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NOV 24 1988

DOCKET NO. 3783-U

Executive Director
Ga. Public Service Commission

**IN RE: GENERIC HEARINGS TO ESTABLISH
RULES AND REGULATIONS RELATING TO
PROVIDERS OF ALTERNATIVE OPERATOR SERVICES**

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INITIAL DECISION

I.

INTRODUCTION

This proceeding was initiated by the Commission on its own motion to consider the establishment of rules and regulations governing alternate operator services ("AOS") companies. AOS is a term applied to resellers of interexchange telephone service who provide their services primarily through the use of live or mechanical operators. AOS providers have been characterized as "alternate" providers of operator services because, until recently, only AT&T and the local exchange companies provided operator services. AOS companies provide traditional operator services such as collect, calling card and third party number billing on toll calls. AOS companies primarily provide their services to aggregators of traffic in the transient market, such as hotels, motels, hospitals and private pay phone operators. The AOS providers typically enter into contracts with the traffic aggregators under which the AOS company is selected as the aggregator's interexchange toll carrier. Calls placed over the aggregator's lines are routed to the AOS provider in the same manner as any other reseller or interexchange carrier.

The incentive for the traffic aggregator to select an AOS provider, or any carrier that provides operator services, is the payment of commissions by the operator services provider to the traffic aggregator. Commissions are paid to the hotel, motel, hospital or other institution based upon the revenues collected by the operator services provider. In addition, the operator services provider may bill the customer a surcharge imposed by the aggregator that it will remit to the aggregator when collected.

One of the primary catalysts for the growth of the AOS business was AT&T's decision to stop paying commissions to traffic aggregators that had selected AT&T as their long distance carrier. Since AT&T was, at that time, the only provider of operator services on interexchange traffic, traffic aggregators had no choice but to contract with AT&T if they wanted to provide their guests with operator services on long distance calls. With the ending of commissions by AT&T, AOS providers began entering the marketplace by offering to provide long distance operator service along with the payment of commissions. While AT&T had now resumed paying commissions, competition among operator services providers for the traffic aggregator market has been established.

The impetus for the holding of hearings on the regulation of AOS providers was the receipt by the Commission of complaints concerning the activities of AOS providers. These complaints were similar to complaints received by numerous other state Commissions as AOS providers began to proliferate. These

complaints include customer confusion when they were billed by local exchange companies for AOS services that they did not realize they had utilized; excessive charges; unreasonable delay in billing after the provision of service; and the inability of customers in a transient location to access their long distance carrier of choice. This latter complaint arises from the fact that some hotels, motels, hospitals and private pay telephones block access to all carriers other than the AOS provider as well as blocking access to the local exchange company operator.

Based upon these concerns, on June 17, 1988 the Commission issued a notice setting this matter down for public hearing. In the notice, the Commission set forth a list of 16 issues to be addressed in the proceedings. A copy of the notice with the list of issues is attached hereto as Appendix "A." On August 18 and 19, 1988 hearings were held before the Commission's Hearing Officer. Testimony was presented by Dr. John T. Wenders, an economist testifying on behalf of National Telephone Service ("NTS"); Joseph H. Switzer, President of NTS; Lester Freeman, Vice-Chairman of the Board of Central Corporation; Paul Freels, Executive Vice-President of International Telecharge, Inc. ("ITI"); David B. Denton, Operations Manger for Rates for Southern Bell Telephone & Telegraph Company ("Southern Bell"); Ronald D. Painter, Service Pricing Supervisor for GTE South; and Fred L. Bailey, Consulting Engineer for the Georgia Telephone Association ("GTA"). Following the conclusion of the hearings the parties submitted comprehensive briefs on the issues. These were in addition to written replies filed by the parties in response to the Commission's list of issues as set forth in its

notice of hearing. The Hearing Officer has carefully reviewed the briefs, issues lists and transcript in reaching this decision.

