

ORIGINAL

RECEIVED-FPSC

Legal Department

Michael P. Goggin
General Attorney

SEP 13 PM 4:00

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

RECORDS AND
REPORTING

September 13, 1999

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. 990994-TP (Rulemaking)

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth Telecommunications, Inc.'s Comments, which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Michael P. Goggin

Michael P. Goggin

(2)

- AFA 3
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- MAS _____
- OPC _____
- PAI _____
- SEC 1
- WAW _____
- OTH _____

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

RECEIVED & FILED
[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10989 SEP 13 99

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Proposed Rule 25-4.119, F.A.C.,)	Docket No. 990994-TP
Information Services; and proposed)	
amendments to Rules 25-4.003, F.A.C.,)	
Definitions; 25-4.110, F.A.C., Customer)	
Billing for Local Exchange)	
Telecommunication Companies; 25-4.113,)	
F.A.C., Refusal or Discontinuance of)	
Service by Company; 25-4.114, F.A.C.,)	
Refunds; 25-4.490, F.A.C., Customer)	
Relations; Rules Incorporated; and)	
25-24.845, F.A.C., Customer Relations;)	
Rules Incorporated.)	
<hr/>		Filed: September 13, 1999

COMMENTS BY BELL SOUTH TELECOMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its
Comments on the proposed rules regarding customer billing.

INTRODUCTION

The Commission is considering whether to adopt rules to amend billing procedures for local exchange companies, to prescribe procedures for refunds when a customer is overcharged, and to provide guidelines for Lifeline service disconnection. BellSouth offers the following preliminary comments. BellSouth reserves the right to amend these comments at the rulemaking workshop on September 28, 1999 or upon reviewing any comments that might be filed by other parties.

I. The proposed amendments to Rule 25-4.110 should be revised.

BellSouth believes that the proposed amendments to Rule 25-4.110 should be revised to apply to all telecommunications companies that offer local

DOCUMENT NUMBER-DATE
10989 SEP 13 99
FPSC-RECORDS/REPORTING

exchange service (not just ILECs), to increase customer choice, and to avoid imposing substantial and unnecessary costs on billing parties.

A. Rule 25-4.110 should apply to all companies that offer local exchange service.

Currently, Rule 25-4.110 prescribes "Customer Billing for Local Exchange Companies." Yet, the proposed amendments prescribe billing practices for "billing parties." This term is defined in a proposed amendment to Rule 25-4.003 as "[a]ny telecommunications company that bills an end user consumer on its own behalf or on behalf of an originating party." Clearly, "billing party" is defined broadly enough to include any telecommunications company that provides local exchange services to end user consumers, including ALECs as well as ILECs. Moreover, many of the rule's requirements apply to ALECs already. See Rule 25-4.845. BellSouth does not believe that a consumer should be deprived of any of the protections that Rule 25-4.110 is designed to afford her simply because she has chosen an ALEC as her local service provider.

Accordingly, BellSouth proposes that the heading of Rule 25-4.110 should be revised to read "Customer Billing for Telecommunications Companies that Provide Local Exchange Telecommunications Service." In addition, a new paragraph should be added to state: "For purposes of Rule 25-4.110, 'Company' shall mean a telecommunications company that offers local exchange telecommunications service." The remainder of Rule 25-4.110 should then be revised to use the term "Company" in place of the term "Local Exchange Company" or "LEC" where ever such terms appear.

B. Paragraph (1) of Rule 25-4.110 should be further amended to permit customers to choose how often they wish to be billed.

Under the Staff's proposed rule amendments, Paragraph (1) of Rule 25-4.110 would be revised to state simply that "Each company shall issue bills monthly." BellSouth has many customers that prefer being billed at other intervals, such as quarterly. Accordingly, BellSouth proposes that this Paragraph be amended to read as follows: "Each Company shall issue bills monthly or shall offer customers a choice of billing intervals that includes a monthly billing interval as an available interval."

C. BellSouth opposes the requirement in Paragraph (2)(a) of the proposed revisions to Rule 25-4.110 that an originating party not appearing on the previous bill be denoted in conspicuous bold face type.

BellSouth opposes the portion of proposed Rule 25-4.110 that would require a billing party to denote an originating party that did not appear on the previous bill in conspicuous bold face type. BellSouth's current billing practices are more than sufficient to put its customers on notice of charges from an originating party. BellSouth offers an optional summary page at the beginning of the bill that displays the names of all originating parties whose charges are included in the bill and the total amount billed by each of them. In addition, on all bills BellSouth lists the itemized charges for each originating party whose charges are included in the bill. Accordingly, BellSouth's customers receive sufficiently clear notification on each bill as to whether an originating party has charges included in the bill, the identity of the originating party, and the itemized charges for that party.

