

ORIGINAL



JACK SHREVE  
PUBLIC COUNSEL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature  
111 West Madison St.  
Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

October 28, 1997

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0650

Re: Docket No. ~~97-22274~~

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Response and Opposition by the Citizens of the State of Florida to AT&T's Request for Temporary and Permanent Protective Order.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

*Charles J. Beck*  
Charles J. Beck  
Deputy Public Counsel

RECEIVED & FILED  
*M*  
PROCURED OF RECORDS

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP Caldwell
- CAF 2
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAC \_\_\_\_\_
- LEF FYI-1 Enclosures
- LI \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

CJB:bsr

DOCUMENT NUMBER-DATE  
11128 OCT 28 97  
FPC-RECORDS/REPORTING

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Robert A. Butterworth, )  
 Attorney General, and the Citizens of the )  
 State of Florida, by and through the Office )  
 of Public Counsel, for initiation of formal )  
 proceedings pursuant to Section 120.57(1), )  
 Florida Statutes, to investigate the practice )  
 of "slamming," i.e. the unauthorized change )  
 of a customer's presubscribed carrier, and to )  
 determine the appropriate remedial measures )

Docket # 97-032-TI

Filed: October 28, 1997

**RESPONSE AND OPPOSITION BY THE  
 CITIZENS OF THE STATE OF FLORIDA TO AT&T'S  
REQUEST FOR TEMPORARY AND PERMANENT PROTECTIVE ORDER**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this response and opposition to AT&T's request for temporary and permanent protective order filed at the Commission on October 20, 1997. The Citizens submit the following:

1. AT&T seeks to prohibit the Citizens from contacting any customers whose names might appear on documents that were requested both by the Citizens' first request for production of documents to AT&T and by subpoena served on AT&T. AT&T cites section 364.24, Florida Statutes (1995) in support of its argument.

2. Section 364.24, Florida Statutes (1995) deals solely with disclosure of certain information. It contains no restriction on the use of that information once it is properly

DOCUMENT NUMBER-DATE

~~11128~~ OCT 28 5

FPSC-RECORDS/REPORTING

disclosed. According to the statute, disclosure of customer account records may not be intentionally disclosed "except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other processes of court, or as otherwise allowed by law." This statute is silent about use of the information once properly disclosed pursuant to subpoena or as otherwise allowed by law. The Commission should not improperly expand the statute, as AT&T requests, into areas not covered by the statute.

3. Moreover, section 350.0511, Florida Statutes (1995) states that it is the duty of the Public Counsel to provide legal representation for the people of this state in proceedings before the Commission. In essence, AT&T 's request would prohibit the Public Counsel from contacting customers he represents before the Commission. AT&T's request amounts to an attempt to impose an unprecedented restriction on the ability of an attorney to contact persons represented by the attorney. This Commission should not condone this attempt to interfere with the attorney-client relationship.

4. For these reasons, the Commission should deny AT&T's requested protective order that would prohibit the Public Counsel from contacting customers whose names may be indicated in documents to be provided by AT&T in response to requests for production of documents and subpoena.<sup>1</sup>

Respectfully submitted,

JACK SHREVE  
Public Counsel  
Fla. Bar No. 73622

*Charles J. Beck*

Charles J. Beck  
Deputy Public Counsel  
Fla. Bar No. 217281

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

(904) 488-9330

---

<sup>1</sup> The Attorney General and the Citizens filed a motion to compel against AT&T on September 30, 1997. The PSC has not ruled on the motion.

**CERTIFICATE OF SERVICE  
Docket No. 970882-TL**

**I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail  
or hand-delivery to the following parties on this 28th day of October, 1997.**

**Michael A. Gross  
Assistant Attorney General  
Department of Legal Affairs  
PL-01, The Capitol  
Tallahassee, FL 32399-1050**

**Diana Caldwell, Esq.  
Division of Appeals  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850**

**Marsha Rule, Esq.  
Tracy Hatch, Esq.  
AT&T Communications of the  
Southern States, Inc.  
101 N. Monroe  
Suite 700  
Tallahassee, FL 32301**

**Walter D'Haeseleer  
Director of Communications  
Florida Public Service  
Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850**

**C. Everett Boyd, Jr.  
Ervin, Varn, Jacobs & Ervin  
Post Office Drawer 1170  
Tallahassee, FL 32302**

**Benjamin Fincher  
Sprint Communications Company  
3100 Cumberland Circle  
Atlanta, GA 30339**

**Patrick K. Wiggins  
Wiggins & Villacorta, P.A.  
501 East Tennessee Street  
Suite B  
Post Office Drawer 1657  
Tallahassee, FL 32302**

**Ky E.B. Kirby  
Warren A. Fitch  
Don W. Blevins  
SWIDLER & BERLIN, CHTD.  
3000 K Street, N.W.  
Washington, D.C. 20007**

**Robert G. Beatty  
Nancy B. White  
c/o Nancy Sims  
150 South Monroe Street, #400  
Tallahassee, FL 32301**

**Richard D. Melson  
P.O. Box 6526  
Tallahassee, FL 32314**

Thomas K. Bond  
MCI Telecommunications Corp.  
780 Johnson Ferry Road  
Suite 700  
Atlanta, GA 30342

Charles Rehwinkel  
Sprint/United Florida  
Sprint/Centel Florida  
P.O. Box 2214  
Tallahassee, FL 32316

Suzanne Fannon Summerlin  
1311-B Paul Russell Road  
Suite 201  
Tallahassee, Florida 32301

Michael L. Glaser  
Canora T. Podd  
Haligner and Lottner, P.C.  
First Interstates Tower North  
633 Seventeenth Street, Suite 2700  
Denver, CO 80202

Greg L. Eriksen  
Levine & Eriksen  
2560 North Santiago Blvd.  
Orange, California 92667

Joseph A. McGlothlin  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
117 South Gadsden Street  
Tallahassee, FL 32301


Pamela Melton  
Regulatory Counsel  
LCI International Telecom Corp.  
8180 Greensboro Drive, Suite 800  
McLean, Virginia 22101

Andrew O. Isar  
Director, Industry Relations  
Telecommunications Reseller Assoc.  
4312 92nd Avenue, N.W.  
Gig Harbor, WA 98335-4461

Michael J. Shortley, III  
180 South Clinton Avenue  
Rochester, New York 14646

Carolyn Marek  
Vice President of Regulatory Affairs  
Southeast Region  
Time Warner Communications  
Post Office Box 210706  
Nashville, Tennessee 37221

Peter M. Dunbar, Esq.  
Barbara D. Auger, Esq.  
Pennington, Moore, Wilkinson  
& Dunbar, P.A.  
Post Office Box 10095  
Tallahassee, FL 32302

  
\_\_\_\_\_  
Charles J. Beck