The primary issues in this docket are the following: (1) should AOS providers be certificated by the Commission and what services should they be authorized to provide; (2) should AOS providers be required to file tariffs with the Commission and, if so, how should the tariff rates be determined; (3) what should be the appropriate method for accessing local exchange company operators and AOS operators from traffic aggregator locations. More specifically, how should "0-", "0+" and "00" dialing options be allocated between the local exchange companies and the AOS providers; (4) how can the Commission insure that transient customers have access to their interexchange carrier of choice; (5) how should AOS providers be regulated to insure free customer choice, prevent deceptive practices and to guard against possible price gouging.

II.

FINDINGS OF FACT

1.

Alternative Operator Services ("AOS") is a term used to describe companies that provide interexchange telephone service to transient customers primarily through the use of live or mechanical operators. At present, AOS providers do not have their own interexchange facilities but rather lease those facilities from other interexchange carriers. In handling a call, an AOS provider acts exactly like a traditional reseller of

telephone service. That is, a "1+"-call would be placed over leased facilities without operator intervention. However, if a customer requires operator assistance, then the AOS provider provides the service, either by means of a live operator or a mechanical operator if a calling card is used, in the same manner as an AT&T or local exchange operator.^{1/}

2.

The main difference between AOS providers and traditional resellers or facilities-based interexchange carriers is that the AOS provider provides its service to the ultimate customer by entering into agreements with aggregators of traffic such as hotels, motels, hospitals, universities and private pay phone operators. The vast majority of the customers are transient, that is, they are using a telephone owned and controlled by a third party and for a temporary period of time. In addition, the end user has not selected the AOS provider as his or her carrier of choice but rather that selection has been made by the facility from which the call is being placed. The AOS industry developed primarily because AT&T ceased paying commissions to hotels and other traffic aggregators. As a result, entrepreneurs saw a void

^{1/}Under the typical arrangement the AOS company is selected by the traffic aggregator as its interexchange carrier and the aggregator's access lines would be presubscribed to the AOS company. It is possible, however, for a traffic aggregator to presubscribe some access lines to an AOS provider and other lines to another interexchange carrier. Under this arrangement the aggregator's PBX could be programmed so that calls dialed "8-0-" or "8-0+" would be routed to the AOS company and calls dialed "8-1+" or "9-1+" would be routed to the interexchange carrier. This arrangement does not change the fact that AOS providers are resellers of telephone service.

in the market. The main reason that a traffic aggregator chooses a particular AOS provider is because of the commissions paid.

3.

Under the typical arrangement, an AOS provider will enter into a contractual relationship with an aggregator of traffic under which the AOS provider will become the aggregator's interexchange carrier of choice. Thus, the aggregator's access lines will be presubscribed to the AOS provider. In exchange for being made the aggregator's carrier of choice with the concomitant ability to bill the aggregator's patrons, the AOS provider pays a commission to the aggregator based on revenues collected by the AOS provider. In addition, some AOS providers will bill and collect a surcharge from the customer that will be remitted to the aggregator. In this way, institutions such as hotels, motels and hospitals can bill their patrons a surcharge via the third party mechanism of the AOS provider.

4.

It is not uncommon for traffic aggregators such as hotels, motels, hospitals and private pay phone operators to block access to any carrier other than their prescribed operator services carrier. The vast majority of institutions use a PBX (private branch exchange) to provide telecommunications service to their patrons. Under the traditional dialing arrangement, 9 is used to access the local exchange network and 8 is used to access the interexchange network. Thus, a call dialed 9-0 would be routed to the local exchange operator and a call dialed 8-0 would be routed to the interexchange carrier operator. However, it is not

uncommon for institutions to block all 9-0 calls thereby blocking access to the local exchange operator. In addition, many institutions block access to any interexchange carrier other than the prescribed provider by blocking the carrier's access arrangements, be it "00", "10XXX" or "950-XXXX". Some AOS providers have the capability of connecting a customer to the carrier of his or her choice and others do not. Private pay telephones can also be configured to obtain similar blocking results.

5.

