indeed, several of the statutes referred to have subsequently been amended, the Commission may wish to delete reference to the years.

#116301
JR: CW S:\ATTY\25-24.JR

TONI JENNINGS
President



DANIEL WEBSTER
Speaker



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THE FLORIDA LEGISLATURE
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE
FLORIDA
DIVISION OF LEGISLATIVE SERVICES

Representative Jerrold Barron, Chairman
Senator Charles Williams, Vice Chairman
Senator Ginny Brown-Waite
Senator Fred R. Dudley
Representative Adam H. Putsam
Representative Jamey Westbrook

CARROLL WEBB, EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 128, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

August 14, 1998

Ms. Diana W. Caldwell
Associate General Counsel
Public Service Commission
Division of Appeals
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule 25-4.002

Dear Ms. Caldwell:

I have completed a review of the proposed amendments to rule 25-4.002 and prepared the following comments for your consideration and response.

25-4.002

(1): The term "regulations" does not appear in the Administrative Procedure Act. Therefore, the term should be deleted from the rule.

The statute cited as specific rulemaking authority should be clarified to 350.127(2), F.S. Likewise, §364.3376(3), F.S., should appear as law implemented to comport with the statement of facts and circumstances and the notice of rule development.

I am available at your convenience to discuss the foregoing comments.

Sincerely,

A handwritten signature in black ink, appearing to read "John Rosner".

John Rosner
Staff Attorney

KRA

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Proposed Amendments to Rules 25-4.002, F.A.C.,)	Docket No. 960312-TP
Application and Scope; 25-24.600, F.A.C.,)	
Application and Scope; 25-24.610, F.A.C., Terms)	
and Definitions; Rules Incorporated; 25-24.620,)	Filed: August 8, 1998
F.A.C., Service Requirements for Companies)	
Providing Operator Services; 25-24.630, F.A.C.,)	
Rate and Billing Requirements; and 25-4.800,)	
F.A.C., Scope.)	
_____)	

**COMMENTS AND
PROPOSED LOWER COST REGULATORY ALTERNATIVES
OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.**

Pursuant to Order No. PSC-98-0939-NOR-TP and section 120.541, Florida Statutes, AT&T Communications of the Southern States, Inc. (AT&T) hereby files these comments ~~and proposes this lower cost regulatory alternative~~ to proposed Rule 25-24.630, F.A.C. In support, AT&T shows as follows:

1. AT&T, a company incorporated in New York, is authorized to provide telecommunications services in the state of Florida, including operator services.

AT&T's business address is:

AT&T Communications of the Southern States, Inc.
101 N. Monroe Street, Suite 700
Tallahassee, Florida 32301

2. On July 13, 1998, the PSC issued Order No. PSC-98-0939-NOR-TP, in which it proposed to amend certain rules, including Rule 25-24.630, F.A.C. The proposed rule amendments were published in the July 17, 1998 issue of the Florida Administrative Code.

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- 2 -

DOCUMENT NUMBER-DATE

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3. In Order No. PSC-98-0939-NOR-TP, the Commission proposed to amend Rule 25-24.630(1) to adopt intrastate operator service rate caps. The rate caps selected by the Commission are lower than the rates currently charged by AT&T. In fact, the Commission set the rate caps at the level charged by AT&T in 1996. Thus, the rule amendments have the effect of overruling Order No. 20489, in which the commission adopted AT&T's operator services rates as the maximum rate to be charged by alternative (non-AT&T, non-LEC) operator service providers.

4. During the agenda conference at which the Commission considered these proposals, Commissioners and Staff indicated that the reason for selecting AT&T's 1996 rates as the cap was that they believed costs have decreased since that time. While many telecommunications costs have decreased - and many of AT&T's rates have been lowered - operator costs have increased, particularly the costs associated with the use of a live operator.

5. AT&T requests that the Commission set the non-person-to-person rate cap at AT&T's presently-tariffed level. AT&T makes no such request with regard the proposed person-to-person rate cap of \$3.25. *which is \$2.25* Setting the rates at this level would produce a lower regulatory cost to AT&P and all providers presently governed by the de facto rate cap provided by AT&T's rates, without increasing costs to consumers who currently pay these rates.

