

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filings by) DOCKET NO. 891194-TL
 SOUTHERN BELL TELEPHONE AND TELEGRAPH)
 COMPANY clarifying when a non-published) ORDER NO. 24546
 number can be disclosed and introducing)
 Caller ID to TouchStar Service) ISSUED: 5/20/91
)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL McK. WILSON

Pursuant to Notice, a public hearing was held on November 28 and 29, 1990, in Tallahassee, Florida.

APPEARANCES:

DAVID M. FALGOUST, Esquire, 675 West Peachtree Street, N.E., Suite 4300, Atlanta, Georgia 30375, and E. BARLOW KEENER, Esquire, c/o Marshall M. Criser, III, 150 So. Monroe Street, Suite 400, Tallahassee, Florida 32301, on behalf of SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY.

THOMAS R. PARKER and KIMBERLY CASWELL, Esquires, GTE Florida Incorporated, Post Office Box 110, MC 7, Tampa, Florida 33601, on behalf of GTE FLORIDA INCORPORATED.

ALAN N. BERG, Esquire, United Telephone Company of Florida, Post Office Box 5000, Altamonte Springs, Florida 32716-5000, on behalf of UNITED TELEPHONE COMPANY OF FLORIDA.

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CHERYL R. PHOENIX, Director, Florida Coalition Against Domestic Violence, Post Office Box 532041, Orlando, Florida 32853-2041, on behalf of the FLORIDA COALITION AGAINST DOMESTIC VIOLENCE.

STEPHEN S. MATHUES, Esquire, Department of General Services, Office of General Counsel, Knight Building, Suite 309, Koger Executive Center, 2737 Centerview Drive, Tallahassee, Florida 32399-0950, on behalf of the DEPARTMENT OF GENERAL SERVICES.

LEE L. WILLIS, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, Florida 32302, on behalf of CENTRAL TELEPHONE COMPANY OF FLORIDA.

JACK SHREVE and CHARLES J. BECK, Esquires, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on behalf of the CITIZENS OF THE STATE OF FLORIDA.

ANGELA B. GREEN and JOHN K. ADAMS, Esquires, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863, on behalf of the COMMISSION STAFF.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862, on behalf of the COMMISSIONERS.

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PARTIES

Local Exchange Companies (LECs)

GTE Florida Incorporated (GTEFL)
Southern Bell Telephone and Telegraph Company (Southern Bell)
United Telephone Company of Florida (United)

State Agencies

Attorney General of Florida (Attorney General)
Florida Department of General Services (DGS)
Florida Department of Law Enforcement (FDLE)
Office of Public Counsel (OPC)
Office of Statewide Prosecution (Statewide Prosecutor)

Others

Florida Coalition Against Domestic Violence (FCADV)
Florida Medical Association, Inc. (FMA)
Florida Police Chiefs Association (Police Chiefs)

Note:

Central Telephone Company of Florida (Centel) was not a party in this proceeding. OPC called Mr. Dean Kurtz, General Regulatory Manager of Centel, as a witness in this proceeding and Mr. Kurtz was represented by Counsel.

FINAL ORDER

BY THE COMMISSION:

BACKGROUND

On September 29, 1989, Southern Bell filed two proposed tariff revisions: one revision would add Caller ID to its TouchStar features (T-89-507); the other would clarify the circumstances under which a nonpublished telephone number can be disclosed (T-89-506, subsequently refiled as T-90-023). At the time of these filings, we had several concerns about the appropriateness of the proposals. In response to our concerns, Southern Bell waived the statutory tariff suspension deadline for both filings to allow our staff additional time to research the issues raised by these proposals.

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Three orders were issued regarding these two tariff revisions: Order No. 22397, issued January 10, 1990; Order No. 22505, issued February 7, 1990; and Order No. 22704, issued March 19, 1990. By these actions, we found Caller ID to be in the public interest but had not yet determined an effective date for the tariffs.

