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November 24, 1997

ORIGINAL

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

Dear Mrs. Bayo:

Re: **Docket No. 971433-TI**
Complaint Against AT&T

You will find enclosed an original and fifteen (15) copies of AT&T's Motion to Dismiss and Answer for filing in the above-referenced docket.

Copies of the foregoing are being served on the parties of record in accordance with the attached certificate of service.

Yours truly,

Marsha E. Rule

- ACK _____
- AFA _____
- APP _____
- CAF _____ mr
- CMU _____ cc: Parties of Record
- CTR _____
- EAG _____
- LEG 1
- LIN 2
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

RECEIVED & FILED

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12056 NOV 24 97
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CERTIFICATE OF SERVICE

Docket No. 971433-TI

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished
via U. S. Mail to the following parties of record on this 24 day of Nov., 1997.

Michael A. Gross, Esq.
Assistant Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050

Charles Beck, Esq.
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Diana Caldwell, Esq.
Division of Appeals
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Martha Carter-Brown
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



Marsha Rule

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Robert A. Butterworth,)
Attorney General, and the Citizens of the)
State of Florida, by and through Jack Shreve,))
Public Counsel, against AT&T)
Communications of the Southern States,)
Inc. for slamming Robert Flint in violation)
of Rule 25-4.118, F.A.C.)

Docket No. 971433-TI

Filed: 11/24/97

ORIGINAL

OF AT&T COMMUNICATIONS
OF THE SOUTHERN STATES, INC.'s
MOTION TO DISMISS AND ANSWER

AT&T Communications of the Southern States, Inc. ("AT&T"), by and through its undersigned attorney, hereby files its Motion to Dismiss and Response to the Complaint filed by the Attorney General and Office of the Public Counsel in the above docket. For cause, AT&T shows as follows:

MOTION TO DISMISS

1. Section 350.0611, Florida Statutes, sets forth the duties and powers of the Office of the Public Counsel. The powers enumerated in this section include the following specific power:

(1) To recommend to the commission, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission and urge therein any position which he or she deems to be in the public interest

2. Pursuant to Section 350.0611, Public Counsel's complaint should be construed as a recommendation to the Commission that it commence a proceeding against AT&T that could result in a fine for alleged violation of Rule 2-4.118, Florida

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Administrative Code. In fact, the Commission has done just that. On November 11, 1997, the Commission opened Docket No. 971492-TI, Initiation of show cause proceedings against AT&T Communications of the Southern States, Inc. and d/b/a Connect 'N Save for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

3. AT&T understands that the scope of the show cause action in Docket No. 971492-TI will include slamming complaints filed with the PSC during 1997. The allegations that are the subject of Public Counsel's complaint therefore will be included in the show cause docket, and this docket should be dismissed. Any action to be taken in connection with Public Counsel's complaint, if shown to be justified, can equally be taken in connection with Docket No. 971492-TI. The power to impose penalties is a regulatory power granted to the Commission in Section 364.285, Florida Statutes; Public Counsel has no separate cause of action against AT&T arising out of the events that are the subject of both the complaint and show cause action.

ANSWER

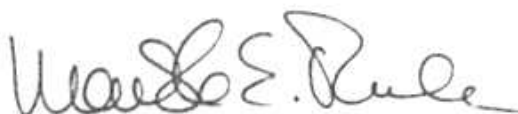
4. AT&T admits the allegations of Paragraph 1, 2, 3 and 5 of the Complaint.

5. AT&T admits the allegations of Paragraph 4 to the extent that it alleges that AT&T caused the primary interexchange carrier of Mr. Robert Flint to be changed to AT&T, but denies the allegation that such change was without the authorization or consent of Mr. Flint in violation of Rule 25-4.118(1), Florida Administrative Code.

6. AT&T denies the allegations of Paragraph 6 and 7. AT&T specifically denies that the actions of AT&T adversely affect the substantial interests of the State of Florida, the Citizens of Florida and Mr. Flint, that Mr. Flint's interexchange carrier was

changed without authorization, and that AT&T should be penalized for violation of Rule 25-4.118(1), Florida Administrative Code.

Wherefore, AT&T respectfully requests that the Commission dismiss the Complaint filed by the Office of the Public Counsel or in the alternative, consolidate such complaint into Docket No. 971942-TI.



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