

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

DIVISION OF POLICY ANALYSIS &
INTERGOVERNMENTAL LIAISON
CHARLES H. HILL
DIRECTOR
(850) 413-6800

September 8, 1999

BY ELECTRONIC COMMENT FILING SYSTEM

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th, SW - TW-A325
Washington, DC 20554

Re: WT Docket No. 97-207 - Calling Party Pays Service Option
in the Commercial Mobile Radio Services

Dear Ms. Salas:

Attached are the Florida Public Service Commission Reply Comments in the above-noted docket. An original and 12 copies are being provided by mail.

A copy is being provided by mail to David Siehl and to the International Transcription Service with a diskette.

Sincerely,

/signed/

Cynthia B. Miller
Intergovernmental Counsel

CBM:tnf

cc: David Siehl, Policy Division, Wireless Telecommunications Bureau
International Transcription Service (with diskette)
Brad Ramsay, NARUC

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of)	
)	
Calling Party Pays Service Option)	WT Docket No. 97-207
in the Commercial Mobile Radio Services)	

REPLY COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

On July 7, 1999 the Federal Communications Commission (FCC) issued a Declaratory Ruling and Notice of Proposed Rulemaking in the above referenced docket. The FCC ruled that calling party pays (CPP) service is properly characterized as a commercial mobile radio service (CMRS) and took the tentative position that state authority under the Aother terms and conditions≡ provision of Section 332 is limited to consumer protection issues such as customer billing practices and consumer education.

In regard to CPP, the Public Utilities Commission of Ohio (Ohio Commission) has raised significant jurisdictional issues, which are always of utmost concern to the Florida Public Service Commission (FPSC). We are fundamentally concerned about any intrusion into state authority and the resultant impacts on charges for local wireline customers. Rather than reiterate the same concerns raised by the Ohio Commission, we will instead focus on another, perhaps even more fundamental issue, the advisability of encouraging implementation of a calling party pays service option at this time.

As the Ohio Commission touched upon in its Petition for Reconsideration and Clarification and Further Comments, CPP will create new charges for local wireline customers. The FCC seems to place much emphasis on the potential benefits of CPP for the wireless industry, without considering the implications for local wireline companies and their customers. For example, in the Notice of Proposed Rulemaking, the FCC states A(o)ne major benefit envisioned is the possibility that CPP

could ultimately lead to wireless services becoming a true competitive alternative to the local exchange services offered by ILECs, particularly for residential customers. (¶ 21) The FCC goes on to talk about spurring competition and stimulating growth in the wireless market. (¶ 21, 22) We acknowledge that for some customers, wireless services may become a substitute for wireline services, and that this might lessen the need for wireline regulation. We do not believe, however, that these positive aspects override the negative aspects of CPP, specifically the new charges that would be imposed on local wireline customers.

Demand for wireless services is growing significantly on its own and does not require a regulatory kick-start. In a survey of 1582 Florida households conducted for the FPSC in July and August of 1998, nearly 37% of those households surveyed had wireless service. In short, there is no evidence of a need to provide a regulatory boost to the wireless market. Moreover, we are very concerned about the plethora of new and increasing federal charges which are appearing on wireline customers' bills. In customer hearings held around the state of Florida during the fall of last year, this was one of the most frequently mentioned complaints.

While it is true that a wireline customer would choose whether or not to place a call to a CPP customer, this creates real or intangible costs, regardless of the caller's decision. Either the caller makes the call and incurs a charge, or does not make the call and foregoes the associated benefit. In addition, we believe it is quite unlikely that the CPP charges would be reduced through competitive pressure. If a wireline customer wants to call a CPP customer, the caller has no option but to pay the charges imposed by the CPP customer's carrier. While it is true that a wireless customer may consider CPP charges when selecting a provider, this is but one factor in the purchasing decision. Moreover, this could be a minimal consideration as compared to the rates for outgoing calls and calling features. While the FCC seems to acknowledge these issues, we want to emphasize that our concerns are substantial, particularly in view of the large number of customer complaints regarding new and increasing federal charges on wireline customers' bills.

