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

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In the Matter of)
)
Policies and Rules Implementing)
the Telephone Disclosure and)
Dispute Resolution Act)
)
Florida Public Service Commission)
Petition to Initiate Rulemaking to)
Adopt Additional Safeguards)

RM-8783

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AT&T COMMENTS

Pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405, AT&T Corp. ("AT&T") submits these comments on the above-captioned petition by the Florida Public Service Commission ("PSC") requesting the Commission to initiate a rulemaking to adopt "additional safeguards" to protect against evasion of the Commission's rules under the Telephone Disclosure and Dispute Resolution Act ("TDDRA")¹ on calls placed to toll-free 800 numbers.²

¹ Pub. L. No. 102-556, as amended by Pub. L. No. 104-104, codified at 47 U.S.C. § 228.

² Since the filing of the PSC's petition last December 8, carriers have placed into service an additional toll-free dialing prefix, the 888 Service Access Code ("SAC"). See Toll Free Service Access Codes, CC Docket No. 95-155, Report and Order, released January 25, 1996. The PSC's requested relief presumably would also apply to calls to 888 prefix numbers.

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The PSC's petition points out that, despite the adoption of TDDRA and the Commission's 1993 rulemaking to implement that statute, customers continue to incur pay-per-call charges for calls placed to 800-prefix numbers, even though they have no presubscription agreement with the information providers ("IPs") and have not provided the IPs their credit card numbers. Instead, it appears that in many such cases the IPs have "captured" the automatic number identification ("ANI") data from the customer's telephone and have used it to bill premium charges to the customer through local exchange carrier ("LEC") bills. In an attempt to preclude such abuses, the PSC proposes that the Commission require all LECs to offer service arrangements under which IPs could not bill any premium charges through the LECs' bills unless they also provide the end users' "LEC proprietary [calling] card number." See Pet., pp. 2-6. The PSC asserts that this "LEC proprietary card block service should significantly reduce the type of abuse" described in its petition. *Id.*, p. 6.

AT&T has strongly supported the Commission's initiatives, both under TDDRA and in its previous rulemaking in CC Docket No. 91-65,³ to protect consumers

³ Policies and Rules Concerning 900 Telecommunications Services, CC Docket No. 91-65, Notice of Proposed Rulemaking, 6 FCC Rcd 1857 (1991); Report and Order, 6 FCC Rcd 6166 (1991); Order on Reconsideration, 8 FCC Rcd 2343 (1993).

from abusive pay-per-call practices. However, AT&T believes that the PSC's proposal is unnecessary in light both of current Commission proceedings to perfect its enforcement of TDDRA, and recently enacted amendments to that statute. Moreover, from the description of the proposal provided in the petition, it does not appear that this arrangement would be feasible in all events.

The petition fails to acknowledge that the Commission's implementation of TDDRA has not been static, but instead has sought to modify those rules to take account of changes in the information services marketplace. To that end, in August 1994 the Commission in CC Docket No. 93-22 proposed additional rules to provide consumers greater protection with regard to information services offered via 800 numbers.⁴ As part of those measures, the Commission sought to define the characteristics of a "credit or charge card" permissible for use with information services obtained through an 800 number.⁵

⁴ Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, 9 FCC Rcd 6891 (1994) ("Further NPRM").

⁵ See id. at 6896 (¶ 29) and 6899 (proposed Section 64.1501(B)(5), defining "credit or charge card"). AT&T showed in that proceeding that carrier-issued telephone calling cards should also qualify as a permissible means of paying IP charges for 800 calls. See AT&T Comments, filed October 11, 1994, pp. 9-12; AT&T Reply Comments, filed October 31, 1994, p. 8 n.20.

In light of the Commission's pending consideration of this issue, it would be an unnecessary duplication of effort to initiate a separate rulemaking addressed to the PSC's proposal. Instead, to conserve scarce Commission resources, the merits of the PSC's proposal should be addressed in the context of the Further NPRM in Docket 93-22.⁶

Even in that context, however, AT&T believes it is questionable whether the PSC's proposal would be feasible. The petition's premise of a "LEC proprietary card" is an oxymoron: it is well-established under Commission precedents that those carriers' cards are not in any sense proprietary but are, instead, "joint use cards" usable in connection with a variety of service providers' offerings.⁷ Moreover, even if those LEC cards

⁶ Moreover, in the Telecommunications Act of 1996, Congress has only recently addressed and prescribed remedies for abusive IP practices on 800 calls. Specifically, Section 701 of the Telecommunications Act (titled "Prevention of Unfair Billing Practices for Information or Services Supplied Over Toll-Free Telephone Calls") specifies detailed requirements for presubscription agreements used with such services, and prescribed disclosures required with calls billed to "a credit, prepaid, debit, charge or calling card" in the absence of a presubscription agreement. See 28 U.S.C. § 228(c)(9) (codifying disclosure requirements). Additionally, the statute eliminated the "tariffed services" exception to pay-per-call treatment, which the PSC complains (Pet., p. 3) fostered 800 abuses and which Congress likewise found disserves consumers. See Telecommunications Act, Section 701(B)(2) (striking tariffed services exemption).

⁷ See Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint

could somehow be deemed "proprietary," the PSC has not presented any justification for the Commission to mandate a scheme that would seriously skew competition in the rivalrous market for carrier-issued calling cards and other alternate billing services.⁸ The Commission should therefore focus instead on implementing other measures to control pay-per-call abuses that will not have the distortive impact of the PSC's suggested remedy.

(footnote continued from previous page)

Use Calling Cards, CC Docket No. 91-115, Notice of Proposed Rulemaking, 6 FCC Rcd 3506 (1991); Report and Order, 7 FCC Rcd 3528 (1992).

⁸ The PSC's proposal would also likely engender a host of operational problems, and might still not alleviate the problem it is intended to address. The "LEC proprietary cards" referred to in the petition in most cases contain simply the customer's ten-digit POTS number (i.e., NPA-NXX-XXXX), plus a four-digit personal identification number ("PIN"). Except for the PIN number, this is the same information as the ANI which the PSC states is now captured by some unscrupulous IPs on 800 calls.

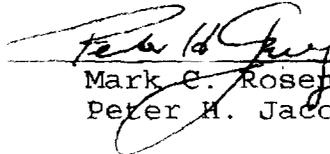
The petition does not explain how captured ANI could be distinguished from a "LEC proprietary card," unless the IPs were also required to furnish the PIN digits to the LECs providing billing on their behalf. Retention of the PIN data by IPs may be precluded by current LEC tariffs; moreover, transmission of those data between IPs and carriers may risk compromising the security of the PINs.

WHEREFORE, for the reasons stated above, the Commission should deny the PSC's petition for rulemaking and should continue to address the issue of calling card use for pay-per-call services in CC Docket No. 93-22.

Respectfully submitted,

AT&T CORP.

By



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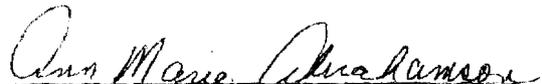
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May 1, 1996

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 1st day of May, 1996, a copy of the foregoing "AT&T Comments" was mailed by U.S. first class mail, postage prepaid, to the parties listed below.

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