In addition, some larger carriers for whom BellSouth provides billing services bill less frequently than once a month. Thus, a requirement that any originating party that did not appear on a previous month's bill be denoted in bold face type would ensure that these carriers would appear in bold every time they billed the customer. In these cases, the customer might be confused as to why the company with whom they may have a long-standing relationship is being noted as a "new" originating party on the bill.

Finally, adopting this requirement would be prohibitively expensive for BellSouth. A new database would have to be created that would include all originating parties, both service providers and billing clearinghouses. Each month's bills would have to be compared with the prior month's bills in order to determine which originating parties should be displayed in bold on each bill. In view of the clarity with which BellSouth displays the charges of originating parties on its current bills, it is difficult to see how the addition of bold face type would materially add to the clarity of the information on the bill. When any marginal improvement to bill clarity is weighed against the tremendous expense of implementing this requirement, and the possibility of confusing customers who receive services from carriers who do not bill monthly, this requirement cannot be justified.

- D. The requirement in proposed Paragraph 2(a) to Rule 25-4.110 that the originating party's toll-free customer service number be displayed should be clarified to indicate that the number listed should be the number of the originating party or of the agent of the originating party that has been designated to handle billing inquiries and disputes.**

Many originating parties hire third parties to handle questions related to billing. This third party may or may not be the same entity used by the originating party to handle customer service generally. If the originating party's toll-free customer service line is listed, and a customer calls with a billing inquiry, he may be transferred or advised to call another number. To avoid such confusion, the number displayed should be a toll-free number designated by the originating party for handling billing inquiries.

- E. The proposed requirement to list the authority and the assessment base for each tax fee and surcharge will defeat the purpose of making customer bills clearer and more easily understood.**

In two places in the proposed amendments to Rule 25-4.110, Paragraph (4)(j) and Paragraph 5(i), the Commission staff proposes to require local exchange companies to list in the bill the assessment base and rate for each percentage based tax, fee or surcharge. In Paragraph (4)(i), the staff proposes to require listing the state, federal or local authority for each tax, fee or surcharge for non-regulated services. It is difficult to imagine how such disclosures could be made either briefly, or in language easily understood by one who is not a tax lawyer. In any event, this requirement is likely to create as much confusion as it resolves.

F. The Commission should consider amending current Paragraph (13) of Rule 25-4.110 to require the use of a Carrier Identification Code for all service providers.

Although BellSouth currently complies with the requirements of Paragraph (13) of Rule 25-4.110 (renumbered as Paragraph (16) in the proposed amendments), this provision, as currently worded, may not completely serve its intended purpose. The Paragraph (13) is designed to help prevent slamming. By informing the customer that her provider of toll or local service has changed, the customer should be able to tell whether the change was authorized.

The problem is, BellSouth's system identifies the change in carriers by a change in the PIC code. The PIC code is used to identify network routing. Accordingly, only facilities-based providers have a PIC code. If a customer is switched from a facilities-based provider of toll service to a reseller of toll service, for example, the PIC code will only be changed if the carrier from whom the reseller purchases wholesale service is different from the carrier currently used by the customer. If the underlying carrier is the same, the PIC code will not change and the customer will not be informed on his bill that his toll carrier has changed. Moreover, not even a PIC freeze would prevent a customer from being slammed by a reseller who utilizes the same underlying carrier.

This glitch could be resolved by assigning a Carrier Identification Code to each provider of local or toll services. Using a CIC would allow resellers to be identified as the preferred interexchange carrier of individual subscriber lines. This would facilitate the detection of slamming and would permit faster resolution of PIC disputes. As an alternative to mandatory CIC assignment, BellSouth

suggests that, rather than requiring providers of local exchange service to be responsible to notify customers of a change in interexchange carriers, for example, the new carrier should be responsible for notifying its new customer of a change in providers. This puts the onus on the one party that is sure to know of the change.

II. Comments on the proposed Rule 25-4.119.

As a general matter, BellSouth agrees with the proposal to make ALECs as well as LECs subject to this rule, as proposed in the revised Rule 25-24.845. Specific comments on proposed Rule 25-4.119 follow.

A. Paragraph (2) of proposed Rule 25-4.119 should not be adopted because it would unfairly hold providers of local exchange service responsible for actions of originating parties that they are not in a position to prevent.