On June 7, 1990, OPC filed a Request for Hearings (Request) on these tariff proposals. OPC's Request asked for both customer hearings in the territory served by Southern Bell, as well as a formal evidentiary proceeding under Section 120.57(1), Florida Statutes. On June 19, 1990, Southern Bell filed its Response to OPC's Request for Hearings (Response). Southern Bell's Response urged us to deny OPC's Request.

At our July 17, 1990, Agenda Conference, we considered the question of whether it was appropriate to hold hearings in this matter, as well as what action, if any, should be taken on the tariffs pending the outcome of any hearings. To that end, we heard from all in attendance who wished to address these questions, without regard to whether they were parties or were seeking party status in this docket. The overwhelming view of those who spoke was that hearings should be convened before any further action was taken in this docket. In light of the strong sentiment expressed in this regard, Southern Bell's representative withdrew the Company's June 19th Response which had opposed granting the hearings requested by OPC. Accordingly, we found it appropriate to grant OPC's Request and to schedule customer hearings in the territory served by Southern Bell, as well as a Section 120.57(1) hearing on the tariffs. Further action on these tariffs was held in abeyance, pending the outcome of the hearings. This decision is reflected in Order No. 23370, issued August 20, 1990.

Public hearings have been held in this matter at the following times and places: (1) September 25, 1990, 2:30 p.m. and 6:30 p.m., Holiday Inn, Orange Park, Florida; (2) September 26, 1990, 6:30 p.m., Holiday Inn International Park, Orlando, Florida; and (3) September 27, 1990, 10:00 a.m. and 6:30 p.m., Radisson Mart Plaza, Miami, Florida.

At the Prehearing Conference on November 15, 1990, the procedures to govern the evidentiary hearing were established. These matters are reflected in Order No. 23791, issued November 21, 1990. The evidentiary Hearing was held on November 28 and 29, 1990, at our headquarters in Tallahassee, Florida.

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By Order No. 23995, issued January 16, 1991, we granted OPC's December 20, 1990, Motion for Additional Limited Hearing. The additional limited hearing was set for the purpose of considering the evidentiary impact of certain documents requested by OPC in the course of discovery, but not received by OPC until after the hearing on November 28 and 29, 1990, had concluded. The additional limited hearing was set for March 11, 1991.

At a Prehearing Conference on February 1, 1991, the Prehearing Officer entered rulings as to which documents would be utilized at the upcoming proceeding and directed the parties to conduct further discovery with the goal of minimizing the number of witnesses required for the additional limited hearing. Another prehearing conference was set for March 1, 1991, to finalize the procedures for the hearing. These decisions are reflected in Order No. 24113, issued February 15, 1991.

At the March 1st Prehearing Conference, OPC and Southern Bell announced that they had reached an agreement whereby the documents in question, as well as the full text of the depositions taken regarding these documents, would be stipulated into the evidentiary record of the proceedings and the additional limited hearing would be cancelled, subject to the approval of this Commission. None of the other parties raised any objection to the agreement. The Prehearing Officer recommended that we accept this agreement, as reflected in Order No. 24227, issued March 12, 1991. Subsequently, we approved the agreement and cancelled the additional limited hearing. This decision is reflected in Order No. 24231, issued March 12, 1991. The parties then submitted supplemental briefs regarding the issues addressed in the deposition transcripts that were stipulated into evidence.

DEFINITION

Custom Local Area Signaling Services (CLASS) are a family of features currently deployed in many areas of the state by a number of LECs. CLASS services can include a variety of offerings that "store" calling party information for retrieval, such as Call Trace, which allows a subscriber to notify the central office that a record is to be made for the last call received; and Call Return, which redials the last incoming number. Caller ID, a proposed CLASS feature, enables the called party to receive information about the calling party (presently the number from which the call originates) via a display device at the called party's premises.

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Call Trace and Call Return differ from Caller ID in a very important way - Call Trace and Call Return do not give the called party access to the calling party's telephone number as Caller ID does.

