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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Policies and Rules Implementing)	CC Docket No. 93-22
the Telephone Disclosure and)	
Dispute Resolution Act)	

AT&T OPPOSITION

Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, American Telephone and Telegraph Company ("AT&T") opposes the petitions of Pilgrim Telephone, Inc. ("Pilgrim") and Southwestern Bell Telephone Company ("Southwestern Bell") for reconsideration of the Commission's Report and Order in this proceeding.¹ The Report and Order amended the Commission's rules governing the provision of interstate "pay-per-call" services to comport with the requirements of the Telephone Disclosure and Dispute Resolution Act ("TDDRA").²

¹ Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Docket No. 93-22, Report and Order, FCC 93, 349, released August 13, 1993 ("Report and Order").

² Public Law 102-556, 106 Stat. 4181, codified at 47 U.S.C. § 228. The Commission subsequently deferred the effective date of certain other regulations adopted in the Report and Order from November 1, 1993 to January 1, 1994. See Policies and Rules Implementing the Telephone Disclosure and Dispute

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As the Commission has previously pointed out,³ the statutory objective of TDDRA is to establish a regulatory system to promote the legitimate development of pay-per-call services, while protecting consumers from fraudulent and deceptive practices in connection with those offerings. The reconsideration petitions should be denied, because the changes they seek in the Commission's regulations implementing TDDRA would conflict with the achievement of these statutory goals.

A. Pilgrim petition: TDDRA requires the Commission to prescribe a telephone number prefix to be used with all pay-per-call services.⁴ In effectuation of this statutory duty, Section 64.1506 of the Commission's rules adopted in the Report and Order requires that every pay-per-call service (as that term is defined in the regulations) must be offered exclusively through a telephone number with a 900 prefix. Paralleling the wording of TDDRA, the definition of a pay-per-call service set forth in Section 64.1501(a)(1)-(2) expressly exempts several types of programs from the definition of

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Resolution Act, CC Docket 93-22, Order, FCC 93-489, released October 29, 1993.

³ See Report and Order, ¶ 3.

⁴ See 47 U.S.C. § 228(b)(5)

pay-per-call services.⁵ These exempted services are permitted to use other interstate dialing prefixes -- in particular, the 800 service access code ("SAC") -- subject to other limitations set forth in the rules.⁶

Pilgrim asserts (p. 2) without any support that programs provided under presubscription arrangements (including credit cards), and hence currently excluded from the pay-per-call classification, "are likewise intended to be incorporated into the definition of pay-per call services" for purposes of the Commission's rule mandating use of a 900 prefix number. Pilgrim's claim is arrant nonsense. As shown above, in the Report and Order, the Commission specifically permitted use of the 800 SAC to provide information for a fee where "the calling party has a presubscription or comparable arrangement" with the information provider.⁷ Moreover,

⁵ Both TDDRA (47 U.S.C. § 228(i)(2)) and Section 64.1501(b) of the Commission's rules provide that the term pay-per-call service

does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which it is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service."

⁶ See 47 C.F.R. § 64.1504 (prescribing restrictions on use of 800 numbers when providing information for a fee).

⁷ See 47 C.F.R. § 64.1504(c).

this action was scarcely inadvertent, as Pilgrim's petition (*id.*) implies. Rather, the Report and Order points out (¶ 26) that the Commission's regulation merely codifies the express statutory requirements of TDDRA.⁸ In sum, there is no basis for Pilgrim's claim that the Commission should reconsider and "clarify" its rules to achieve a result that is neither permitted by TDDRA nor intended by the Report and Order.

B. Southwestern Bell petition: TDDRA requires local exchange carriers ("LECs") to offer their subscribers 900 call blocking services, to allow those customers to avoid incurring pay-per-call charges.⁹ Section 64.1508 of the Commission's rules, adopted in the Report and Order, adopts this statutory requirement, and also requires the LECs to file the rates, terms and conditions of those blocking services in their interstate access tariffs. Although some parties pointed out that these functions are already tariffed at the state level, and contended that they therefore should not also be tariffed at the interstate level, the Commission specifically found that federal tariffing of 900 blocking was required to "enhance our ability to enforce the

⁸ Compare 47 C.F.R. § 64.1508 with 47 U.S.C. § 228(c)(6).

⁹ See 47 U.S.C. § 228(c)(4).

requirements of the TDDRA" mandating these offerings by LECs.¹⁰

Southwestern Bell seeks reconsideration of the federal tariff requirement, claiming (at p. 2) that this obligation is "redundant and will give nothing to customers beyond what they already have" under state tariffs. This is the same assertion made by Southwestern Bell during the rulemaking,¹¹ which the Report and Order rejected. It is well settled that arguments already raised and previously rejected are insufficient to support a request for reconsideration.¹²

Southwestern Bell's only other claim (id.) is that interstate tariffing is somehow unduly burdensome because it will require unspecified "[n]ew methods and procedures" to provision and bill for this service. However, the petition fails to provide any evidence of these asserted burdens.¹³ In the absence of such

¹⁰ Report and Order, ¶ 59, 62.

¹¹ Compare Southwestern Bell Comments, filed April 19, 1993, p. 4 with Reconsideration Petition, p. 2.

¹² See MTS and WATS Market Structure/Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, 2 FCC Rcd. 4533, 4534 (1987); American Broadcasting Companies, Inc., 90 F.C.C.2d 395, 401 (1982).

¹³ Moreover, requiring dual federal-state tariffing of blocking services is scarcely unprecedented. Just last year, in connection with its proceeding in Docket 91-35 on private payphone access the Commission directed the LECs to federally tariff international

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quantification, the Commission should reject Southwestern Bell's claim and deny its request for reconsideration.

CONCLUSION

For the reasons stated above, the Commission should deny the petitions of Pilgrim and Southwestern Bell for reconsideration of the Report and Order.

Respectfully submitted,

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call blocking, notwithstanding that the LECs claimed those blocking services were already filed in their general exchange tariffs. See Policies and Rules Concerning Operator Access Service, 7 FCC Rcd. 4355 (1992), recon. denied, 8 FCC Rcd. 2864 (1993).

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 23rd day of November, 1993, a copy of the foregoing "AT&T Opposition" was mailed by U.S. first class mail, postage prepaid, to the parties listed below.

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