

ORIGINAL



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March 16, 1998

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

Re: Docket No. 970882-T1

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Post-Hearing Statement of Issues and Positions by the Attorney General and the Citizens. A diskette in WordPerfect 6.1 is also submitted.

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  
Deputy Public Counsel

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CMU 2  
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EAG CJB:bsr  
LEG \_\_\_\_\_  
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DOCUMENT NUMBER DATE

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FPSC-RECORDS/REPORTING

**ORIGINAL**

**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 970882-TI

Filed: March 16, 1998

**POST HEARING STATEMENT OF ISSUES AND POSITIONS**  
**BY THE ATTORNEY GENERAL AND THE CITIZENS**

**ISSUE 1: Should the Commission adopt the new rule 25-24.845?**

**POSITION:** Yes. All providers of telecommunications services in the state of Florida should be required to abide by the basic provisions of service regarding billing and collection for regulated services and for the selection and change of local, local toll, and toll providers.

**ISSUE 2: Should the Commission adopt the proposed amendments to Rule 25-4.003?**

**POSITION: Yes.** The Commission should define a "PIC Freeze" and it should identify a slam or slamming as the change of a customer's local, local toll or toll provider without the knowledge or consent of the subscriber.

**ISSUE 3: Should the Commission adopt the proposed amendments to Rule 25-24.110**

**POSITION: Yes.** AG/OPC supports the rule changes proposed by staff in addition to the changes proposed by AG/OPC witness Poucher. The Commission should require all providers to provide notice to customers of the availability of the PIC Freeze option, upon ordering of service and annually through billing notification. The proposed rule requires conspicuous notice to the customer when a customer's provider has been changed. The additional proposal by AG/OPC would locate this notice on the first two pages of the bill where the customer could find the listing of all providers. Both Staff and AG/OPC proposals should be adopted in order to adequately inform consumers.

**ISSUE 4: Should the Commission adopt the amendments to Rule 25-4.118?**

**POSITION: Yes.** The Commission should adopt the proposed rules of Staff and in addition, should incorporate the proposed additional rules of AG/OPC.

**DISCUSSION:** The Commission should adopt AG/OPC's proposal that when the staff determines that a carrier acted fraudulently in the switching of a customer's provider, the case should be referred separately to the full Commission for disposition. Customers made numerous complaints to the Commission through testimony at the public hearings and from letters received by AG/OPC that they were upset by the fraudulent activities of the companies responsible for slamming. The Commission should refer to the complaints of the following customers as solid evidence that some companies engaged in slamming are also engaged in what consumers believe is fraud:

**Adelman, Helen W. (Pg.55-REP-1)**  
**Apgar, Dorothy (Pg. 154-REP1)**  
**Baena, Renato (Pg83-REP-1)**  
**Baier, Hans J. (Pg.301-REP-1)**  
**Berway, James (Pg.11-REP-1)**  
**Berg, Stanley S. (Pg. 347-REP-1)**  
**Brandon, Copnnie M. (Pg.92-REP-1)**  
**Bunting, Greta (Pg.26-REP-1)**  
**Cawley-O'Dell Enterprises (Pg.143-REP-1)**  
**Chew, Walter (Pg.21-REPs-1)**  
**Cobb, Warren (Pg.281-REP-1)**  
**Commercial Real Estate Services (Pg. 341-REP-1)**  
**Dalziel, David (Pg. 142-REP-1)**

**Draher, Helen (Pg.162-REP-1)**  
**Dunphy, Thomas (Pg. 194-REP-1)**  
**Essex Police Department (Pg. 219-REP-1)**  
**Fernald, Frank & Jessamine (Pg.22-REP-1)**  
**Hockaday, Billy S. (Pg.174-REP-1)**  
**Johnson, Mark D. (Pg. 97-REP-1)**  
**Laughter, John H. (Pg. 306-REP-1)**  
**Lust, Robert D. (Pg.233-REP-1)**  
**Mackowski, James A. (Pg.284-REP-1)**  
**Maynard, Robert L. (Pg. 73-REP-1)**  
**Meinert, Katherine J. (Pg.355-REP-1)**  
**Morrell, Henry (Pg. 118-REP-1)**  
**Nat'l Academuy of Scuba Educators (Pg.7-REP-1)**  
**Pallot, Norman S. (Pg.94-REP-1)**  
**Paporn, Thebpanya (Pg.125-REP-1)**  
**Polls, hori (Pg.129-REP-1)**  
**Read, Ethel (Pg.14-REP-1)**  
**Rosen, Irma & Paul (Pg.260-REP-1)**  
**Snell, Barbara P. (Pg.199-REP-1)**  
**Straticzuk, Andy (Pg.165-REP-1)**  
**Texpeck (Pg.223-REP-1)**  
**James, Clarence (Miami-Pg.30)**