CLASS and Calling Number Identification (CNI) are terms coined by their developer, Bell Communications Research (Bellcore). However, these services are not confined solely to Southern Bell or other Bell companies. Other LECs offer CLASS services and have assigned individual labels to their offerings. For example, Southern Bell's CLASS offering is TouchStar; United's is ExpressTouch; GTEFL's is SmartCall; and Centel's is Custom Calling II. Southern Bell, Centel, and United have elected to label their CNI feature "Caller ID," while GTEFL calls its service "Calling Number Identification." In this Order, we use Caller ID as a generic term to refer to all of the services planned to be offered under different names by other carriers which are synonymous with Southern Bell's Caller ID offering.

Southern Bell was the first LEC to file a tariff in Florida to offer Caller ID. However, several other LECs have now filed tariff proposals to offer Caller ID. United filed its proposal for Caller ID on December 20, 1990; GTEFL filed its Calling Number Identification proposal on December 21, 1990; and Centel made its Caller ID filing on August 6, 1990.

United has advocated two definitions for Caller ID: one broad and one narrow. The broad definition includes the passing of information about a calling party through the network. This information could be Automatic Number Identification (ANI), directory numbers, calling party name, calling party address, or personal codes. The narrow definition categorizes Caller ID as a subset of the broad classification and refers to a particular CLASS feature. Under this definition, Caller ID enables the called party to see the number of the station from which a call is being placed, via a display device. The Attorney General, Statewide Prosecutor, and DGS concur with United's position. GTEFL appears to more narrowly define Caller ID to be one of the CLASS services that allows the called party, using an on-premises display device, to see the calling party's number. Southern Bell has taken the narrow view that Caller ID is a TouchStar service that allows the display of the calling party's number on a display device used by the called party.

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Although Caller ID presently transmits only the originating telephone number, future CLASS offerings may provide other calling party identification information such as calling party name and calling party address. In our consideration of the issues raised by this filing, we have used the term Caller ID to include all of these potential CLASS offerings. However, we shall confine our definition of Caller ID to only those CLASS features that provide the calling party's exchange number or other identification such as caller name, caller address, or other caller related information to the called party. Caller ID, as that term is used herein, does not include ANI. That is because ANI is provided as part of Feature Group B and D access service and is used primarily for identification and verification of numbers for billing purposes by interexchange carriers (IXCs) and LECs. Although there have been proposals to allow ANI to be delivered to end users, ANI differs from Caller ID in several important ways. Caller ID currently requires Signaling System Seven (SS7); ANI does not. Unlike Caller ID, ANI cannot currently be blocked on individual lines without blocking the transfer of the number to all parts of the network. ANI delivers the billing number, which may or may not be the calling number. Finally, ANI is provided via a trunk-side connection while Caller ID is provided line-side. These factors greatly limit the end user applications of ANI.

Although the policy considerations regarding the dissemination of calling party information to end users involve both types of technology, these technologies are fundamentally different from an engineering standpoint. Accordingly, solutions for one technology may or may not apply to the other. For these reasons, we have limited our decisions in this docket to Caller ID, as defined above, and will consider ANI independently, as a separate matter, and not as part of this proceeding.

REQUIREMENT FOR PER-CALL BLOCKING

The LECs presented a wide variety of opinions on this issue. Southern Bell and GTEFL both steadfastly maintained that per-call blocking to anyone so desiring it would have serious detrimental effects on Caller ID's potential for success. Southern Bell further testified that the alternatives to blocking it has offered to date are sufficient tools not only to protect law enforcement and domestic violence agencies' security, but also to help law enforcement use Caller ID to its advantage. United, on the other hand, filed a tariff last fall proposing free per-call blocking to

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all customers. United's proposal, however, did not provide for universal per-call blocking from any and all phones in an exchange; rather, a customer would need to sign up for the service to be able to access per-call blocking from her access line. Centel's witness Kurtz, testifying at the instance of OPC, explained that Centel's tariff proposal would provide free per-call blocking to all access lines, without the need for presubscription.

OPC, the Attorney General, Statewide Prosecutor, FDLE, Police Chiefs, and DGS all proposed that free per-call and free per-line blocking both be mandated. Witnesses for those parties concluded that per-call blocking would suffice in most instances, but that per-line blocking would provide a more secure avenue for those who perceived such a need.

