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March 6, 2008

Ann Cole, Commission Clerk  
 Office of the Commission Clerk  
 Florida Public Service Commission  
 2540 Shumard Oak Boulevard  
 Tallahassee, FL 32399-0850

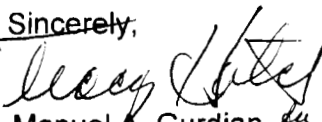
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 08 MAR - 6 PM 4: 25  
 COMMISSION  
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**Re: FL Docket 000475-TP - Complaint Against Thrifty Call, Inc.  
 Regarding Practices in Reporting PIU for Compensation  
 For Jurisdictional Access Services**

Dear Ms. Cole:

On March 5, 2008, BellSouth Telecommunications, Inc. d/b/a AT&T Florida *electronically* filed its Exhibit No. MP-7 which was inadvertently omitted from the Rebuttal Testimony Marc W. Potteiger filed on March 3, 2008. Today, AT&T Florida resubmits its Exhibit No. MP-7 and files it through the Office of the Commission Clerk. We ask that you attach Exhibit No. MP-7 to the Rebuttal Testimony of Marc W. Potteiger.

Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,  
  
 Manuel A. Gurdian

cc: All Parties of Record  
 Jerry D. Hendrix  
 Gregory R. Follensbee  
 E. Earl Edenfield, Jr.  
 Lisa S. Foshee

DOCUMENT NUMBER-DATE  
 01714 MAR -6 08  
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**CERTIFICATE OF SERVICE**  
**Docket No. 000475-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

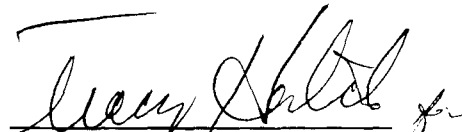
Electronic Mail and First Class U.S. Mail this 6<sup>th</sup> day of March, 2008 to the following:

Charlene Poblete  
Rick Mann  
Staff Counsels  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
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Nancy Pruitt  
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[marty@reuphlaw.com](mailto:marty@reuphlaw.com)

  
Manuel A. Gurdian

(+) Signed Protective Agreement

## Holland, Robyn P

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**From:** Woods, Vickie  
**Sent:** Wednesday, March 05, 2008 3:51 PM  
**To:** Holland, Robyn P; Follensbee, Greg  
**Cc:** Smith, Debbie N.; Campbell, Nedy E (Attpb); Potteiger, Marc  
**Subject:** FW: 000475-TP AT&T Florida's Exhibit No. MP-7 to Marc W. Potteiger's Rebuttal Testimony

**Importance:** High

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**From:** Woods, Vickie  
**Sent:** Wednesday, March 05, 2008 3:47 PM  
**To:** 'Filings@psc.state.fl.us'  
**Subject:** 000475-TP AT&T Florida's Exhibit No. MP-7 to Marc W. Potteiger's Rebuttal Testimony  
**Importance:** High

- A. Vickie Woods  
Legal Secretary to E. Earl Edenfield, Jr., Tracy W. Hatch  
and Manuel A. Gurdian  
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Tallahassee, Florida 32301  
(305) 347-5560  
[vf1979@att.com](mailto:vf1979@att.com) <<mailto:vf1979@att.com>>
- B. Docket No.: 000475-TP - Complaint Against Thrifty Call, Inc. Regarding Practices in Reporting PIU for Compensation For Jurisdictional Access Services
- C. AT&T Florida  
on behalf of Manuel A. Gurdian
- D. 6 pages total (including letter, certificate of service and Exhibit No. MP-7)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Exhibit No. MP-7 to Marc W. Potteiger's Rebuttal Testimony

.pdf



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DOCUMENT NUMBER - DATE

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March 5, 2008

Ann Cole, Commission Clerk  
Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

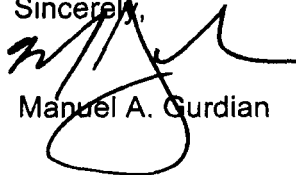
Re: **FL Docket 000475-TP - Complaint Against Thrifty Call, Inc.  
Regarding Practices in Reporting PIU for Compensation  
For Jurisdictional Access Services**

Dear Ms. Cole:

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Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: All Parties of Record  
Jerry D. Hendrix  
Gregory R. Follensbee  
E. Earl Edenfield, Jr.  
Lisa S. Foshee

**CERTIFICATE OF SERVICE**  
**Docket No. 000475-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

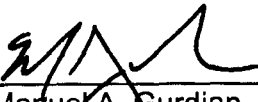
Electronic Mail and First Class U.S. Mail this 5th day of March, 2008 to the following:

Charlene Poblete  
Rick Mann  
Staff Counsels  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
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Nancy Pruitt  
Sally Simmons  
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\_\_\_\_\_  
Manuel A. Gurdian

(+) Signed Protective Agreement

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. P-447, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
BellSouth Telecommunications, Inc.,	)	
Complainant	)	
	)	ORDER DENYING
v.	)	MOTION AND
	)	SETTING HEARING
Thrifty Call, Inc.,	)	
Respondent	)	

BY THE CHAIR: On May 11, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a Complaint against Thrifty Call, Inc. (TCI) alleging that TCI had "intentionally and unlawfully" reported erroneous Percent Interstate Usage (PIU) factors to BellSouth in violation of BellSouth's Intrastate Access Tariff (See Section E2.2.14, Jurisdictional Report Requirements) and Commission rules. The PIUs provided by TCI result in an under-reporting of intrastate terminating access minutes terminated to BellSouth, resulting in the loss of approximately \$2 million through the loss of intrastate access revenues.