While the FPSC believes CPP is not needed and ill advised at this time, we would like to provide our observations on some of the implementation issues raised in the Notice of Proposed Rulemaking in the event that the FCC proceeds with CPP. The FCC's recommended four-element, verbal notification approach appears reasonable. The four elements are as follows:

- (1) Notice that the calling party is making a call to a wireless phone subscriber that has chosen the CPP option, and that the calling party therefore will be responsible for payment of airtime charges
- (2) Identification of the CMRS provider
- (3) The per minute rate, and other charges, that the calling party will be charged by the CMRS provider
- (4) Notice that the calling party will have an opportunity to terminate the call prior to incurring any charges (& 42)

While we support the comments of the Ohio Commission with respect to preserving state jurisdiction, we are uncertain whether additional state-specific, notification requirements could be implemented as a practical matter. Given that many wireless coverage areas cut across state lines, there may be technical limitations on having different notification requirements depending on the call origination and destination points within the coverage area.

The FCC is also considering other notification options which might be in place of, or in addition to, the above four elements. These other options could include unique CPP area code(s) or signaling based solutions, either of which would act as notification to the caller that the called party is a CPP subscriber. The former option is of concern since we are strongly opposed, in principle, to any measure which would accelerate the depletion of area codes. In addition, any method which would rely on specially assigned telephone numbers for CPP subscribers seems problematic in view of number portability and the need to make numbers available on a competitively neutral basis. If

other notification options are used, we do agree with the FCC that they should supplement the four-element, verbal message, not replace it.

Finally, the FPSC believes that it would be critically important that states have the flexibility to impose requirements governing the billing of CPP charges on wireline bills. This falls squarely within the Aother terms and conditions≅ provision of Section 332, and thus there should be no question of state authority in this area. On a practical basis, the states are the ones best equipped to deal with these types of issues since customers are accustomed to contacting state commissions with billing inquiries, and look to state commissions to control billing formats and practices. In Florida, the FPSC has specific authority under Section 364.604, Florida Statutes, to adopt rules governing billing practices of wireline carriers.

In conclusion, the FPSC believes there is no need at this time for regulatory action designed to encourage implementation of a CPP service option. Nonetheless, if the FCC proceeds with CPP, we believe the FCC=s recommended four-element, verbal notification approach is reasonable. We are opposed, however, to any notification methods that would rely on specially assigned telephone numbers or would accelerate the depletion of area codes. Lastly, we firmly believe that states have the authority under the Aother terms and conditions≅ provision of Section 332 to impose billing requirements, and are uniquely positioned to take the lead in this area.

Respectfully Submitted

/signed/

CYNTHIA B. MILLER
Intergovernmental Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6082

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Reply Comments of the Florida Public Service Commission will be furnished to the parties on the attached list.

/signed/

CYNTHIA B. MILLER
Intergovernmental Counsel

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

Commissioner Michael Powell
Federal Communications Commission
1919 M Street, N.W.
Room 844
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
1919 M Street, N.W.
Room 826
Washington, D.C. 20554

Commissioner Harold Furchgott-Roth
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554

David Siehl
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M. Street, N.W., Room 7002
Washington, D.C. 20554

Daniel Phythyon, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M. Street, N.W., Room 002
Washington, D.C. 20554

Dr. Joseph Levin
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M. Street, N.W., Room 7002
Washington, D.C. 20554

David A. Gross
Air Touch Communications
1818 N. Street, N.W.
Suite 800
Washington, D.C. 20036

Cathleen A. Massey
Douglas I. Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W., Suite 400

Washington, D.C. 20036

Albert H. Kramer
Joseph S. Farber
Dickstein, Shapiro, Morin & Oshinsky LLP
2101 L. Street, N.W.
Washington, D.C. 20037-1526