Paragraph (2) of proposed Rule 25-4.119 states that local exchange providers who have a tariff or contractual relationship with an originating party shall not provide transmission services or billing services unless the originating party meets each of a number of requirements. This rule would make local exchange providers responsible for the misdeeds of any telecommunications service provider (if they also provide information services) or information service provider whose traffic originates, terminates or passes through its network. It is unrealistic to expect that any local exchange provider would be able to monitor each originating party for whom it might provide transmission service, or even billing service, to see if it provides information services, and, if so, whether it lives up to each of the mandates of the proposed rule.

Accordingly, BellSouth recommends that the rule be amended to place the responsibility for adhering with any such requirements where it belongs—on the originating party.

In its agreements with third parties to provide billing services, BellSouth takes this approach now. For example, providers of pay per call (or “PPC”) services, the sort of services this rule is designed to address, are required by BellSouth to agree to the following terms and conditions:

- BellSouth will bill only those PPC Services that have the predominant purpose of providing the end user information or interactive communication, and are accessed by the end user by dialing a 1+900 access code (NPA) through which he/she immediately reaches the PPC Service, with no manipulation of any kind, and receives the PPC Service during the call.
- BellSouth will not bill monthly recurring charges and pricing plans for Pay-Per-Call (900) or Similar Services that
 - a) do not comply with all relevant federal and state laws and regulations,
 - b) attempt to bill the end user by having him/her dial a toll free number and then calling the end user back on a collect basis at a per-call or per-time-interval charge,
 - c) are delivered to BellSouth in Messages that contain EMI record indicators or field entries inconsistent with the way such Pay-Per-Call Services were provisioned to the end user,
 - d) are accessed or purchased by the end user in the following manner:
 - (1) Presubscription or comparable arrangements;
 - (2) Club type arrangements;
 - (3) Live group interaction (“GAB” lines or “Chat” lines);
 - (4) Tariffs;
 - (5) International jurisdiction based services;
 - (6) 800, 888, or any other access code established for the provision of “toll free” calling services;
 - (7) Any access code other than 900 (e.g., 700 or 500); and
 - (8) Automated or manual transference of the end user within the call or re-origination of the call.
 - e) have the following content and/or characteristics:

- (1) Obscene programming or programming containing explicit or implicit reference to sexual conduct or any other adult-type programming;
- (2) Programming which, in the sole judgment of BellSouth, entices or condones unlawful conduct or acts of violence;
- (3) Programming which, in the sole judgment of BellSouth, contains false and/or misleading information;
- (4) Programming which involves live group interaction, such as "GAB" lines, "Chat" lines or similar types of programs excluding business teleconferencing and similar professional services;
- (5) Programming which involves games, contests, sweepstakes, and lotteries;
- (6) Programming which, in the sole judgment of BellSouth, contains information or uses marketing practices presenting a reasonable likelihood of harm to BellSouth's reputation through the inclusion of charges for such programming in BellSouth's bill;
- (7) Programming charges which includes the cost of anything other than a recorded announcement or interactive communication, which may include, but not limited to, goods, products, samples, services, and/or informational material provided after the conclusion of the call;
- (8) Programming which utilizes computerized dialing, auto dialers, and/or voice mechanisms to solicit calls;
- (9) Programming which incorporates a solicitation of political and/or charitable contributions; and
- (10) Programming which, in the sole judgment of BellSouth, produces an unreasonably high number of complaints.

Billing and Collections ("B&C") Customer Requirements:

- The Customer must submit all PPC Service charges in one EMI record type: the EMI 01-01-16 record. All corresponding electronic credits must be submitted in one type of Category 41 record type; the EMI 41-01-16 record. Both record types should be populated and processed in accordance with the ATIS/OBF EMI documentation with any exceptions required by BellSouth. All Messages will be identified as non-regulated and non-deniable.
- The Customer will identify the number dialed by the end user in all PPC Messages submitted to BellSouth for billing.
- The Customer will assist BellSouth in investigating and responding promptly to end user complaints or inquiries by any state or federal regulatory authority or by any state attorney general concerning the

Customer's, or its Clients, PPC Service for which BellSouth serves as the billing agent.