A number of nonLEC witnesses testified to a specific need for Caller ID blocking. Witnesses Brown, Phoenix, and Dunn of FCADV all explained the serious nature of spouse abuse cases and the need for total security. These witnesses did not believe that any of the proposed alternatives to blocking offered by Southern Bell would sufficiently protect abuse victims from violent family members. They concluded that per-line blocking as well as per-call blocking would be the solution most acceptable to their clients.

GTEFL's witness Elseewi and OPC's witness Cooper squared off in a contest of conflicting research studies. Witness Cooper testified that Caller ID's detriments will be minimized by per-call blocking; that the public is concerned about a loss of privacy from Caller ID; and that the service's viability will not significantly diminish if per-call blocking is instituted. Witness Elseewi countered with a study that essentially showed that although some customers may be wary of Caller ID at first, the number of people concerned with the privacy issues dropped dramatically once the service had been available in the area for a time. Both witnesses countered each others' testimony with testimony on the difficulty and complications involved in conducting an impartial study, and each alluded that the other's study may not have been arranged to extract the most objective answers.

After analyzing this testimony and these studies, we have concluded that while the studies may be useful when looking at the broad picture of customer perceptions, neither provided any conclusive evidence. Also, neither necessarily reflects the

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attitudes of Florida's particularly unique population, since both studies were conducted primarily in other states.

FDLE's witness Tudor provided extensive testimony asserting that the absence of universal per-call blocking would become an insurmountable burden to Florida's undercover police operations. Witness Tudor explained the difficulties an officer could encounter if the originating number were forwarded. He also mentioned that several cases had gone awry as a result of Caller ID in another state. However, the only evidence of this claim supplied by witness Tudor was a newspaper article from the Baltimore Sun. This article did not state that a law enforcement effort had been compromised by Caller ID. Rather, the article reported that a Caller ID device had been seized in a drug raid, an obvious indication that the efforts were successful, and that Caller ID was simply the latest tool drug dealers were going to use to augment their current arsenal of pagers and cellular phones.

The one thing not presented in this case by any party was a reliable result from specific experience. The vast majority of the testimony here was supposition. The experiences that were cited used sketchy data at best. Witness Sims echoed this concern when she stated that the parties "are using speculation on this issue."

After review of the extensive record compiled in this proceeding, we have determined that universal free per-call blocking shall be required in order to deploy Caller ID. We have reached this decision for several reasons. The possibility of an abuse victim or a law enforcement officer being harmed, however remote, is appalling. The possibility of harm, even though remote, should not be realized by the implementation of a simple telephone service. It is important to distinguish here that although the alternatives to blocking offered by Southern Bell should be sufficient in just about every case, technological developments and public awareness do not make them an immediate substitute for per-call blocking. Technological advancements may eliminate the feasibility of some of Southern Bell's alternatives to blocking in the near future. This would necessitate Commission intervention, by holding back such advances, to maintain privacy for those who need it. In addition, the public cannot be expected to keep abreast of evolving technologies. The average customer is having a hard enough time relearning how to use a pay telephone; he simply will not be able to keep up with the alternatives to blocking in the "real world."

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The size and scope of Florida's drug interdiction efforts also greatly concern us. The Drug Enforcement Administration's largest office nationwide is located in Miami. Florida's drug trafficking and interdiction activity are believed to be significantly larger than those in states such as New York and New Jersey. These activities escalate the chances that Florida could end up as the first state with a tragedy resulting from Caller ID. Per-call blocking will alleviate these concerns and provide an interim solution until "true" balance is achieved in telephone use.

Anonymous Call Rejection (ACR) is a service currently under development that will route a blocked call to an automated intercept recording which will announce that the called party is not accepting calls from blocked numbers. ACR will be a CLASS II service, expected to be available sometime in 1992. Advocates of per-call blocking assert that blocking will provide a balance of called vs. calling party privacy. This is simply not true. Per-call blocking will keep the preponderance of privacy with the calling party. Only if each customer has the same ability to reject a private number call as another customer has to make one, will both parties have equal management of their own privacy. We see ACR as a means of moving much closer to a true balance.

