

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of Rule 25-4.110(5)(c), F.A.C., regarding requirement of local exchange companies to list items for which nonpayment will result in disconnection of customer's basic local service, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

DOCKET NO. 070370-TL
ORDER NO. PSC-07-0986-PAA-TL
ISSUED: December 10, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER OF THE BILLING REQUIREMENT OF
RULE 25-4.110(5)(C), FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

On June 8, 2007, BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T) filed a request for a rule waiver pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code (F.A.C.). AT&T seeks relief from Rule 25-4.110(5)(c), F.A.C., a customer billing requirement for incumbent local exchange companies.

On July 16, 2007, AT&T filed a Motion for Leave to File Amended Petition and its Amended Petition to supplement its arguments and information in the original petition. On July 20, 2007, we issued Order No. PSC-07-0595-PCO-TL granting the Motion.

The Florida Administrative Weekly notice of the waiver request was published on August 17, 2007. No written comments were received during the 14-day comment period.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

AT&T seeks the waiver in order to use a new bill format that does not have a special identification mark for each separate unregulated charge on a customer's bill. However, all charges are listed on the bill. AT&T is currently using the proposed bill format in 13 states. AT&T intends to use the proposed bill format throughout its 22-state region. With the waiver, AT&T states it would not incur additional costs associated with information technology, customer service training, and paper, printing and postage to generate a Florida-specific bill format.

At the September 25, 2007 Agenda Conference, concerns were raised involving the wording and prominence of the Prevent Disconnect message in the proposed bill. After AT&T waived the statutory deadline, our staff's recommendation was deferred to allow AT&T time to address the concerns raised and present additional information.

We are vested with jurisdiction in this matter pursuant to Sections 120.542, 350.127, 364.012, 364.10, and 364.604, Florida Statutes.

II. Analysis

This is a petition for a waiver of Rule 25-4.110(5)(c), Florida Administrative Code. Under Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, a person affected by a Commission Rule may petition this Commission for a waiver of that Rule. We have general statutory authority to grant this waiver under Section 120.542, Florida Statutes, which states:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

Pursuant to Rule 25-4.110(5)(c), Florida Administrative Code, an incumbent local exchange company (ILEC) must identify the charges which could result in disconnection of service if not paid. The Rule requires all ILECs to clearly state on their bills:

(c) Items for which nonpayment will result in disconnection of the customer's basic local service, including a statement of the consequences of nonpayment;

In order to comply with the Rule, AT&T currently identifies unregulated charges on its bills with a double asterisk ** and an accompanying footnote. The bills also contain on the second page the following statement:

Regulated charges are the minimum you must pay in order to maintain your local telephone service. If you do not pay this amount: your local service may be disconnected, and you may need to pay a charge or deposit to have your service reconnected.

The amount of Regulated Charges may be obtained by calling 1-888-757-6500. If you do not pay the rest of your bill, which includes unregulated charges – all of which are identified by ** on your bill: your local phone service will not be disconnected, and you are still responsible for paying these charges.

Under the current bill format customers must either subtract the unregulated charges from the total charges or call customer service to determine the amount that must be paid to maintain local service. AT&T states that the major concern of customers is the total amount that must be paid to avoid disconnection, not the individual charges.

AT&T currently is using its proposed bill format in 13 states and wants to expand its use to the nine AT&T Southeastern states. The proposed bill format does not distinguish between regulated and nonregulated charges. However, all of the charges are listed on the bill.

Our staff's recommendation was deferred from the September 25, 2007, Agenda conference to allow AT&T time to address the concerns raised involving the wording and prominence of the Prevent Disconnect message on the proposed bill. On October 9, 2007, AT&T informed our staff of additional changes the company could make in the "News You Can Use" section of its proposed bill format to address the concerns raised at the September Agenda Conference.¹ These changes include bolding the words, PREVENT DISCONNECT, the title of the message, and capitalizing and bolding the entire sentence which contains the minimum amount to be paid to maintain local service. AT&T also changed the next sentence in the message to include the words "but will not result in disconnection of your local service." The following incorporates AT&T's additional changes:

PREVENT DISCONNECT

Thank you for being a valued customer. Please be aware that all charges must be paid each month to keep your account current and prevent collection activities. We are required to inform you that certain charges must be paid in order to prevent interruption of local service. **THESE CHARGES ARE ALREADY INCLUDED IN THE TOTAL AMOUNT DUE AND ARE \$237.72.** Also, neglecting to pay for remaining charges may result in interruption or removal of these remaining services or further collection action, but will not result in disconnection of your local service. A Late Payment Charge of \$3.20 may apply to an unpaid regulated balance and a 1.5% Interest charge may apply to an unpaid unregulated balance. For more information, call the Plans and Services number listed in the Billing Summary section on page 1.