- When the Customer purchases Bill Processing Service with *Inquiry Service*, the Customer will provide to BellSouth, on a monthly basis, an updated list of all PPC Services to be billed by BellSouth. This list will include the following information for each PPC Service:
 - The advertised name of the PPC Service;
 - The name of the IP;
 - A contact telephone number for the IP that BellSouth may give to end users desiring assistance and/or to discuss charges on their bills;
 - The telephone number that is dialed by the end user to reach the PPC Service and that appears on the end user's bill;
 - The PPC Service name as it appears on the bill;
 - A brief description of the PPC Service content; and
 - The price; identification of the price as flat rate or time sensitive; if time sensitive, the rate and the time segment (e.g., per minute) in which the rate is applied.
- End User Bill Format and Collections:
- Pursuant to state and federal regulatory requirements, end-user bills must clearly identify PPC Services with a disclaimer and Customer information. PPC Service charges will appear in either a separate section on the Customer's bill page or on a separate Customer bill page, depending on the specific state requirements.
- To aid the end user in recognizing PPC Service charges, the Customer agrees to include in all PPC Service records a 12-character program description in the SERVICE NAME field.
- BellSouth will not deny, disconnect, or otherwise withhold basic telecommunications service for non-payment of PPC Service. BellSouth will determine what collection efforts (if any) are required after initial collection attempts have been made by BellSouth.
- The Customer agrees to use its best efforts to resolve any disputes referred to the Customer which are related to provisioning of and/or payment for PPC Services.
- End user complaints to BellSouth about the value received from a PPC Service program will be investigated by BellSouth. BellSouth will adjust the charge and recourse it to the Customer if, after investigation, the complaint is determined to be legitimate. In making such determination all doubts will be resolved in favor of the end user.
- BellSouth will use its sole discretion when determining if charges should be sustained or adjusted and recoured to the Customer. If BellSouth determines that a PPC Service is *not* in compliance with

the requirements of this Agreement, BellSouth will not sustain the charges, but will adjust and recourse such charges to the Customer.

- **Compliance With Regulatory/Government Agencies:**

The Customer and BellSouth mutually agree to comply with Subpart O of Part 64 of Title 47 of the Code of Federal Regulations and titles II and III of the Telephone Disclosure and Dispute Resolution Act (Pub. L. No. 102-556) ("TDDRA") and the regulations prescribed by the Federal Trade Commission pursuant to these titles.
- BellSouth may monitor the Customer and/or Clients' PPC Services when it has received Executive Complaints or requests from a state regulatory or government agency to monitor the Customer and/or Client PPC Services to assure compliance with the terms and conditions of this Agreement.
- **Non-Compliance by the B&C Customer:**
 - If BellSouth becomes aware that a PPC Service number is operating in a manner not in compliance with federal/state requirements, and/or the terms and conditions of this Agreement, the Customer will be given seven calendar days, from the date BellSouth advises the Customer of the non-compliance, to bring the specific number into compliance. This notification will be given in the form of a telephone call followed by a fax or letter. If the specific number is not brought into compliance within the stated time period, BellSouth will terminate billing for the specific number. BellSouth, at its sole discretion, may extract all PPC Service Messages from its billing system containing the non-compliant number and return them to the Customer as unbillables
 - If BellSouth becomes aware that the non-compliant PPC Service number is being submitted for billing under another PPC Service number not identified as non-compliant by the Customer, BellSouth may terminate all PPC Services billing for the Customer or, in the case of a Clearinghouse Customer, for its non-compliant Client. BellSouth will give the Customer, the termination notice in the form of a fax or letter under the terms and conditions set forth in this Agreement. BellSouth, in its sole discretion, may extract all PPC Service Messages from its billing system which contain the Customer or Client's identification number and return them to the Customer as unbillables.
 - For Clearinghouse Customers only, if BellSouth becomes aware of a Clearinghouse Customer submitting PPC Service Messages for a Client whom BellSouth has previously discontinued billing, BellSouth may terminate all PPC Services billing for the Clearinghouse Customer. BellSouth will give the Clearinghouse Customer termination notice in the form of a fax or letter in

accordance with the terms and conditions set forth in this Agreement. BellSouth, in its sole discretion, may extract all of the Clearinghouse Customer's PPC Service Messages from its billing systems and return them to the Clearinghouse Customer as unbillables. The Clearinghouse Customer agrees to pay BellSouth the cost of performing such work at an ICB rate.