AOS providers bill by means of collect calls, third party billing, calling card numbers and credit card numbers. As to collect, third party billing and calling card billing, the local exchange companies provide billing and collection services for the AOS providers as they do for other resellers and interexchange carriers. The use of calling cards billed through the local exchange companies has been the source of the vast bulk of complaints concerning AOS providers. First, customers may not be aware that their call is being handled by an AOS provider. This may be due in part to customer expectations that AT&T is the only interexchange carrier with operator services, as well as the failure of AOS operators to clearly identify themselves. Second, customers have not been adequately informed that although they are using a local exchange calling card, the rates that they will be charged are the AOS provider's rates and not the rates charged by their carrier of choice. This is compounded by the fact that the rates charged by most AOS providers are significantly higher than the rates charged by other carriers on operator assisted

calls. Third, some AOS providers were having problems in the timely rendering of bills and AOS provider charges were appearing on some customers' local telephone bills six months to a year after the calls were made.

6.

Testimony was presented by some of the AOS providers to the effect that the AOS market is highly competitive and therefore no regulation, or only minimal regulation, is necessary. However, unlike the traditional interexchange telephone market, the customer in the AOS setting is the traffic aggregator and not the end user. It is the traffic aggregator, be it hotel or private pay phone operator, that makes the decision as to which interexchange carrier it will subscribe to. Therefore, the attribute of a free market, choice by the consumer among competing providers, is absent. This problem is exacerbated by the fact that many subscribers to AOS services block access to local exchange company operators and to other interexchange carriers.

In addition, the customer using the AOS service is primarily transient. That is, he or she is someone who is using the service from a temporary, often fleeting, location. Another attribute of the free market, that price influences customer choice, is absent because the customer is often not aware of the price charged until weeks or months later when the customer receives his or her bill from the local exchange company.

Finally, in the evolving telecommunications market customers are not yet conditioned to alternate operator service providers.

Customer confusion, and in some instances deception by the AOS provider, can result. Moreover, while certain AOS providers are seeking to provide enhanced services, such as multilingual operators and message services, most AOS providers provide no additional value for the extra charges. In essence, they provide interexchange telecommunications services with operator assistance if necessary and at higher rates than other interexchange carriers.

7.

Some AOS providers complete intrastate toll calls through the use of interstate facilities. That is, the AOS provider leases interstate facilities, such as WATS or 800 service, from an interexchange carrier. The call is then routed over interstate facilities as opposed to intrastate interexchange facilities. For example, Central Corporation routes all of its traffic to its operators located in either Charlotte, North Carolina or Fort Lauderdale, Florida over AT&T 800 megacom facilities and then returns the call to Georgia via MCI, AT&T or ATC Microtel long distance facilities. As a result, access charge revenues are credited to the interstate jurisdiction rather than to the intrastate, thereby causing a loss of revenue to the intrastate jurisdiction. In addition, a number of AOS providers complete intraLATA calls using the interLATA facilities of carriers other than Southern Bell and the other local exchange companies. Under the Commission's Orders, any reseller who completes an intraLATA call must do so over resold facilities that are authorized for resale, which are local exchange company WATS or MTS. As a result of this practice, Southern Bell and the

local exchange companies lose the revenue on the intraLATA calls for which they presently are the only carriers authorized to do business.

III.

CONCLUSIONS OF LAW

1.

AOS companies provide intrastate telephone service to the public primarily through the use of leased telephone facilities. AOS providers are therefore telephone companies subject to the jurisdiction of the Commission. O.C.G.A. Section 46-2-21. AOS providers, like other telephone companies, are required to obtain a certificate of public convenience and necessity from the Commission before they may lawfully operate. O.C.G.A. Section 46-5-41.

2.

AOS providers essentially operate as resellers of telecommunications service. That is, with the exception of their switching equipment, AOS providers have no facilities for providing interexchange telephone services. In order to provide intraLATA and interLATA connections, AOS providers lease facilities from facilities-based interexchange carriers such as AT&T, MCI and U.S. Sprint. AOS providers possess many of the same characteristics as resellers of intrastate telecommunication services who are presently regulated by the Commission. See, In Re: Generic Hearings Regarding Regulation Of Resellers Of Intrastate Interexchange Telecommunications Services, Docket No. 3488-U (July 16, 1985).

There are, however, two main differences between resellers generally and AOS providers specifically. First, AOS providers utilize live or mechanical operators. Under most reseller arrangements, calls can only be placed through direct dialing, that is, "1+" dialing. Operator assisted calls are defaulted to facilities-based interexchange carriers with operator services, generally AT&T.