**Oscar Botero (Miami-Pg.47)**

**John Soler (Miami-Pg.115)**

**James Dunkel (Miami-Pg.155)**

**Sara Westbrook (Tampa-Pg.85)**

**Dorothy Apper complained that her tape was altered. James Benway complained they forged his name. Bow and Arrow called it a "slimy con game". Cawley-O'Dell Enterprises also complained they doctored the tape. Helen Draher complained that the criminals just about ruined her life. Thomas Dunphy complained of forgery. Billy Hockaday also complained of forgery and noted her mental suffering. Robert Lust, James Mackowski, Henry Morrell and John Soler also complained of forgery. James Dunkel was slammed by an LOA signed by his father who died in 1990. Sara Westbrook described falsification of her tape recorded verification call. She spoke of feeling "violated almost to the point of being raped."**

**The Commission should immediately implement procedures to deal promptly and severely with all carriers who are found to be involved in fraudulent activities.**

**The Commission should adopt the proposal of Staff and AG/OPC regarding carrier selection and billing and collection procedures. Most importantly, the Commission should adopt the proposals of AG/OPC regarding the charge-back of all billing for the prior 90 days and the implementation of a billing block to prevent future**

billing on the customer's regular telephone bill when there has been a complaint of slamming. This proposal was explained by AG/OPC witness Poucher as being a necessity in order deal with slamming complaints in the most economical and expeditious manner. As explained by witness Poucher, "The purpose of that provision is to direct all of the revenues...back to the responsible carrier that made the sale in the first place, or made the slam. The carrier then negotiates with the customer as to whether or not it's a valid bill or not, and collects accordingly." Tr. P263, L3-10).

Witness Poucher maintained that the proposed solution of billing back revenues to the originating carrier upon receipt of a slamming complaint would be more economical than existing practices. "Our plan significantly reduces service rep time dealing with slamming problems, and it pushes that problem over to the IXC which has to resolve it anyway. I see our proposals as much more cost effective for the entire industry than the existing process." (Tr. P268, L23 - P269, L3) In addition, witness Poucher pointed out that the proposed procedures would constitute a strong incentive for carriers not to engage in slamming in the first place. (Tr. P269, L12-15)

Significant portions of the cross-examination and testimony of the LECs and the IXCs dealt with the procedures currently used by the companies today to deal with slamming complaints. The companies maintain that existing procedures are adequate and all that is needed is for the Commission to enforce its existing rules. These positions, however, are countered by the testimony of Witness Poucher, and numerous

public witnesses who described the trauma involved with slamming and the significant delays in resolving the associated billing. Some of the more specific customer testimony regarding the billing trauma, the delays, the frustrations and anger that customers experience under the existing procedures employed by the LECs and the IXC's can be found in the following data:

