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August 16, 2000

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Blanca S. Bayo, Director  
Division of Records and Reporting  
Betty Easley Conference Center  
4075 Esplanade Way  
Tallahassee, Florida 32399-0870

Re: Docket No.: 990994-TP

Dear Ms. Bayo:

On behalf of Florida Competitive Carriers Association, MCI WorldCom, Inc. AT&T Communications of the Southern States, Inc. and the Association of Communications, Enterprises, enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Responsive Comments of the Florida Competitive Carriers Association, MCI WorldCom, Inc., AT&T Communications of the Southern States, Inc. and the Association of Communications, Enterprises.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me in the envelope provided. Thank you for your assistance.

Yours truly,

*Vicki Gordon Kaufman*

Vicki Gordon Kaufman

*Braun*

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Amendments  
to Rule 25-4.003, F.A.C.,  
Definitions; 25-4.110, F.A.C.,  
Customer Billing for Local  
Exchange Telecommunications  
Companies; 25-4.113, F.A.C.  
Refusal or Discontinuance of  
Service by Company; Rule 25-  
24.490, F.A.C., Customer  
Relations; Rules Incorporated;  
And 25-24.845, F.A.C., Customer  
Relations; Rules Incorporated.

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Docket No. 990994-TP

Filed: August 16, 2000

ORIGINAL

**Responsive Comments of  
The Florida Competitive Carriers Association, MCI WorldCom, Inc.,  
AT&T Communications of the Southern States, Inc. and  
The Association of Communications Enterprises**

Pursuant to Order No. PSC-00-1337-PCO-TP, the Florida Competitive Carriers Association (FCCA), MCI WorldCom, Inc. (WorldCom), AT&T Communications of the Southern States, Inc. (AT&T) and the Association of Communications Enterprises (ASCENT)<sup>1</sup> (collectively, Competitive Carriers) file these responsive comments regarding proposed rules 25-4.110(2), (19) as applicable to alternative local exchange companies (ALECs) and interexchange companies (IXCs) which the Commission has set for hearing in this proceeding.<sup>2</sup>

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<sup>1</sup>ASCENT was formerly known as the Telecommunications Resellers Association (TRA).

<sup>2</sup>Competitive Carriers adopt and incorporate by reference their comments filed in this docket on September 13, 1999, September 16, 1999, October 5, 1999, October 6, 1999 and August 8, 2000.

## Introduction

Competitive Carriers strongly disagree with the testimony filed by Staff which suggests that the bill formatting and blocking rules should be made applicable to ALECs and IXC's. Competitive Carriers would characterize the proposed application as a "solution in search of a problem" as Staff's own testimony illustrates. Competitive Carriers also disagree with the comments of BellSouth Telecommunications, Inc. (BellSouth). Competitive Carriers respond specifically to Staff's testimony and BellSouth's comments below. Further, Competitive Carriers propose a lower cost regulatory alternative of *not* applying the rules at issue to ALECs and IXC's.

### Mr. Durbin's Testimony

It appears that the purpose of Mr. Durbin's testimony is to provide the Commission with information as to the number of cramming complaints the Commission has received. A review of Mr. Durbin's testimony and exhibit reveals that there has been a dramatic *decline* in the number of cramming complaints the Commission has received. While in 1998, it appears that the Commission received several hundred cramming complaints a month, that number decreased substantially in 1999 and declined even further in 2000. This dramatic decline occurred *without* a rule in place; one can only assume the decline is due to industry self-policing.

Further, Mr. Durbin notes that "[p]resently we are not receiving *any* customer complaints of cramming on ALEC bills."<sup>3</sup> Thus, while the Commission has received *no* ALEC cramming complaints and very few IXC complaints, Staff nonetheless appears to suggest that rules, which would cost millions of dollars to implement and which would greatly impact competition in Florida,

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<sup>3</sup> Durbin direct testimony at p. 3, l. 10-11, emphasis added.

should be imposed on the competitive industry<sup>4</sup> to remedy very few complaints. Competitive Carriers suggest that Mr. Durbin's testimony proves Competitive Carriers' point that no rules are needed. Further, the adoption of such rules would be in direct contravention of section 364.01(4)(b), (d), (e), (f), (g), (h), Florida Statutes.