Second, at present AOS providers serve a specialized market. As discussed above, AOS providers contract with aggregators of traffic such as hotels, motels, hospitals, universities and private pay phone operators. In exchange for being selected as the traffic aggregator's interexchange carrier of choice, the AOS provider pays a commission to the traffic aggregator based upon revenues collected by the AOS provider. Unlike the traditional interexchange market, the end user of the AOS service has not chosen the AOS provider as his or her carrier of choice. Rather, the owner of the telephone instrument from which the end user is placing the call has made the choice. As a result, competitive market forces are not acting directly on the AOS provider.

In the interexchange telephone market generally, the end user has a wide range of choice of carriers and can easily change from one carrier to another. Due to the competition between carriers, prices remain highly competitive. In contrast, in the AOS market the end user does not make the choice of carrier and has no easy way to change the carrier chosen for him. Thus the competitive forces that work to restrain price and deceptive practices in the general interexchange market are not at work in

the AOS provider market. The actual competition is among the AOS providers over the traffic aggregators' business based upon the amount of commissions to be paid by the AOS provider to the traffic aggregator.

In addition, the end user in the AOS market cannot be as responsive to pricing signals as is the end user in the general telecommunications market. The AOS user is generally a transient customer using the AOS provider on a temporary, often one-time basis. The end user does not receive the AOS provider's bill for at least weeks, and often months, after the service has been rendered. Unless the end user is going to return to the same location from which the call was made, the price charged by the AOS provider will not impact the customer's future choice of an AOS provider.

The AOS provider is in essence a reseller of telecommunication services to a transient market in which the customer has not exercised independent choice in the selection of the AOS provider as his or her carrier. For this reason, differences in regulation between AOS providers and resellers generally is necessary to protect the public.

3.

Based upon the foregoing, it is concluded as a matter of law that AOS providers must obtain a certificate of public convenience and necessity from the Commission in order to lawfully provide intrastate interexchange telecommunications services. As with resellers, the Commission will prescribe the form which AOS providers will use to obtain a certificate of public convenience and necessity. The form will include the

identity of the AOS provider, including its registered agent in Georgia; a description of the services it intends to provide including any specialized operator services; the geographic area it intends to serve; the mechanism by which it intends to bill for its services; financial statements containing sufficient information to establish the financial viability of the AOS provider; a certification from a corporate officer that it will abide by the rules of the Commission and the requirements of this Order; and such other information as the Commission may deem necessary to assure itself that the public interest is protected.

In addition, the AOS provider shall separately file a list of those traffic aggregators with which it has contracted to provide services. The list shall be deemed proprietary and shall not be open to public inspection. However, the list may be used by the Commission staff to verify the AOS provider's compliance with the service requirements set forth below. In addition, the list shall be updated no less than every six months. The customer lists submitted by the AOS provider shall be deemed confidential and proprietary and not subject to public disclosure, as provided in O.C.G.A. Section 50-18-72(b).

Some AOS providers have argued that simple registration would suffice to protect the public interest in the AOS market. Beside the fact that Georgia law requires that an AOS provider, as a telephone company, obtain a certificate of public convenience and necessity prior to operating, it is concluded that certification and regulation of AOS providers is necessary to protect the public. The practices of AOS providers has led

some states to ban them entirely. See, Re: South Central Bell Telephone Company, 91 PUR4th 172 (Tenn. PSC 1988); Re: International Telecharge, Inc., 92 PUR4th 211 (Ala.PSC 1988); In Re: Application of International Telecharge, Inc., Case No. 10002 (Kentucky P.S.C. Aug. 24, 1988). Although prohibiting the operation of AOS providers is not necessary given the record presented in this case, it is clear that specific regulation is necessary to protect the citizens of Georgia and the millions of visitors to the state who use the telephone in a transient setting.

4.

At the present time the Commission does not regulate the rates charged by resellers. This is because the high degree of competition in the reseller market, as well as the ease by which customers can migrate from one reseller to another, insures that rates will bear a close relationship to cost and will not be characterized by price gouging. In contrast, the end user of the AOS service is a captive market. The AOS end user does not choose to use any particular AOS provider. Rather, the choice is made for him or her by the traffic aggregator who contracts with the AOS provider. AOS charges are frequently billed by the local exchange companies. Therefore, the customer has no relationship with the AOS provider other than having used a telephone at a transient location which has been presubscribed by the owner to the AOS provider and the later receipt of a bill rendered by the local exchange company for the AOS company.

