

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 21, 2010
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Catherine S. Beard, Regulatory Analyst II, Division of Regulatory Analysis *CSB*
RE: 100175-TL – Document to be Included in the Docket file

Please file the attached documents in the docket file for Docket No. 100175-TL. This document includes an response from the complainant to the Commission, regarding AT&T's response to Staff. If you have any questions, please let me know.

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DOCUMENT NUMBER-DATE

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FROM: [REDACTED]

DATE: May 14, 2010

RE: Docket No. 100175-TL

PAGES: 4

Enclosed is Petitioner's response to Respondent's motion to dismiss complaint

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

████████████████████
Petitioner

V

Docket No. 100175-TL

AT&T

referred to Bellsouth Telecommunications, Inc.
d/b/a AT&T Florida

Respondent

PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS COMPLAINT

Respondent committed wrong and Petitioner has full right to express facts and be heard by Commission that it may resolve the issues according to law.

It is clear Respondent's representatives are attorneys and its Motion to Dismiss Complaint is in legalese. To properly address issues before the Commission parties must communicate in language that is common to and understood by all involved e.g. in plain English. If it is impossible for Respondent to communicate without legalese may it reference Florida Statutes sections that mandate sole use of it as the required style of expression.

Commission should not dismiss Petitioner's concerns and complaint. Respondent's arbitrary statement about the form of "well established pleading requirements..." makes no reference to law as though there is none that would deny Petitioner this opportunity for AT&T's actions to be made right. Respondent critiques Petitioner's communication that summarizes actions in question. AT&T and Commission received numerous written and verbal communications between June 2008 and April 2010 that each addresses issues with sufficient clarity and detail to state causes of action. Elements in those communications and records address time, place, manner, misrepresentations, misstatements and factual omissions pertaining to stated specific statutory and rules violations, regulations, improper billing and collection, and federal law and fraud. The substance of Petitioner's many pleas for help is clear and supersedes form.

With careful views of all the communications AT&T received and records, AT&T Florida would avoid further conjecture and "respond[ing] inadequately" perhaps. If AT&T Florida fails to obtain from AT&T all communications and records about this matter, Petitioner could again present those details perhaps with specific circumstances of joblessness and retirement, and particularity that form the basis of those concerns and complaint.

Respondent asserts "that Legislature has never conferred upon Commission any general authority to regulate public utilities (including telephone companies)". In fact Commission is an arm of the Legislature by state statute (ss. 350.001). Bellsouth Telecommunications, Inc. d/b/a AT&T Florida is a regulated company (ss. 350.111) that bought its certificate from Commission. Commission regulates communication activities related to basic local telecommunications (ss. 364.01). Commission also has jurisdiction to regulate rates and service (ss. 366.04). This may be the extent to which Commission has general authority.

With regard to allegation of fraud the required elements of it exist (e.g. act violated law, perpetrator knew act was wrong and benefitted, and customer was harmed by act) that the claim is without frivolity and Commission can align its decision with federal law.

While parties agree some persons read Florida Administrative Code and Florida Statutes in a manner that is harmful to the ordinary customer, Petitioner takes exception to Respondent's bogus claims of Petitioner "(emphasis added)" to same statement, and Petitioner requests "customers should be free" from paying tax obligations of the company. With these inaccuracies AT&T Florida attempts to mislead the reader, and contradicts AT&T/Bellsouth Regulations as follows:

Bellsouth Residential Services and Pricing Guide. Regulations

Section 2.7.1 Payment and Billing

The Customer is responsible for all charges for services and equipment furnished to the Customer for transmission of calls via the Company...

Section 2.10 Taxes

Any ... taxes or fees ... imposed upon the company by any governmental authority shall be added pro rata, in so far as practical ...

AT&T is responsible where charges, fees and taxes billed are not services customer received. Telecommunications service via a company is not the same as tax imposed on a company. Customers who can afford and choose to pay another's obligations are permitted yet are without mandate to pay those debts.

Commission declaratory statement permitting persons to pay another's taxes and requiring no persons to pay would align with aforementioned regulations and statutes as follows:

Florida Statute Chapter 202.125 (2)

The sale of communications services provided to the Federal Government, any agency or instrumentality of the Federal Government, or any entity that is exempt from state taxes under federal law is exempt from the taxes imposed or administered pursuant to ss. 202-12 and 202.19

Florida Statute Chapter 202.16

The taxes imposed or administered ... shall be collected from all dealers (dealer means a person registered with the department as a provider) of taxable communications services

It is common knowledge trade secrets exist. One company goal is to pass on costs; while persons can collect costs from themselves employees assist employers to collect costs from customers; as a trade off employees engaging in business with companies should expect to pay their costs. Communication on May 13, 2010 with Internal Revenue Service (IRS) Representatives about payment of taxes and demands for money according to IRS Code (including Booklet 1040, Publications 17 & 555 and Form 56) confirms it as being consistent with Public Law that one is permitted though not required to pay another's taxes (unless married to or otherwise responsible for) and no agent is to demand payment of money from people e.g. children, jobless and elderly who lack adequate access to taxable income.

SUMMARY

To the extent that Respondent's Motion to Dismiss Complaint omits facts and inserts inaccuracies to harm Customer and bias Commission, Petitioner's Complaint is affirmed.

Respectfully Submitted,



