

# Public Utility Commission of Texas

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February 23, 1994

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**Ex Parte**

Commissioner James Quello  
Federal Communications Commission  
1919 M. Street, N.W., Room 802  
Washington, D.C. 20544

RE: CC Docket No. (93-292) In the Matter of Policies and Rules concerning Toll Fraud.

Dear Commissioner Quello:

Early in 1991, the Public Utility Commission of Texas (Texas PUC) pioneered the policy of assigning liability for payphone fraud. Later, many other states, including Florida, adopted policies similar to that originally developed in Texas. The Texas PUC wishes to be on record in this proceeding as supporting the Florida Public Service Commission (Florida PSC) recommendation to hold carriers accountable for the services they provide and to assign liability for fraud based on the ability to control the fraud.

In 1991, the Texas PUC expressed its concern regarding the potential for fraud in the Operator Services rulemaking proceeding, CC Docket No. 91-35. At that time, the Texas PUC recommended that the Federal Communications Commission (FCC) adopt a solution to the fraud problem similar to the solution adopted in Texas. Understandably, the Federal Communications Commission (FCC) declined to adopt fraud regulations at that time because to do so would have been beyond the scope of the Operator Services proceeding. The Texas PUC applauds the FCC for now examining this critical issue.

The Texas/Florida regulations recognize the shifting liability for payphone fraud associated with operator-assisted calls. These regulations codify the shift in liability and offer relief to payphone providers, who have heretofore been saddled unfairly with liability for fraud occurring at their phones. (A copy of the relevant Texas regulations is attached. See subsection (f).)

Payphone providers are responsible for ordering the necessary local exchange company (LEC)-provided outgoing and incoming call screening services. These screening services provide interexchange carriers (IXCs) and LECs with information so that calls are not fraudulently billed to the payphone provider's line. Once the payphone provider subscribes to these services, liability passes to the LEC. The LEC must ensure that the service is installed and that the equipment functions properly on an ongoing basis. When the screening information is properly passed to the IXC or LEC handling the operator-assisted call, liability also passes. At that point, the IXC or LEC handling the call must have proper procedures in place to ensure that the call is not charged to the payphone provider's line.

Action by the FCC regarding payphone fraud is necessary. In late 1991, the Texas PUC attempted to informally resolve a complaint between a payphone provider and

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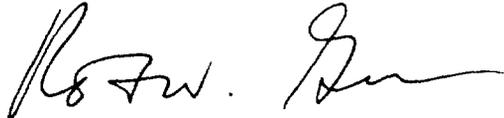
AT&T. Part of the complaint involved collect calls from Mexico City. AT&T refused to accept responsibility for the toll fraud. AT&T's first argument was that the Texas PUC had no jurisdiction because the calls involved were international. Second, even if the Texas PUC had jurisdiction, AT&T argued that the complaint was without merit because an AT&T operator did not handle the calls in question. Rather, a foreign country international operator handled the calls. The Texas PUC rejected AT&T's explanation, but was never successful in resolving the complaint because of the jurisdiction question.

Interexchange carriers enter into contractual arrangements with foreign governments to provide direct access to their networks. These interexchange carriers have the capability and responsibility to ensure that the contracts contain appropriate procedures to prevent fraud from occurring. Instead, the carriers allow the fraud to occur and hold the payphone owners responsible. This is unacceptable. The FCC must hold the interexchange carriers accountable for fraud that occurs on international collect and third number-billed calls coming in on their networks. The Texas/Florida regulations set forth a proper framework for appropriately assigning liability for this and other types of fraud.

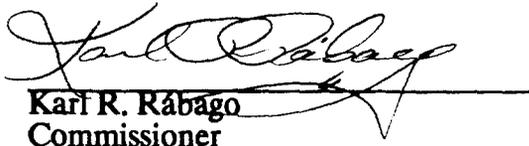
The Texas PUC continues to believe its (and Florida's) regulations regarding fraud liability are fair. Because the Texas/Florida regulations assign liability to the party with the responsibility and capability for preventing the fraud, they serve as an incentive to prevent fraud from occurring.