No compelling evidence was presented, however, that would necessitate us mandating per-line blocking on a universal basis. In our view, per-line blocking assumes calling party anonymity as the standard form of communication, whereas per-call blocking requires the calling party to make a conscious denial of permission on each call. In past Caller ID proceedings, we have made it clear that calling party anonymity should not be the standard. See Order No. 22397 at page 4 and Order No. 22704 at page 3. Also, most LEC tariffs contain statements requiring calling party identification on all calls.

Accordingly, we shall require that universal per-call blocking be made available to all customers at no charge. Southern Bell shall not be authorized to deploy Caller ID in any area that is not capable of providing this blocking feature. The Company shall file semiannual reports with this Commission for a period of twenty-four (24) months (four total reports) containing the following information: the total number of Caller ID subscribers; the number of nonpublished Caller ID subscribers; the frequency per-call blocking is used; the number and trend of annoyance call reports to the Company; and the status and time-to-availability of Anonymous

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Call Rejection technology. Southern Bell shall also file a tariff for Anonymous Call Rejection service as soon as it becomes available. Southern Bell's first semiannual report shall be due 180 days following the issuance date of this Order.

With our requirement for free per-call blocking above, most needs of law enforcement and other agencies can be met. We shall, however, require that free per-line blocking be made available for law enforcement agencies' offices and domestic violence intervention agencies' established shelters. Southern Bell's costs are minimal to implement this service, if it is limited to a relatively small number of access lines. Law enforcement agencies strongly believe it will enhance their ability to train officers on the use of blocking and prevent "mistakes," while domestic violence intervention agencies will have added protection at their shelters. We note, however, that the use of per-line blocking could be adversely affected once ACR is implemented because an access line with per-line blocking may not be able to call an access line with ACR.

Throughout this proceeding, Southern Bell has developed or proposed several customized call management configurations to disguise Caller ID numbers for law enforcement agencies. While rejected by FDLE as a complete substitute for per-call blocking, the proposals were well-received as good disguises for certain applications. Although FDLE's witness expressed extreme frustration at the level of cooperation from Southern Bell regarding various alternatives, Southern Bell should be recognized, we believe, for having expended considerable effort in developing many solutions that could be utilized by law enforcement agencies to aid their investigative work. Southern Bell should continue to work with law enforcement agencies to develop customized services that will help the agencies use Caller ID to their advantage. Southern Bell should be allowed to recover its reasonable costs associated with customized telecommunications services developed for such special applications.

UNLISTED AND NONPUBLISHED NUMBERS

Southern Bell filed a tariff concurrent with its Caller ID proposal to "clarify" when an unlisted or nonpublished number may be forwarded. The characteristics of unlisted and nonpublished numbers were not the subject of clarification; only that should

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Caller ID be approved, these numbers will not enjoy the same degree of anonymity as they would without Caller ID.

We do not agree with the general view of the LECs that instituting Caller ID without blocking would have little effect on unlisted and nonpublished numbers. For example, OPC offered testimony that persons having nonpublished and unlisted numbers were concerned with the loss of privacy Caller ID would create in terms of outgoing calls. This concern did not go unnoticed by Southern Bell and BellSouth, which had some intercompany disagreement regarding nonpublished numbers during the decision phase for per-call blocking.

In addition, the record indicates that a number of people who currently have a nonpublished or unlisted number are very interested in the Caller ID issue. This was borne out by the comments made during the customer hearings in Jacksonville, Orlando, and Miami. Although many of the attendees were in favor of the service, some believed that instituting Caller ID would render their unlisted number useless. When the issue of having to pay for keeping their unlisted/nonpublished number from being displayed was raised, some participants were quite concerned. Opinions as to the value or nonvalue of Caller ID differed for these individuals. The point is that they were all speaking from the position of having an unlisted or nonpublished number and wanting to maintain that level of privacy.