**Adelman, Helen W. (Pg.55-REP-1)**

**Alene's (Pg.81-REP-1)**

**At Home Nursing (Pg.147-REP-1)**

**Atton, Janet (Pg.149-REP-1)**

**Ault, Richard (Pg.69-REP-1)**

**Barrera, Pilar (Pg.202-REP-1)**

**Bawidamann, Shirley (Pg. 221-REP-1)**

**Bow and Arrow (Pg.63-REP-1)**

**Call, Virginia M. (Pg.342-REP-1)**

**Caribbean Villas (Pg.41-REP-1)**

**Cialuss, Perry (Pg.135-REP-1)**

**Davis, Henry C. (Pg.280-REP-1)**

**Deiter, William G. (Pg.211-REP-1)**

**Dockham, Hazel (Pg.57-REP-1)**

**Gober, Roberts (Pg.172-REP-1)**

**Hall's Service Center (Pg.276-REP-1)**



Hoffman, Linda (Pg.58-REP-1)  
Juchniewicz Eva (Pg.110-REP-1)  
Lawrence, Vicki (Pg.179-REP-1)  
Lerner, Harry (Pg.37-REP-1)  
Mackowski, James A. (Pg.284-REP-1)  
McCann, Joan (Pg.88-REP-1)  
McCleod, Judy (Pg.111-REP-1)  
Miami Dade Electric (Pg.170-REP-1)  
Montague, Howard (Pg.186-REP-1)  
Moring, Rita (Pg.270-REP-1)  
Multimedia Marketing Group (Pg.151-REP-1)  
Newman, Jack (Pg.15-REP-1)  
North Bay Electronics (Pg.229-REP-1)  
O'Neil, Ruthann O. (Pg.120-REP-1)  
Polcyn, Paul E. (Pg.17-REP-1)  
Prado, Francisco A. (Pg.272-REP-1)  
Ray Duncan Plumbing (pg.360-REP-1)  
Rubin, Faith E. (Pg.89-REP-1)  
Sanford, Joseph & Eleanor (Pg.126-REP-1)  
Santora, Karen (Pg.214-REP-1)  
Sarote, Paul (Pg.312-REP-1)  
Schius, Dieter W. (Pg.213-REP-1)

**Schneider, Joe & Shirley (Pg.323-REP-1)**

**Schuman, F. (Pg.216-REP-1)**

**Sherry Manufacturing (Pg.136-REP-1)**

**Sir Speedy (Pg.241-REP-1)**

**Spiegel, Harriette L. (Pg.315-REP-1)**

**Stolz, Margaret K. (Pg.128-REP-1)**

**Storer, Russell (Pg.165-REP-1)**

**Swerdlin Associates Inc. (Pg.313-REP-1)**

**Tandova Inc. (Pg.168-REP-1)**

**Unifirst Mortgage (Pg.212-REP-1)**

**Verbeke, Frank (Pg.54-REP-1)**

**Wohl, Stewart B. (Pg.187-REP-1)**

**WSA Systems (Pg.45-REP-1)**

**Peggy Taylor (Miami-Pg.88)**

**Mary Thompson(Miami-Pg.142)**

**Michael Gaiffe (Tampa-Pg.43)**

**Linda Saliga (Tampa-Pg,64)**

**Mary Keith (Tampa-Pg.72)**

**Ahmad Erchid (Tampa-Pg.81)**

**American Bath & Kitchens maintains that they are still being billed. Connie Brandon had to spend six hours on the phone and 8 months to resolve her problem.**

Commercial Real Estate Service complained about MCI's fabricated explanations. Henry Davis complained he is still being billed. Hall's service center complained the slamming carrier would never answer their 800 number. Eva Juchniewicz said she dreaded every telephone bill. Howard Montague complains the ordeal has gone on for 8 months. Rita Moring claims it took 6 months. Mr. Schuman said it took 10 months. Russell Storer is still being billed. Peggy Taylor had to deal with three companies and it took 4 months. Mary Thompson said she was slammed by USBI and disconnected by BellSouth while the bill was in dispute. Michael Gaiffe complained of receiving a disconnect notice on disputed charges from GTE. Linda Saliga said, "So I had to go through this every single month with these people (GTE) and it was like a form of harassment." It took Mary Keith over a year to resolve her billing problems with GTE. Witness Erchid stated he was disconnected by GTE and they reported it to the credit bureau after being slammed by AT&T.

This is just an example of the weighty evidence the Commission should consider when it decides whether the existing billing procedures adequately protect consumers, as the carriers claim, or whether the proposals of Staff and AC/OPC should be adopted. Throughout this proceeding, the carriers essentially ignored the evidence provided at the ten public workshops and the numerous complaints from customers placed in the record of the proceeding.

**ISSUE 5: Should the Commission adopt the amendments to rule 25-24.490?**

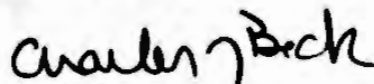
**POSITION: Yes. The Commission should require all companies to meet the minimum standards that now apply to LECs regarding response to incoming calls to the business office. In addition, carrier selection rules, handling of customer complaints and rules regarding Discontinuance of Service, refunds and 800 service should apply to all providers.**

Respectfully submitted,

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

**I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.**

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