Thank you for your consideration of these comments. Two copies of this letter have been submitted to the Secretary of the Commission.

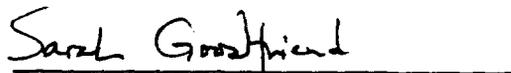
Sincerely,



Robert W. Gee  
Chairman



Karl R. Rabago  
Commissioner

  
Sarah Goodfriend  
Commissioner

attachment

## PRIVATE PAY TELEPHONE SURVEY

The staff of the Public Utility Commission of Texas conducted a survey of private pay telephones in the Austin area July 5th-9th. The compliance check consisted of a survey addressing posting and blocking requirements. This paper presents the results of the survey.

### Generating the Survey Sample

Initially, a universe of all 1705 private pay telephones in the Austin area was established, through a list requested of Southwestern Bell. After an initial review, 460 payphones were eliminated due to erroneous addresses, non-working numbers, or duplications. The remaining 1245 payphones were used to generate a high-probability random sample, using a 95% confidence interval and a 5% margin of error. These two variables were chosen arbitrarily, but were influenced by time constraints as well as resource availability. A higher confidence interval and a lower margin of error would have generated a higher random sample, and would have required more time and resources to check. Having determined the margin of error and confidence interval, a statistical table of random numbers was used to derive the sample size and selection of 306 private pay telephones.

### The Questionnaire

The questionnaire, provided as an attachment to this paper, was divided into two sections, the first to evaluate compliance with certain posting requirements and the second to determine the level of blocking of access to local exchange company (LEC) operators and interexchange carriers. Survey questions were derived from the requirements set forth in Sections 23.54 and 23.55 of the PUC's Substantive Rules. Compliance with separate FCC requirements was not surveyed. Also included in the questionnaire were questions designed to help the surveyor identify the owner of the pay telephone set, as well as the operator service provider (OSP).

To comply with the posting requirements of our Substantive Rules, the pay telephone set must display a card that includes the following information: name of the OSP; instructions for registering a complaint; instructions, in English and Spanish, for accessing emergency service; a notice stating that long distance calls may be made by using a carrier of choice; and instructions for obtaining rates at no charge.

In order to evaluate each payphone for blocking of long distance carriers, each surveyor was asked to dial four different numbers, one each for Sprint (1-800-877-8000) and AT&T (10288+0), and two for MCI (950-1022 and 10222+0), to see if the call would be connected to the proper carrier. Denying access to interexchange carriers by blocking "950-XXXX" and "1-800" numbers is forbidden. Limiting access to interexchange carriers by blocking "10XXX+0" is allowed only if the end office serving the originating line does not have originating line screening capability. In Austin, however, all of Southwestern Bell's wire centers have originating line screening capability, thereby making the blocking of "10XXX+0" a violation of PUC Substantive Rules.

## Conducting the Survey

Of the original sample size of 306 payphones, only 231, or 75.5%, were actually surveyed. The majority of the instruments not surveyed were never located, even though their addresses and phone numbers were provided by Southwestern Bell as part of the original universe. Of the non-surveyed payphones, nineteen had been recently removed from the premises, four were out for repair, eight had changed hands from private ownership to Southwestern Bell, twenty-one could not be located by the surveyors because of non-posted numbers, eleven were located outside of the Austin Metropolitan survey area, five were fax machines (instead of payphones), one was vandalized beyond use, and six were listed under a wrong address. All payphones found to be in non-compliance with any portion of PUC Substantive Rule 23.54 were reported to Southwestern Bell, to begin disconnect proceedings.