Charles D. Cosson
AirTouch Communications
One California Street
29th Floor
San Francisco, CA 94111

Howard J. Symons
Sara F. Seidman
Michelle M. Mundt
Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo
701 Pennsylvania Avenue, N.W., Suite 900
Washington, D.C. 20004

Michael F. Atschul
Randall S. Coleman
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036

Christopher W. Savage

Thersea A. Zeterberg
Karlyn D. Stanley
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, N.W., Suite 200
Washington, D.C. 2006

James U. Troup
Aimee M. Cook
Arter & Hadden, LLP
1801 K Street, N.W.
Suite 400 K
Washington, D.C. 20006

Frederick M. Joyce
Joyce & Jacobs, LLP
1019 19th Street, N.W.
Fourteenth Floor - PH2
Washington, D.C. 20036

Victor J. Jackson
Beeple, Inc.
2377 Seminole Drive
Okemos, MI 48864

Matt Edwards
Freepage Corporation
P.O. Bo 5098
Montauk, NY 11954

Mary E. Brooner
Motorola, Inc
1350 I Street, N.W.
Suite 400
Washington, D.C. 20005

Richard Wolf
Illuminet, Inc.
4501 Intelco Loop
P.O. Bo 2902
Olympia, WA 98507

Mark J. O=Connor
Piper & Marbury LLP
1200 19th Street, N.W., 7th Floor
Washington, D.C. 20036

Lawrence R. Sidman
Leo R. Fitzsimon
Verner, Liipfert, Benhard, McPherson, & Hand,
Chartered
901 15th Street, N.W., Suite 700
Washington, D.C. 20005

John A. Malloy
William B. Plummer
Nokia Telecommunications, Inc.
1850 K. Street, N.W.
Suite 1175
Washington, D.C. 20006

Caressa D. Bennet
Dorothy E. Cukier
Bennet&Bennet, PLLC
1019 19th Street, N.W., Suite 500
Washington, D.C. 20036

Mark J. Golden
Personal Communications Industry Association
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561

Nancy C. Woolf
Jeffery B. Thomas
140 New Montgomery Street
Room 1529
San Francisco, CA 94105

Robert M. Lynch
Durward D. Dupre
SBC Communications Inc.
One Bell Center, Room 3524
St. Louis, MO 63101

David L. Hill
Audrey P. Rasmussen
O=Connor & Hannan, LLP
1919 Pennsylvania Avenue, N.W.
Suite 800

Washington, D.C. 20006-3483

Kurt A. Wimmer
Robert A. Long
Niranjan Arasaratnam
Covington & Burling
1201 Pennsylvania, Avenue, N.W.
Washington, D.C. 20044

Jay C, Keithley
1850 M. Street, N.W.
11th Floor
Washington, D.C. 20036-5807

Jonathan M. Chambers
Roger C. Sherman
Sprint Spectrum, LP
1801 K Street, N.W.
Suite M-112
Washington, D.C. 20006

Sandra K. Williams
P.O. Bo 11315
Kansas City, MO 64112

Mary McDermott
Linda Kent
Keith Townsend

Hance Haney
1401 H. Street, N.W., Suite 600
Washington, D.C. 20004

Peter M. Connolly
Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036

Linda L. Oliver
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004

Judith St. Ledger-Roty
Peter A. Batacan
Kelley Drye & Warren, LLP
1200 10th Street, N.W.
Washington, D.C. 20036

Raymond G. Bender, Jr.
J.G. Harrington
Laura S. Roecklin
Down, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036-6802

Laurie J. Bennet
US West, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

S. Mark Tuller
Bell Atlantic Mobile, Inc.
180 Washington Valley Road
Bedminster, NJ 07921

Anne Levinson
William R. Gillis
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive, S.W.
P.O. Bo 47250
Olympia, WA 98504-7250

James G. Pachulski
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

ITS
1231 20th Street, N.W.
Washington, D.C. 20036