It must be recognized that Southern Bell's current level of subscription to nonpublished and unlisted numbers accounts for somewhere between 18% to 22.5% of the total number of access lines. Consequently, the majority of subscribers continue to have published listed numbers. It has been the position of this Commission that the phone system is a "public" system. Those who wish to take advantage of a nonpublished or unlisted service do so in Southern Bell's territory at a cost of \$1.75 per month and \$.80 per month, respectively.

In light of our requirement above to offer free per-call blocking, we find that Caller ID will have little or no effect on those subscribers currently having unlisted or nonpublished numbers.

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SIMILAR SERVICES

There are three CLASS features that have been linked to Caller ID as having the same or similar functions and benefits, without the detriments Caller ID might pose. These features are Call Return, Call Block, and Call Trace. These three services were the only ones identified by the parties as possible "substitutes" for Caller ID.

Call Return stores the customer's last incoming number in that customer's local serving office and allows the customer to call that number back with a three digit code. Call Block allows the customer to input up to six numbers, or the last number received, so those numbers will no longer be able to call the customer. Call Trace allows the customer to input a code that sends the last incoming number to the LEC's security department. None of these features allow the customer to have access to the incoming number.

The LECs agreed that none of these other services perform the same or a similar function as Caller ID. Southern Bell and United agreed that their benefits also were not similar, but GTEFL recognized that Call Return, Call Trace, and/or Call Block may provide "similar advantages."

Southern Bell's witness Sims explained the differences between the features in her testimony. She recognized there could be some overlap of the features in the marketplace, but maintained that "only Caller ID displays the telephone number of the party who is calling." She further explained that with the other features, particularly Call Return and Call Trace, the call recipient must first answer the phone, endure the conversation and/or hang up before activating the feature, while Caller ID displays the number between the first and second rings. The LECs concluded that the main difference between Caller ID and the other features is the ability to see the incoming number before the call is answered.

OPC and FCADV maintain that although the other features may not provide the identical function, Call Block and Call Trace are designed to provide one of the main, if not the main, benefits of Caller ID: the deterrence of annoying and/or harassing phone calls. OPC singled out Call Trace as a feature in particular that was designed solely for use against harassing calls. OPC's position is that because of the nature of this feature and its potential to curb abusive calls, Call Trace should be offered on a non-

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presubscription basis to all customers for a fee of \$1.00 per successful trace. The remainder of the nonLEC intervenors concur with OPC's position on Call Trace's rate structure, but none recommend a specific rate level.

Although the LECs, for the most part, maintain that the features all have distinct benefits, Southern Bell and United fail to emphasize that although this may be true, the features also have common benefits. The major benefit common to all four features (at different levels) is the ability to curb abusive calls. This benefit is one of Caller ID's biggest attractions.

Witness Sims recognized this by conceding the possibility of cross elasticities among the features. Cross elasticities occur when consumers substitute one type of good with another good that is not the same, but has essentially similar benefits at a lower price. Under this analysis, we find that Call Trace is the most similar in benefit to Caller ID.

Southern Bell, GTEFL, and United currently require the customer to presubscribe to Call Trace and charge \$4.00/month, \$5.00/month, and \$1.00/month, respectively. United also charges a usage fee of \$5.00/trace. Centel offers the feature for \$4.00/trace, without the need for presubscription.

We find that while Call Trace provides some similar benefit to Caller ID with regard to combating abusive calls, the ability of Caller ID to provide the incoming number for the call recipient to evaluate when answering a call gives Caller ID additional benefits that none of the other features can provide. Because of these differences, the benefits of Call Trace are not the same as those of Caller ID. However, with regard solely to harassing/abusive calls, Call Trace could become an extremely effective deterrent, if properly structured as a low cost alternative to Caller ID for those who are experiencing telephone abuse. In our view, this low cost alternative will only materialize if the rate structure for Call Trace gives it maximum exposure and utility to the public. The widest availability of Call Trace will be achieved if it is offered on a per-usage basis as is done presently by Centel, without the need for customers to sign up or pay a recurring charge.