BellSouth explained that BellSouth and TCI use the PIU reporting method to determine the jurisdictional nature of the traffic being exchanged by the parties and the resulting appropriate billing rate for such traffic. The PIU factor provided by TCI to BellSouth is 98% interstate. The intrastate access rate is higher than the interstate access rate, meaning that it costs TCI less in switched access charges to report terminating interstate minutes than it does to terminate intrastate minutes.

BellSouth stated that in March 1999, it had noticed an abrupt change in the amount of terminating interstate minutes. These increased to over 4,000,000 minutes per month. This caused BellSouth to initiate an investigation using test calls. Among other things, BellSouth placed 171 intrastate test calls and found that TCI did not deliver the Calling Party Number (CPN) for any of the 171 calls. This is evidence of an effort to disguise the jurisdictional nature of the traffic.

BellSouth further stated that in early 2000, it had requested information from TCI to pursue an on-site audit of TCI to determine the PIU of traffic being terminated to BellSouth. TCI purported to agree to an audit, but insisted on terms that would make verification difficult.

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BellSouth requested that TCI be found to have intentionally and unlawfully reported traffic as interstate rather than intrastate and that as a result BellSouth has suffered financial harm; that TCI be required to comply with BellSouth's request for an audit to enable BellSouth to accurately calculate its damages; and that such other relief as is appropriate be granted.

On May 15, 2000, an Order Serving Complaint was issued, directing TCI to reply by June 5, 2000.

#### TCI Response

On June 5, 2000, TCI filed a Motion To Dismiss, Or, In The Alternative, To Stay. TCI maintained that BellSouth's Complaint is improper and premature because BellSouth has failed to comply with its own intrastate access tariff which expressly addresses this situation. Specifically, Section E2.3.14B of that tariff provides for audits to be conducted in disputes such as this and sets out procedures to be followed. TCI has never resisted BellSouth's request for an audit and has even recommended a proposed auditor; but BellSouth has not taken any action in response. Instead, BellSouth had demanded payment from TCI without an audit and outside of the tariff's procedures.

TCI also disputed BellSouth's claim to continuing harm. TCI said that it is not currently sending traffic to BellSouth and has not done so since January, even to the extent of disconnecting all of its feature group facilities with BellSouth by April 7, 2000.

Until the tariff procedures are fulfilled, a complaint proceeding is a waste of resources. If it is appropriate not to dismiss the Complaint, TCI alternatively requested that the Complaint be stayed until such time as an audit pursuant to BellSouth's North Carolina Intrastate Tariff has been conducted.

#### BellSouth Reply

On June 21, 2000, BellSouth filed a Reply And Opposition To Thrifty Call's Motion To Dismiss Or Stay. BellSouth identified the crux of TCI's argument as being that BellSouth had failed to comply with its intrastate access tariff by not conducting an audit of TCI's call data. BellSouth stated that the provision referred to was permissive, not mandatory:

When an IC [or End User] provides a projected interstate usage set forth in A. preceding, or when a billing dispute arises or a regulatory commission questions the projected interstate percentage for BellSouth SWA, the Company may, by written request, require the IC [or End User] to provide the data the IC [or End User] used to determine the projected interstate percentage. This written request will be considered the initiation of the audit. (Tariff Section E2.3.14B(1)) (Emphasis added).

Besides being permissive, this provision is in no way exclusive of other rights and remedies of BellSouth including Commission action. Moreover, the fact that TCI is now willing to undergo an audit in no way constitutes a waiver of BellSouth's right to pursue its complaint.

Indeed, in the absence of an audit, there is ample evidence for BellSouth to proceed with its complaint on the basis of the test calls it conducted as a means of substantiating its claim prior to filing the complaint. There is in fact no need for an audit at this point, and this is why BellSouth withdrew its audit request on April 7, 2000. TCI, it should be noted, also wants to limit the audit to adjusting the PIU on a going-forward basis, but the greater question is one of past violations. BellSouth is also concerned that, while TCI may not be currently passing traffic, it may do so tomorrow and, therefore, potential harm to BellSouth continues to exist.

WHEREUPON, the Chair reaches the following

#### CONCLUSIONS

After careful consideration, the Chair concludes that TCI's Motion To Dismiss, Or, In The Alternative, To Stay should be denied for the reasons as generally set out by BellSouth. As BellSouth has pointed out, the audit provision in its tariff is permissive, not mandatory, and is not in derogation of any other rights that BellSouth has. Accordingly, the Chair concludes that a hearing be set in this matter.

IT IS, THEREFORE, ORDERED as follows:

1. That TCI's Motion to Dismiss, or, in the Alternative to Stay, be dismissed.
2. That a hearing be scheduling on this matter beginning on Tuesday, September 19, 2000, at 9:30 a.m., in Commission Hearing Room 2115, 430 North Salisbury Street, Raleigh, North Carolina.
3. That BellSouth prefile testimony by no later than August 18, 2000.



4. That TCI prefile testimony by no later than September September 1, 2000.
5. That BellSouth prefile rebuttal testimony by no later than September 8, 2000.

ISSUED BY ORDER OF THE CHAIR.

This the 23rd day of June, 2000.

NORTH CAROLINA UTILITIES COMMISSION

*Cynthia S. Trinks*

Cynthia S. Trinks, Deputy Clerk

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