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IN THE FLORIDA PUBLIC SERVICE COMMISSION
STATE OF FLORIDA

In re: **Notice of Proposed Rulemaking Dated January 2, 1998 (Rule 25-4.110)**

Docket No. 970882-TI

COMMENT OF AMERICAN TELNET, INC., TO NOTICE OF PROPOSED RULEMAKING DATED JANUARY 2, 1998, TO RULE 25-4.110 PROPOSING NEW RULE 25-4.110(11)(a)3.

COMPANY BACKGROUND

AMERICAN TELNET, INC. is a pay-per-call service bureau located in Plantation, Florida. American TelNet provides various pay per call services to its Information Provider Clients ("IPs") including information and entertainment services such as sports, technical support, psychic, etc. American TelNet provides these services through traditional 900 phone number billing as well as via non-LEC billing vehicles (including credit card). American TelNet does not provide 10XXX service nor 800 presubscription pay per call.

THE PROPOSED RULEMAKING

The Commission proposes adding a new rule ("Proposed Rule") as follows:

> 25-4.110(11)(a)3. End Users/customers can obtain a free billing block option from the LEC to block all charges from a third party. Bills submitted by third parties with the subscriber's LEC-specific personal identification number will validate the subscribers [sic] authorization of the charges and supersede the billing block option. The subscriber is responsible for all such charges.

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The Proposed Rule does not indicate how the "LEC-specific personal identification number" is to be supplied to third parties to verify its validity. American TelNet assumes, for purposes of this Comment, that this is a consumer supplied PIN rather than a LEC supplied PIN. That is, American TelNet assumes that when it receives a call from a consumer with billing block, American TelNet has no way of knowing whether the PIN is valid. American TelNet believes that the LEC is not technically capable of providing this PIN via ANI or otherwise to American TelNet.

PROPOSED RULE RELATIVE TO EXISTING RULES

The Proposed Rule is separate from and, as presently framed, is not tied to Rule 25-4.110(11)(c)[1] ("900/976 Block Rule") entitled "Pay Per Call (900 and 976) Blocking." That rule provides,[2] in relevant part:

> Each LEC shall provide blocking where technically feasible of Pay Per Call service (900 and 976), at the request of the and user/customer at no charge.

The 900/976 Block Rule, where technically feasible, completely blocks calls to 900/976 services. While the 900/976 Block Rule has done little to eliminate the billing of other non-900/976 pay per call services, it has been extremely successful and well-received. Inasmuch as the 900/976 Block Rule has been highly effective in its current

[1]Currently numbered 25-4.110(10)(c).

[2]The Proposed Rulemaking makes minor stylistic changes to existing Rule 25-4.110(10)(c) and renumbers such rule 25-4.110(11)(c). For purposes of this Comment, American TelNet shall reference the text of the proposed modified rule.

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form, the Proposed Rule appears to be an effort to prevent LEC billing of calls other than 900/976 pay per call services (such as 10XXX, international pay per call, etc.).

AMERICAN TELNET'S CHANGES TO PROPOSED RULE

American TelNet submits that the Proposed Rule should be closely tied to the existing 900/976 Block Rule for several reasons. First, the 900/976 Block Rule has been in effect for many years and is nearly universally supported by the LECs. Second, customers may want to avail themselves of the "charge block" provisions of the Proposed Rule without blocking traditional 900/976 calls just as consumers may elect to block 900/976 calls but not block all third party charges.

Since the 900 Block Rule already protects consumers from unwanted pay per call charges, the Proposed Rule should (a) exclude pay per call calls or (b) require 900 blocking as a condition of receiving a charge block.

ALTERNATIVE 1 - THE PROPOSED RULE SHOULD EXCLUDE TRADITIONAL PAY PER CALL CHARGES

There is no reason to include traditional pay per call (900 or 976) charges within the scope of the Proposed Rule. There exists a readily available and highly effective mechanism for blocking traditional pay per call charges, just as there is a vehicle for blocking collect or third-party billed calls.[3] These services, for which separate blocking is available, should be excluded from the Proposed Rule.

[3]While American TelNet does not provide collect or third-party billed calls, the same logic would apply to these vehicles for which blocking already is separately available.

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This "a la carte" system of blocking provides the consumer maximum protection and flexibility: the consumer may block collect calls and third-party billed calls, and/or the consumer may block pay per call charges, and/or the consumer may block "other" charges under the Proposed Rule. Some consumers may want to retain 900/976 access to reach services such as Microsoft's technical support hotline, while wanting to block collect and third-party billing calls, as well as charges placed on the LEC bill by travel companies and others.