Accordingly, we find that Southern Bell shall file a tariff amending the rate structure of Call Trace to one that is available

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to all customers, without presubscription, for a per-activation charge. This tariff filing shall be submitted within 60 days of the issuance date of the final order in this docket.

DISPOSITION OF MOTIONS

OPC's Motion to Consolidate

On September 24, 1990, OPC filed a Motion to Consolidate Consideration of Caller ID Tariff Filings and to Conduct Generic Proceedings (Motion). This Motion was considered by the Prehearing Officer at the Prehearing Conference on November 15, 1990. The Prehearing Officer denied the Motion as reflected in Order No. 23791, issued November 21, 1990.

At the beginning of the hearing on November 28th, OPC asked the full Commission to reconsider the Prehearing Officer's decision. We declined to entertain reconsideration at that point, but suggested that it could be appropriate for OPC to renew the Motion after the hearing had concluded.

At the close of the hearing on November 29th, OPC renewed the Motion. We took the Motion under advisement, to be ruled upon at the time we made our other decisions in this docket.

OPC's Motion requests that we receive evidence from all LECs in Florida before ruling upon Southern Bell's tariff proposal. As grounds for this request, OPC cites the need for a uniform policy on Caller ID and Caller ID blocking throughout the state. To bolster this argument, OPC points to the differences between the Southern Bell Caller ID tariff presently under consideration in this docket, and the Centel Caller ID tariff that is pending at this time.

We have determined that OPC's Motion shall be denied. We have received an enormous volume of evidence in this proceeding. The evidence received here is more than enough to allow us to set appropriate policies for Caller ID and Caller ID blocking through the vehicle of this tariff filing. Although this docket concerns only the tariff of Southern Bell, this will not prevent us from enacting a uniform policy throughout the state. Rather, after we take action in this docket, we will then undertake consideration of other Caller ID proposals on an individual basis as other tariffs are filed. If those tariffs differ from this one, we can approve,

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suspend, or deny those tariffs as we see fit. Substantially affected persons can request a hearing regarding our action on those tariffs. Additionally, since Caller ID is a new technology, it seems especially appropriate to us to utilize a case-by-case approach in this area.

OPC's Motion to Strike

On December 11, 1990, the Director of Records and Reporting sent a copy of a letter and attached "testimony" to all parties of record. The memorandum from the Director of Records and Reporting stated that "the attached communication was received by the members of this Commission on November 6, 1990. This letter is being made a part of the record in this proceeding and you may file a response to it, with this office, within 10 days of receipt of this notice." Attached to the cover memorandum was a letter dated November 5, 1990, from Melvin Tucker, Chief of Police of the City of Tallahassee, to then Chairman Michael Wilson, along with what purported to be "testimony" from Chief Tucker.

On January 18, 1991, OPC filed a Motion to Strike (Motion). On January 25, 1991, GTEFL filed its Response to OPC's Motion to Strike (Response).

OPC's Motion requests that we strike portions of the post hearing brief filed by GTEFL. Specifically, OPC requests that references by GTEFL to the "Tucker direct testimony" be stricken from its brief. As grounds for this request, OPC asserts that the referenced material is not competent, substantial evidence upon which the Commission may base its decision. In its Response, GTEFL asserts that its references to "Mr. Tucker's testimony" are proper, given that the communication from Chief Tucker was made a part of the record of this proceeding.

We shall grant the Motion filed by OPC and hereby direct that all references by GTEFL to the "Tucker direct testimony" be stricken from its brief. The fact that this material was made a part of the record of this proceeding does not make it competent, substantial evidence sufficient to support a finding of fact. Any reliance by GTEFL on such an item is misplaced reliance.