- Termination of Billing and Collection Services:
- Either Party may terminate PPC Service billing with or without cause upon three months written notice to the other Party.
- Either party has the right but not the obligation to cancel PPC Service billing immediately without notice if the other party is in breach or default, and such breach or default continues after notice by the party not in breach or default.
- Dispute and Recourse of PPC Charges:
- In accordance with BellSouth's PPC Service operating standards (e.g., *Reference Guide for Bill Processing Service*) and rules promulgated by appropriate regulatory agencies, BellSouth will adjust disputed PPC Service charges on end-user accounts whether or not the adjustment of such charges has been approved by the Customer. These adjustments may be recoured to the Customer as post-billing adjustments before BellSouth refers the charges to an Outside Collection Agency (OCA).
- Collection activities by or on behalf of the Customer, or its Client, will include no reference to BellSouth other than a statement that such PPC Service charges initially appeared on the end user's bill from BellSouth.
- The Customer agrees to indemnify, defend and hold BellSouth and its affiliated companies harmless from and against all end-user claims, suits, costs, damages, expenses, attorneys fees and judgments arising out of, or alleged to arise from, BellSouth's adjustments and recourse activity attributable to PPC charges.
- Miscellaneous:
 - The Customer will respond promptly to any and all complaints lodged with any regulatory authority against any of its PPC Services for which BellSouth provides billing.
 - The billing and collection of PPC Service will be provided consistent with and only to the extent permitted by all applicable federal, state or local laws, court orders, agency and public service commission orders, rules or regulations ("Laws"). In the event PPC Services and/or PPC Service billing is limited or prohibited by any Laws both parties agree to comply with such Laws.

B. The requirement in proposed rule 25-4.119(3) that carriers provide blocking of Information Services at the request of the customer at no charge should be revised.

Paragraph (3) of proposed rule 25-4.119 states that "[e]ach subscriber shall have the option to be billed only for regulated telecommunications products and services. Each LEC shall provide blocking of Information Services at the request of the customer at no charge." This provision should be deleted or be at the option of the LEC.

BellSouth is currently investigating possible alternatives for a mechanized billing block. The billing block would apply to non-regulated to miscellaneous charges submitted to the LEC on a "category 42 record". This would exclude toll charges, toll related charges and regulated charges. BellSouth currently estimates the cost of software development alone to be approximately \$1.5 million. This would not include other costs such as implementation and end user notification. BellSouth would be unable to begin working on implementation of this billing block until after the first quarter of 2000 due to Y2K efforts, and could not have the service available until late 2000.

C. The term "agent" should be clarified to ensure that a local exchange provider or billing party is not deemed the "agent" of the originating party unless it has agreed in writing to become such an agent.

In the event that Paragraph (2) of the proposed Rule 25-4.119 is adopted, the term "agent" should be defined. For example, in (2)(j), a local exchange provider is not permitted to provide transmission or billing services to an originating party unless that party or its agent maintains a toll-free customer

service number. BellSouth recommends that for purposes of this section, "agent" be defined in a separate subparagraph as "a person or entity that acts for an originating party pursuant to the terms of a written agreement. The scope of any such agency shall be limited to the terms of any such written agreement." This will ensure that a party who has contracted with an originating party to perform one function on behalf of an originating party, such as billing, will not be deemed an agent of the originating party for another purpose, such as third party verification, that it did not agree to perform in its agreement.

Respectfully submitted this 13th day of September, 1999

BELLSOUTH TELECOMMUNICATIONS, INC.

Nancy B. White

NANCY B. WHITE (22)

MICHAEL P. GOGGIN

c/o Nancy H. Sims

150 So. Monroe Street, Suite 400

Tallahassee, FL 32301

(305) 347-5558

R. Douglas Lackey

R. DOUGLAS LACKEY (22)

E. EARL EDENFIELD, JR.

Suite 4300

675 W. Peachtree St., NE

Atlanta, GA 30375

(404) 335-0747

178017

**CERTIFICATE OF SERVICE
Docket No. 990994-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 13th day of September, 1999 to the following:

Diana Caldwell
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Office of Public Counsel
Charles Beck
c/o The Florida Legislature
111 West Madison Street, #812
Tallahassee, FL 32399-1400
Tel. No. (850) 488-9330

Michael A. Gross
FCTA
310 North Monroe Street
Tallahassee, FL 32301
Tel. No. (850) 681-1990
Fax. No. (850) 681-9676

Vicki Kaufman
FCCA
c/o McWhirter Law Firm
117 South Gadsden Street
Tallahassee, FL 32301
Tel. No. (850) 222-2525
Fax. No. (850) 222-5606

Kimberly Caswell
GTE
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110
Tel. No. (813) 483-2617
Fax. No. (813) 223-4888

Michael P. Goggin
Michael P. Goggin
(22)