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Public Service Commission

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: RM-8783 - Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act - Florida Public Service Commission Petition to Initiate Rulemaking to Adopt Additional Safeguards

Dear Mr. Caton:

Enclosed are the original and seventeen copies of the Florida Public Service Commission's Reply Comments in the above docket. Please date-stamp one copy and return it in the enclosed self-addressed stamped envelope.

Sincerely,

Cynthia B. Miller

Cynthia B. Miller
Associate General Counsel

CBM/jb
Enclosure
cc: International Transcription Service
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BEFORE THE EDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of:	)	
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Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act	)	
	)	RM-8783
Florida Public Service Commission Petition to Initiate Rulemaking to Adopt Additional Safeguards	)	

FLORIDA PUBLIC SERVICE COMMISSION REPLY COMMENTS

The Florida Public Service Commission (FPSC) reaffirms its request for the Federal Communications Commission (FCC) to initiate a rulemaking to adopt additional safeguards with respect to pay-per-call (PPC) services. However, the FPSC recognizes that the FCC will be addressing unfair billing practices in response to Section 701 of the Telecommunications Act (Act) of 1996. Therefore the FPSC has no objection if its proposed additional safeguards, including its billing block option, are considered in response to rulemaking pursuant to Section 701 of the Act.

Comments in opposition to the FPSC Petition generally suggest that the abuses cited in the FPSC's Petition are already prohibited by the Telephone Disclosure and Dispute Resolution Act (TDDRA) and FCC and Federal Trade Commission (FTC) rules implementing the Act. Other comments in opposition cite the FCC's action in August 1994 wherein the FCC proposed additional rules to provide consumers greater protections from PPC abuses. Still other comments in opposition cite provisions of Section 701 of the Telecommunications Act titled "Prevention of Unfair Billing Practices for Information or Services Supplied Over Toll-Free Telephone Calls" and state that no additional rules are required or that the Act renders moot the FPSC's Petition since the Act expressly prohibits the behavior described in the FPSC's Petition. Other commenters question the cost of implementation or argue that the FPSC's proposal is anti-competitive.

The FPSC believes this opposition to its proposal misses the mark. With respect to the Telecommunications Act of 1996, the FPSC believes its Petition and its proposals are consistent with the Act. Moreover, the billing block option proposed by the FPSC is, in concept, no different than the dialing blocks authorized to combat abusive behavior by information providers (IPs) years ago. Dialing blocks were made available to subscribers when businesses and consumers were wrongly charged for calls to 976 and 900 numbers, in violation of applicable standards. Thus, consumers were given the ability to block access to these numbers from their own telephones to protect themselves and to control their telephone bills. The FPSC notes that the LEC industry generally absorbed the cost of implementing these dialing blocks. The FPSC has documented that the industry has largely passed on the cost of dial-around abuses to its subscribers. These costs for business and residential subscribers include the costs of customers auditing their phone bills and the extensive time required to deal with multiple parties to resolve disputes over unauthorized charges. Knowing that such practices are illegal is small comfort to thousands of hotels, motels, colleges, universities, pay telephone companies and other subscribers who must navigate the maze of billing entities associated with such illegal activity. Subscribers typically call the LEC, are referred to an IXC or billing clearinghouse or service bureau and then to an often unresponsive information provider, many of whom threaten to file a negative credit bureau report against subscribers if immediate payment is not made. Therefore, the FPSC believes it remains appropriate for the FCC to consider requiring the industry to absorb the cost of implementing a billing block option, just as the industry largely absorbed the the costs of dialing block options implemented years ago.

Moreover, the FPSC doubts the cost of implementation will exceed the cost of implementing the optional dialing blocks as proved necessary to allow subscribers to block 976 and 900 calls and thereby control their bills. However, when costs of implementation are considered, significant weight should be given to the costs that may be avoided in the future by those subscribers wishing to take advantage of the billing block to avoid incurring the additional expense of auditing and getting unauthorized bills adjusted. Another cost consideration for both the industry and the FCC is the adverse impact on callers, and on regulatory agencies, if callers are unable to access their carrier of choice. By law, call aggregators must allow access to toll free numbers to ensure that end users have access to all available interexchange carriers to complete operator assisted calls. However, the FPSC is aware of cases where telecommunications managers, frustrated with unauthorized billing from PPC providers, have considered blocking access to toll free numbers to prevent unauthorized PPC charges. Colleges and universities have also blocked access to toll free numbers to avoid unauthorized student and/or staff access to PPC services. General blocking of toll free calls in response to PPC abuses will certainly impose a cost on the industry and others that must be considered when weighing the cost of implementing the FPSC's billing block option.

We note that commenters in opposition to the FPSC's Petition fail to document any reductions in abuses resulting from the existing rules and requirements. Absent data to demonstrate that abuses have been or are being curtailed, the FCC is in the best position to gauge the effectiveness of current rules based on complaints reaching the agency. Thus the FCC should consider its own complaint levels in assessing whether current requirements adequately prevent abuses.

As the FPSC's Petition documents, existing safeguards are not adequate to protect consumers. Thus, it is only fair to give consumers the tools to protect themselves and to control their telephone bills by being able to block the billing of unauthorized services. The FPSC's proposal suggests a mechanism to achieve this control and the FPSC urges the FCC to proceed with consideration of the proposed additional safeguards through rulemaking pursuant to Section 701 of the Telecommunications Act.

Respectfully submitted,

Cynthia Miller

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DATED: May 29, 1996

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of the Florida Public Service Commission has been furnished to the following parties of record this 29th day of May, 1996.

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