## Violations Encountered

### Blocking

The most common violation seen during this survey was blocking. Of the 231 payphones located and tested, only 139 (60.2% of the total) allowed the user to access the long distance carrier of choice, without blocking. This denial of access represents not only a violation of the PUC's Substantive Rules, but also a violation of FCC Orders that prohibit blocking. Additional findings related to blocking were as follows:

- 22.9% of the private pay telephones surveyed completely blocked 10XXX access.
- 39.4% of the pay telephones surveyed blocked access to the 10222+0 MCI access code
- 23.4% of the pay telephones blocked access to the 10288+0 AT&T access code.
- 1.3% of the pay telephones surveyed blocked access to the 950-1022 MCI access code.
- Two instruments (0.86%) blocked access to the 1-800-877-8000 Sprint access code.
- Two of the pay telephones surveyed (0.86%) completely blocked access to any of the three major carriers.
- Indications of blocked pay telephones were varied, and included a busy signal, the inability to dial past the first two digits, and the necessity to deposit money in order to dial the long distance access number.
- The staff encountered a disturbing situation, though not technically a blockage, in about a dozen of the surveyed pay telephones. When the user dialed a long distance access code, a mechanized voice came on line, telling the caller to hang up, deposit a coin and use the presubscribed long distance carrier for a 50% savings on long distance calls. If the caller remained on the line, ultimately a connection with the long distance carrier, as originally dialed, was made.

### Accessing the Local Operator

PUC Substantive Rule 23.55 states that a non-LEC OSP shall provide access to the local exchange carrier operator serving the exchange from which the call is made, by either directly routing all "0-" calls to the local exchange carrier operator, without charge to the caller, or by transferring or redirecting the call to the LEC OSP upon request. A total of 32.9% of the OSPs accessed by the payphones in the survey failed, in one form or another, to carry out the request.

Examples of these failures included common elements, such as being told to dial 611, 10-288, 1-411, 411, or 0-0 to access the local exchange operator, none of which methods provided access to the local operator. Some of the OSPs told the caller outright that they could not make the transfer to a LEC operator. Some payphones even required the deposit of a quarter to complete the call.

### Posting Violations

As far as the information provided on the card is concerned, the following irregularities were noted:

- 24.7% of the private pay telephones surveyed did not have any language notifying the caller that rates may be checked at no charge.
- 22.9% failed to post instructions for accessing the local exchange operator, and 21.6% of the pay telephones failed to post instructions for using the long distance carrier of choice.
- 16% of the pay telephones surveyed failed to provide instructions in English and Spanish for accessing emergency service.
- 17.3% of the private pay telephones did not provide information on how to register a complaint.

### Corrective Action

- All payphones found to be in non-compliance with any portion of PUC Substantive Rule 23.54 were reported to Southwestern Bell, to begin disconnect proceedings.
- To the extent possible, payphones found to be in non-compliance with any portion of PUC Substantive Rule 23.55 will be reported to the appropriate OSP for the purpose of rectifying those violations.

### Other Recommendations

Having successfully completed the survey, we recommend that the results gathered be put to the following uses. First, a rulemaking proceeding should be considered to address the problem of mechanized advertising when a caller dials an interexchange carrier. Second, the PUC staff should continue to work with private payphone industry representatives to help them develop internal compliance procedures.