#### **Ms. Simmons' Testimony**

Ms. Simmons' testimony addresses proposed rule 25-4.110(2), which prescribes and requires certain information on a bill. Ms. Simmons states that the approach she advocates is "reasonable"; Competitive Carriers respectfully disagree. While the proposed rule does provide some options for the provision of some information, it is still highly prescriptive in its requirements. Competitive Carriers suggest that billing and billing format is one method of company differentiation in a competitive marketplace. If consumers want a particular bill format, they may select a company for service who provides the desired format - that is, the Commission should let the market work. To prescribe exactly what should be on a bill, and where, inhibits this differentiation and competition. Additionally, it does not appear that such requirements are called for, particularly in view of the increased costs they will impose on the industry. No cost/benefit analysis as to this rule has been performed and it has the potential to stifle innovation in the market place.

#### **Mr. Moses' Testimony**

Mr. Moses' testimony addresses his views on the need to require *all* IXC's and ALEC's to

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<sup>4</sup>The Statement of Estimated Regulatory Costs (SERC) notes that there are over 600 certified IXC's and 200 certified ALEC's in Florida. (SERC at 1 -2).

offer a billing block to customers.<sup>5</sup> To require all ALECs and IXC's to provide a billing block is a very expensive "solution" to a very small problem. As the SERC details, *individual* companies estimate millions of dollars in one time implementation charges as well as millions of dollars in ongoing and maintenance charges.<sup>6</sup> These amounts will eventually be borne by consumers. And, as even Mr. Moses points out, the bill block is simply an "option" a customer *may* select.<sup>7</sup> Even though it is an "option" for the customer, it is mandatory for the industry and a very expensive mandate.

As with bill format issues discussed above, to the extent certain consumers want a bill block option, they may certainly choose a company who offers it. But just because some consumers desire it, a bill block should not be mandatory for the *entire* industry.

#### **BellSouth's Comments**

BellSouth argues that this Commission *must* apply the two proposed rules at issue to ALECs and IXC's. In doing so, BellSouth ignores the requirements of section 364.01(4). For example, section 364.01(4)(b) requires the Commission to encourage competition through "flexible regulatory treatment." Section 364.01(4)(d) directs the Commission to promote competition by subjecting new entrants to "a lesser level of regulatory oversight than local exchange companies." Section 364.01(4)(e) requires the Commission to encourage the introduction of new services "free of

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<sup>5</sup>Again, this proposed requirement must be viewed in light of the small and diminishing number of complaints addressed by Mr. Durbin.

<sup>6</sup>SERC at 5 - 6.

<sup>7</sup>Apparently, no survey or analysis was done as to how many consumers want or would use such an option.

unnecessary regulatory restraints." Section 364.01(4)(f) requires the Commission to "eliminate any rules and/or regulations which will delay or impair the transition to competition." Section 364.01(4)(g) provides for the elimination of "unnecessary regulatory restraint." Section 364.01(4)(h) requires "flexible regulatory treatment of competitive telecommunications services." Each of these statutory provisions makes it clear that the Commission has ample authority to treat certain carriers differently than incumbents. As discussed earlier, the proposed rules impose excessive costs without corresponding consumer benefit. As such, they would greatly burden competition. Thus, the proposed rules are inconsistent with the mandate of section 364.01(4), described above, and in contravention of section 364.337.

#### **Lower Cost Regulatory Alternative to Proposed Rules**

Pursuant to Order No. PSC-00-1337-PCO-TP and §120.541, Florida Statutes, Competitive Carriers propose the lower cost regulatory alternative of *not* applying these rules to ALECs and IXCs. A significant problem in regard to cramming has *not* been demonstrated, especially in view of the enormous costs which would be imposed on the industry if forced to implement these proposed rules.

#### **Conclusion**

The Commission should not apply the bill formatting and bill blocking rules to ALECs and IXCs. There has been no demonstrated problem which warrants the cost and regulatory burden in view of the Commission's charge to encourage competition.

**WHEREFORE**, FCCA, WorldCom, AT&T and ASCENT request that the Commission not adopt proposed rules 25-4.110(2) or (19) as applicable to ALECs and IXCs.

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing **Responsive Comments** have been furnished by (\*) hand delivery or U.S. mail this 16<sup>th</sup> day of August 2000 to the following:

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