This system is completely manageable for the LEC. The 900/976 block facilities are already in place, as is the ability to determine in real-time whether a call is originating from from a number with third-party billing restrictions. A customer calling the LEC for blocking can be offered third-party billing restrictions, 900 blocking, and blocking of all other non-LEC charges.

Indeed, offering a "billing block" as a solution to pay per call charges will be confusing to the public. Such an arrangement would not prevent 900/976 calls from being placed but would, instead, prevent their being billed by the LEC (though pay per call and other providers could privately bill such calls and create greater consumer confusion). Consumers familiar with 900/976 blocking might think they were blocking calls to 900/976 number when, in fact, those services would still be accessible (though not billable by the LEC).

Moreover, the Proposed Rule would encourage fraud against pay per call services. The 900/976 Block Rule already protects consumers by granting bill adjustments for calls made to 900/976 services prior to a customer's implementation of 900/976 blocking.

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Allowing consumers to call 900/976 services and subsequently avail themselves of the charge block provisions of the Proposed Rule would encourage some consumers to not elect to take 900/976 blocking with the knowledge that they could perpetually charge-back such calls by giving an invalid personal identification number.[4]

Finally, the Proposed Rule unfairly penalizes 900/976 providers when a more effective and less costly alternative is not only available but already exists. 900/976 blocking is equally effective in preventing unwanted 900/976 charges. More importantly, however, it is effective in preventing unwanted 900/976 calls whereas the Proposed Rule does nothing to prevent the calls themselves including minors' access to 900/976 services. Under the Proposed Rule, pay per call service bureaus and IPs will be unfairly penalized by being forced to supply potentially expensive products or services when the existing technology prevents this situation.

All of these ills can be remedied by exempting 900 and 976 calls from the scope of Rule 25-4.110(11)(a)3. This does not remove any protection from the consumer who can still elect 900/976 blocking at the same time. Indeed, such a solution is better for the end customer who can block calls to 900/976 instead of just charges while leaving the consumer free to restrict the impact of the Proposed Rule to non-pay per call services. Consumers simply should be advised that there are multiple blocking services available.

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[4]American TelNet notes that no provision is made to allow a pay per call service bureau such as American TelNet to validate the PIN before transport and other charges are incurred or, as presently written, before providing the services themselves! Such an arrangement invites fraud.

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One for 900/976 calls, another for third-party billing restrictions, and a third for "other" charges. They may select which combination of services is right for their needs.

ALTERNATIVE 2 - THE PROPOSED RULE SHOULD REQUIRE 900/976 BLOCKING AS A PRECONDITION TO CHARGE BLOCKING

American TelNet submits that Alternative 1 fully and completely protects the consumer while offering the greatest flexibility to the consumer. Alternatively, however, the Proposed Rule should require a consumer to receive 900/976 blocking as a condition to receiving "billing block."

It is anticipated that this new "charge blocking" option will be heavily promoted to consumers. Some consumers, already familiar with 900/976 blocking, will mistakenly believe that "charge blocking" is a superset of 900/976 blocking. If the LEC does not separately offer 900/976 blocking as an adjunct (and wholly independent) service to charge blocking, consumer confusion is inevitable. If the LECs market charge blocking in lieu of 900/976 blocking (and they have an economic incentive to do so inasmuch as they do not receive any fee for blocked calls but would receive a fee from the IXC for non-billable calls), consumers will believe they are receiving a "better block" than 900/976 blocking. This, of course, simply is not the case. Charge blocking does not block the call at all, it only blocks the billing of the call. Particularly in the case of pay per call services, consumer confusion will be inevitable in light of the past marketing of 900/976 blocking information.

American TelNet believes tieing charge blocking to 900/976 blocking limits a consumer's choices and that 900/976 charges should be exempt from the Proposed Rule. Unfortunately, if the Commission does not exempt 900/976 calls from the Proposed Rule, there is no logical reason to permit calls to be made to 900/976 services if those calls cannot be billed. American TelNet, perhaps the largest pay per call service bureau in the United States, assures the Commission that the industry does not want to provide services to customers who have charge block but have a PIN (which might or might not be valid). Unless the LEC supplies the PIN via ANI (which American TelNet understands is not technically feasible), American TelNet and other pay per call providers would be forced to pay for transport and provide services with no assurance that the PIN supplied was valid.

CONCLUSION

The new charge block system in the Proposed Rule should be maintained separately and distinctly from the 900/976 Block Rule. The charge block should specifically exclude services for which separate blocking is available from the LEC.

Alternatively, charge blocking should require 900/976 blocking as an accompanying service to reduce needless confusion, fraud, and expense.

Respectfully submitted,

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