6. The Commission could further reduce the regulatory cost of this rule amendment by allowing allow operator service providers the option of raising their capped rates by an amount not to exceed twenty percent within a twelve month period, similar to the procedure by which price-regulated LECs may raise their rates for non-

basic services. [REDACTED] should alleviate the costs associated with regulatory proceedings to [REDACTED] as well as help alleviate the loss of revenue associated with this [REDACTED]. AT&T requests the Commission to add the following language to Rule 25-24.630:

(to be added after (1)(b):

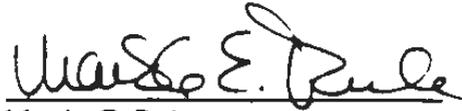
Beginning September 1, 1999, the rates for operator services set by this paragraph may be increased in an amount not to exceed twenty percent within a twelve-month period.

7. Finally, after the Commission's decision, industry representatives met with Staff in order to better understand the intended scope and purpose of the proposed rate caps. During such meeting, staff and industry representatives jointly developed language to more closely describe the situations in which Rule 25-24.630 is intended to apply. Accordingly, AT&T requests that the Commission adopt the following amendment to proposed Rule 25-24.630 (new language underlined):

(1) "Services charged and billed to any end user by an operator services provider for an intrastate 0+ or 0- call made from a pay phone or in a call aggregator context shall not exceed a rate of \$.30 per minute plus the applicable charges for the following types of calls:

WHEREFORE, AT&T respectfully requests the Commission consider these comments and adopt its proposals for lower cost regulatory alternatives.

Respectfully submitted;

A handwritten signature in black ink, appearing to read "Marsha E. Rule", written over a horizontal line.

Marsha E. Rule
101 North Monroe
Suite 700
Tallahassee, Florida 32301
(904) 425-6365 (phone)
(904) 425-6361 (fax)

ATTORNEY FOR AT&T
COMMUNICATIONS OF THE
SOUTHERN STATES, INC

BellSouth Telecommunications, Inc. 888 222-1201
400 Fax 888 222-8840
150 South Monroe Street
Tallahassee, Florida 32301

Nancy M. Sims
Director - Regulatory Relations

98
PSC-98-0939-NOR-TP

August 6, 1998

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 960312-TP - Proposed Amendment to Rules 25-4.002, F.A.C., Application and Scope; 25-24.600, F.A.C., Application and Scope; 25-24.610, F.A.C., Terms and Definitions; Rules Incorporated; 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services; 25-24.630, F.A.C., Rate and Billing Requirements; and 25-24.800, F.A.C., Scope.

Dear Mrs. Bayó:

In response to the Florida Public Service Commission's Notice of Rulemaking issued on July 13, 1998, in docket No. 960312-TP, Order No. PSC-98-0939-NOR-TP, BellSouth would like to provide some brief comments on the rules. More specifically, we are putting forth our understanding of the application of the proposed rules on the provision of operator services. With these comments, BellSouth is not asking for a hearing unless the Commission Staff does not agree with our understanding of the proposed rules.

BellSouth's interpretation of the proposed operator services rules:

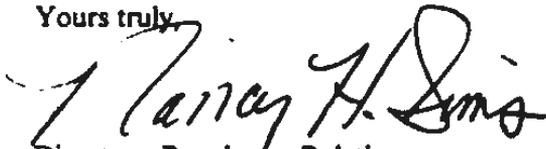
- 1) The proposed operator services rules apply to all Telecommunications Companies including Local Exchange Companies (LECs) such as BellSouth Telecommunications, Inc. (BST)
- 2) Rule 25-24.630 "Rate and Billing Requirements" sets rate caps for various calls handled by an operator service provider in a call aggregator situation only. If operator services are offered to individual subscribers/business (not classified as call aggregators) the OSP/local exchange company charges its tariffed rates - these rates are not affected by the call aggregator OSP rate caps contained in the rule.
- 3) Since BellSouth is a price regulated company, it is subject to price cap limits on its non-basic services per the Florida Statutes Chapter 364. Prior to these proposed rules, existing LECs were not included under the OSP rules and; therefore, BST included all

of its operator services offerings in a separate non-basic service category or basket (approved by the Commission).

- 4) When the proposed OSP rules become effective, BellSouth will be allowed to compete equally with other operator services providers when providing service to call aggregators. This means that BST would apply OSP rates to call aggregators in accordance with the rate caps contained in the newly revised OSP rules. BellSouth would file a separate rate schedule for call aggregators in its tariff, and the demand and revenues associated with these services would be removed from the existing non-basic operator services "basket". (See also 364.3376(1)(b), and (2) and (3)).