## SURVEY RESULTS

<b>Total Payphones in Universe</b>	<b>1245</b>	
<b>Total Payphones in Sample Size</b>	<b>306</b>	
<b>Total Payphones Not Located or Out of Order</b>	<b>75</b>	
<b>Total Payphones Located and Surveyed</b>	<b>231</b>	
<b>Total Payphones Blocked for MCI (950-XXXX)</b>	<b>3</b>	<b>1.3%</b>
<b>Total Payphones Blocked for MCI (10-XXX)</b>	<b>91</b>	<b>39.4%</b>
<b>Total Payphones Blocked for AT&amp;T (10-XXX)</b>	<b>54</b>	<b>23.4%</b>
<b>Total Payphones Blocked for Sprint (1-800)</b>	<b>2</b>	<b>0.86%</b>
<b>Total Payphones Completely Blocked for 10-XXX</b>	<b>53</b>	<b>22.9%</b>
<b>Total Payphones Completely Unblocked</b>	<b>139</b>	<b>60.2%</b>
<b>Total Payphones Completely Blocked</b>	<b>2</b>	<b>0.86%</b>
<b>Total Payphones Unable to access LEC Operator</b>	<b>76</b>	<b>32.9%</b>
<b>Total Payphones Without 911-Instructions</b>	<b>37</b>	<b>16.0%</b>
<b>Total Payphones Without LEC-Operator Instructions</b>	<b>53</b>	<b>22.9%</b>
<b>Total Payphones Without Complaint Instructions</b>	<b>40</b>	<b>17.3%</b>
<b>Total Payphones Without Long Distance Information</b>	<b>50</b>	<b>21.6%</b>
<b>Total Payphones Without Rates Notice</b>	<b>57</b>	<b>24.7%</b>
<b>Payphones in Total Compliance</b>	<b>82</b>	<b>35.5%</b>
<b>Payphones in Total Non-Compliance</b>	<b>0</b>	<b>0%</b>

## PAY PHONE SURVEY

The Public Utility Commission is conducting a survey of telephones used by the public to measure the level of compliance with the Commission rules regulating operator service providers (OSPs), and private pay phone providers. OSPs are the companies that provide the public with long distance service, in particular calls that require operator assistance or calls that are alternately billed (billed to third party, collect, credit card). Private pay phone providers are parties other than local exchange carriers who own or operate pay telephones.

- 1) Address of facility: \_\_\_\_\_
- 2) Pay phone number: \_\_\_\_\_
- 3) Is the following information attached:
  - a) Name of OSP Provider: \_\_\_\_\_
  - b) Instructions for accessing the OSP: \_\_\_\_\_
  - c) Instructions for accessing the LEC operator: \_\_\_\_\_
  - d) Instructions for registering a complaint: \_\_\_\_\_
  - e) Instructions in English and Spanish for accessing emergency service: \_\_\_\_\_
  - f) A notice that states, "You may use another long distance carrier." \_\_\_\_\_
  - g) Instructions for obtaining rates at no charge: \_\_\_\_\_
- 4) What is the name of the OSP: \_\_\_\_\_
- 5) What is the address of the OSP (if available): \_\_\_\_\_  
\_\_\_\_\_
- 6) What is the toll-free telephone number of the OSP: \_\_\_\_\_
- 7) What is the name and address of private pay phone owner: \_\_\_\_\_  
\_\_\_\_\_
- 8) What is the telephone number of the private pay phone owner: \_\_\_\_\_
- 9) Is there a notice identifying the set as a private pay telephone: \_\_\_\_\_
- 10) What is the name of the owner or agent responsible for refunds and repairs: \_\_\_\_\_  
\_\_\_\_\_
- 11) What is the telephone number of the above owner or agent: \_\_\_\_\_
- 12) If the OSP is not the LEC operator, dial "0" and request access to the LEC operator.  
Were you transferred to the LEC operator? \_\_\_\_\_

### Blocking:

- 13) Dial 1-800-877-8000. Was Sprint identified in any way? \_\_\_\_\_
- 14) Dial 950-1022. Was MCI identified in any way? \_\_\_\_\_
- 15) Dial 10222+0. Was MCI identified in any way? \_\_\_\_\_
- 16) Dial 10288+0. Was AT&T identified in any way? \_\_\_\_\_

QUESTIONS: 3 - SUBST. R. 23.55 & SUBST. R. 23.54 FOR AUTOMATED PAY PHONES

QUESTIONS: 13-15 - SUBST. R. 23.54 & 23.55

QUESTIONS: 4 & 6 - SUBST. R. 23.55 & SUBST. R. 23.54 FOR AUTOMATED PAY PHONES

QUESTIONS: 7-12 - SUBST. R. 23.54