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GTEFL's Motion to Strike

On November 29, 1990, GTEFL made an oral Motion to Strike certain portions of the prefiled direct testimony of Dr. Mark Cooper (Motion). The basis of this objection and Motion was "hearsay, due process, inability to engage in any intelligent cross examination of the stricken portions of his testimony." As grounds for this objection, GTEFL asserted that the documents underlying the disputed areas of Dr. Cooper's testimony were proprietary documents that were not made available to GTEFL. GTEFL conducted voir dire of the witness to demonstrate the basis of the objection to the testimony. Following this procedure, GTEFL's objection to the testimony was overruled and the Motion to Strike was denied. At the conclusion of the hearing, GTEFL renewed its Motion.

A review of GTEFL's post hearing brief shows that GTEFL was not prejudiced in putting on its own case. The arguments made by GTEFL regarding Dr. Cooper's testimony go to the weight of the evidence, not its admissibility. Accordingly, GTEFL's Motion shall be denied.

OPC's Petition on Call Trace

On September 21, 1990, OPC filed a Petition to Require the Offering of Call Trace Service to All Customers at Reasonable, Usage Based Rates (Petition). On September 26, 1990, the Attorney General filed a letter in support of OPC's Petition. On October 11, 1990, GTEFL filed its Answer. On October 11, 1990, Southern Bell filed a Response to OPC's Petition.

Our discussion regarding the merits of restructuring Call Trace are set forth at length in the body of this Order. By our action herein requiring Southern Bell to amend its Call Trace tariff to a per-usage rate structure, without presubscription, we have in effect granted in part and denied in part the Petition filed by OPC.

IMPLEMENTATION

Both of Southern Bell's tariffs shall be denied. If Southern Bell wishes to offer Caller ID service, it shall refile its tariffs following the guidelines established in this Order. The refiled tariffs shall become effective no sooner than July 1, 1991. Prior to the effective date of the tariffs, the Company shall: recontact

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the law enforcement and domestic violence intervention agencies it contacted in 1990, as well as any other known agency, giving those agencies 30 days to respond and be provided per-line blocking; and send a bill insert in its May and June bills notifying all customers of the effective date and instructions for invoking per-call blocking from both rotary and touchtone phones.

The Company shall, on a ongoing basis, include instructions for per-call blocking on the inside front cover and in the Custom Calling Services instruction section of all of its local directories.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every one of the specific findings set forth herein be and the same are hereby approved in every respect. It is further

ORDERED that Southern Bell Telephone and Telegraph Company's tariff filings T-89-507 and T-90-023 are hereby denied for the reasons set forth herein. It is further

ORDERED that if Southern Bell Telephone and Telegraph Company elects to offer its Caller ID service in Florida, Southern Bell Telephone and Telegraph Company shall refile its tariffs following the guidelines and time frames established in the body of this Order. It is further

ORDERED that if Southern Bell Telephone and Telegraph Company elects to offer its Caller ID service in Florida, Southern Bell Telephone and Telegraph Company shall file certain reports with this Commission in accordance with the requirements set forth herein. It is further

ORDERED that if Southern Bell Telephone and Telegraph Company elects to offer its Caller ID service in Florida, Southern Bell Telephone and Telegraph Company shall file a tariff for Anonymous Call Rejection service as soon as that service becomes available, in accordance with our directives herein. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall file a tariff amending its rate structure for Call Trace Service to one that is available to all customers, without

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presubscription, for a per-activation charge, in accordance with our directives herein. It is further

ORDERED that reconsideration of the Motion to Consolidate Consideration of Caller ID Tariff Filings and to Conduct Generic Proceedings filed by the Office of Public Counsel on September 24, 1990, is hereby denied for the reasons set forth herein. It is further

ORDERED that the Motion to Strike filed by the Office of Public Counsel on January 18, 1991, is hereby granted for the reasons set forth herein. It is further

ORDERED that the Motion to Strike made orally by GTE Florida Incorporated during the hearing is hereby denied for the reasons set forth herein. It is further

ORDERED that the Petition to Require the Offering of Call Trace Service to All Customers at Reasonable, Usage Based Rates filed by the Office of Public Counsel on September 21, 1990, is hereby granted in part and denied in part for the reasons set forth herein. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission , this
20th day of MAY , 1991 .

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.