At the agenda conference held on June 30, 1998, BellSouth presented these same comments to the Commission and the Staff, and it appeared that our statements were accepted in the context of the adoption of the proposed rules. If you have any questions or need any further clarification on these comments, please give me a call.

Yours truly,



Director - Regulatory Relations

cc: Rick Moses
Diana Caldwell

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Marceil Morrell**
Area Vice President & Associate General Counsel-
Regional Operations (East)

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Anthony P. Gillman**
Assistant General Counsel

Attorneys*
Kimberly Caswell
M. Eric Edgington
Ernesto Mayor, Jr.

GTE SERVICE CORPORATION

One Tampa City Center
201 North Franklin Street (33602)
Post Office Box 110, FLTC0007
Tampa, Florida 33601-0110
813-483-2606
813-204-8870 (Facsimile)

* Licensed in Florida
** Certified in Florida as Authorized House Counsel

August 7, 1998

Ms. Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

1998
AUG 11 1998
LEGAL DIVISION

Re: Docket No. 960312-TP
Proposed amendments to Rules 25-4.002, F.A.C., Application and Scope;
25-24.600, F.A.C., Application and Scope; 25-24.610, F.A.C., Terms and
Definitions; Rules Incorporated; 25-24.620, F.A.C., Service Requirements for
Companies Providing Operator Services; 25-24.630, F.A.C., Rate and Billing
Requirements; and 25-24.800, F.A.C., Scope

Dear Ms. Bayo:

Please find enclosed an original and fifteen copies of the Comments of GTE Florida Incorporated and GTE Communications Corporation for filing in the above matter. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please contact me at (813) 483-2617.

Sincerely,

Kimberly Caswell/dm
Kimberly Caswell

KC:tas
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Amendments to Rules)	Docket No. 960312-TP
25-4.002, F.A.C., Application and Scope;)	Filed: August 7, 1998
25-24.600, F.A.C., Application and Scope;)	
25-24.610, Terms and Definitions; Rules)	
Incorporated; 25-24.620, F.A.C., Service)	
Requirements for Companies Providing)	
Operator Services; 25-24.630, F.A.C., Rate)	
and Billing Requirements; and 25-24.800,)	
F.A.C., Scope)	

**COMMENTS OF
GTE FLORIDA INCORPORATED AND
GTE COMMUNICATIONS CORPORATION**

GTE Florida Incorporated and GTE Communications Corporation (collectively, GTE) file these Comments on the proposed revisions to the Commission's operator services rules. GTE will specifically address the proposed revisions to rule section 25-24.630, the rate and billing requirements.

GTE understands that the Commission is required by statute to establish "maximum rates and charges" for all operator services providers. (Fla. Stat. ch. 364.3376(3).) However, GTE does not believe the proposed rules' approach—dollar and cents caps on per-minute rates and surcharges—is necessary or desirable. Operator services is a competitive offering. As such, the Commission should, to the extent possible, refrain from regulatory intervention that would disrupt market forces. In order to accommodate concerns for competitive efficiency with those for consumer protection, GTE suggests the Commission prescribe caps for per-minute and surcharge rates that do not exceed existing Commission-approved, tariffed rates. Under this scheme, companies could not raise rates any higher than the highest rate on file for the various types of services. In this way, the

Commission will avoid unduly interfering with companies' marketing and pricing strategies.

For instance, if a company currently has a per-minute charge that is lower than the proposed \$.30 per minute, and a higher person-to-person surcharge than the proposed \$.25, the company will be prompted to increase its per-minute rate to \$.30 at the same time it is forced to reduce its surcharge. GTE believes this kind of market interference undermines the intended consumer protection effects of the Legislature's surcharge directive. As such, GTE urges the Commission to accept its proposal to refer to currently tariffed rates, rather than dollar-and-cents caps, as a way of meeting the statutory obligation to prescribe maximum rates.

Respectfully submitted on August 7, 1998.

By: Kimberly Caswell /dm
Kimberly Caswell
Anthony P. Gillman
Post Office Box 110, FLTC0007
Tampa, Florida 33601
Telephone: 813-483-2617

Attorneys for GTE Florida Incorporated
and GTE Communications Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the Comments of GTE Florida Incorporated and GTE Communications Corporation in Docket No. 960312-TP were sent via U. S. mail on August 7, 1998 to the following:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400


Kimberly Caswell
Kimberly Caswell