¹ Document Number 09348-07, filed October 12, 2007, in instant docket includes revised proposed bill.

In response to the suggestion that the Prevent Disconnect information be highlighted with a colored background, AT&T explained that it only prints bills in black on preprinted paper with a blue strip at the top and bottom, blue coloring for the words, Monthly Statement, and light blue shading on the first page for Bill-At-A-Glance. AT&T further explained that the Prevent Disconnect message space could not be prehighlighted in blue since the message would not appear in the same space for every customer's bill depending on the services and features unique to each customer. This preprinted paper is used in every state by AT&T and other AT&T affiliates. The paper is ordered quarterly, and the company currently has 25 million preprinted pages in stock which does not include any current production held by the supplier. AT&T uses approximately 500 million preprinted pages a year.

In addition, it was suggested at the September 25, 2007, Agenda Conference that the Prevent Disconnect information be its own section with a separate banner. AT&T stated its billing system places messages in one of two sections: "News You Can Use" or "Terms and Conditions." AT&T does not view Prevent Disconnect as a section but rather as a message under "News You Can Use." AT&T stated that to change the Prevent Disconnect message to a separate section for Florida would be inconsistent with the new bill format for the other states and would be a "significant expense."

AT&T intends to keep Prevent Disconnect as the opening message under "News You Can Use" which will also be the first title under the "News You Can Use Summary" found on the initial page of the proposed bill.² AT&T's proposed approach is consistent with one already sanctioned by the Federal Communications Commission (FCC) as being compliant with federal Truth-in-Billing rules.³

AT&T contends that its proposed bill format meets the Rule's intent and will reduce the number of calls to its customer service centers, increase customer satisfaction, and be more environmentally friendly by reducing the average bill from 4.5 to 2 sheets of paper.

Rule 28-104.002, F.A.C., Petition for Variance or Waiver, asks for specifics regarding what substantial hardship will be incurred if the waiver is not granted. Section 120.542(2), Florida Statutes, defines substantial hardship as ". . . a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver."

In support of its case for substantial hardship, AT&T states that if the waiver is denied the company ". . . would incur (1) information technology costs of \$344,000 (non-recurring) and \$191,000 (recurring yearly) to support a unique bill format for Florida only; (2) training costs of \$130,000 (non-recurring) and \$79,000 (recurring yearly) to train its customer service representatives on two different types of billing methods and procedures; and (3) opportunity

² Document Number 09503-07, filed October 17, 2007, in instant docket.

³ Re. SNET, *Truth-in-Billing and Billing Format*, Order on Reconsideration, CC Docket No. 98-170, FCC 00-111, at ¶¶ 7-8.

costs of missed paper, printing and postage savings totaling \$2,000,000.”⁴ The company argues that “. . . to maintain separate bill formats on an ongoing basis, is an inefficient use of resources and would cause a ‘substantial hardship’ upon AT&T Florida.”

III. Decision

We find in this instance, AT&T’s proposed bill format meets the underlying purpose of Rule 25-4.110(5)(c), Florida Administrative Code. The new bill format achieves the Rule’s intent by providing the customer the total amount required to avoid disconnection of basic service. We also find that AT&T has met the requirement of Section 120.542(2), Florida Statutes, by demonstrating an immediate and ongoing substantial economic hardship. Furthermore, AT&T’s proposed bill format is more consumer friendly and easier to read than its current bill format.

Therefore, we hereby approve the request for waiver of Rule 25-4.110(5)(c), Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast’s Request for a Waiver of Rule 25-4.110(5)(c), F.A.C. is hereby granted as set forth in the body of this Order.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

⁴ AT&T states that denial of the petition in Florida would cause a four-month delay in implementing the new billing format in the other eight AT&T Southeast states while a unique Florida bill format was programmed and customer service representatives trained to handle calls for either type of bill format. The proposed new bill format would require less paper, printing, and postage for a monthly cost savings of \$500,000 or \$2,000,000 for four months.

By ORDER of the Florida Public Service Commission this 10th day of December, 2007.



ANN COLE
Commission Clerk

(S E A L)

HFM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 31, 2007.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.