While there is competition in the AOS market, it is primarily for the traffic aggregator and not for the end user who

pays the bill. Both this Commission and other Commissions have received complaints regarding excessive charges by AOS providers. In Re: South Central Bell Telephone Company, 93 PUR4th 68, 70 (Tenn. PSC 1988); In Re: International Telecharge, Inc., Case No. 10002 Kentucky PSC (August 22, 1988). O.C.G.A. Section 46-2-23(a) provides that the Commission shall have the exclusive power to determine what are just and reasonable rates and charges to be made by any utility subject to the Commission's jurisdiction. As to telecommunications companies, however, the Commission is not required to establish specific rates or tariffs but may eliminate tariffs for a specific service or even totally deregulate that service. Among that factors that the Commission should consider in making such a determination are the following:

(1) The extent to which competing telecommunications services are available from competitive providers in the relevant geographic market; (2) The ability of competitive providers to make functionally equivalent or substitute services readily available; (3) The number and size of competitive providers of service; (4) The overall impact of the proposed regulatory change on the continued availability of existing services at just and reasonable rates; (5) The impact of the proposed regulatory change upon efforts to promote universal availability of basic telecommunications services at affordable rates and to permit telecommunication companies subject to the jurisdiction of the Commission to respond to competitive thrusts; and (6) Such other factors as the Commission may determine are in the public interest.

O.C.G.A. Section 46-2-23(c).

As discussed above, there is insufficient competition for the end user within the AOS service market to insure competitive pricing. The end user often does not have available to him

competitive services because of the selection by the traffic aggregator of the AOS provider. The youth of the AOS industry, the unfamiliarity of much of the public with AOS providers, and the history of price abuse by AOS providers are also factors that should be considered in determining whether to regulate the rates charged by AOS providers.

In addition, regulation is necessary to promote universal access to telephone service at reasonable rates due to some AOS providers' bypass of intrastate facilities thereby depriving the local exchange companies of intrastate access revenues.

5.

Based upon all of the foregoing it is concluded that the Commission should regulate the rates and charges of AOS providers. AOS providers should file tariffs with the Commission which set forth the services provided and the charges for those services. Any surcharges that an AOS provider collects for remittance to the traffic aggregator must also be set forth in the tariff.

As to the level of rates, it is concluded that for the present AOS providers should be treated like other interexchange carriers. The present tariffed rates for operator services have been determined by the Commission to constitute just and reasonable rates. Therefore, any AOS provider tariff that sets rates at or below the existing tariffed operator services rates for interexchange carriers will be deemed just and reasonable and will be permitted to go into effect without the need for further supporting data. Any AOS provider that desires to charge above

the existing tariffed rates shall file cost, revenue and expense data justifying the proposed rate. All tariff filings shall require 30 days notice as required by O.C.G.A. Section 46-2-25(a) and the effective date may be suspended by the Commission for the purpose of conducting a hearing. As with other interexchange carriers, AOS providers may make rate reductions after having given the Commission 14 days' notice. See, In Re: Interexchange Telephone Carrier Regulation And Proposed Rulemaking, Docket No. 3522-U (Initial Decision January 8, 1986).

6.

Some AOS providers configure their network so that all the traffic they carry, intraLATA and intrastate interLATA, is transported by means of interstate facilities leased from interexchange carriers. In essence, some AOS providers are providing intrastate service by means of interstate facilities. Such a practice defeats the regulatory jurisdiction of the Commission. Moreover, this practice results in access charges being paid to the interstate jurisdiction as opposed to the intrastate jurisdiction. Revenues that would otherwise be available to make a contribution to local exchange service are transformed into interstate revenues as a result of this practice. Not only does this practice violate the franchise granted by an intrastate certificate, but it has a detrimental impact on the public goal of promoting universal telephone service. It is therefore concluded as a matter of law that AOS providers, like other resellers and interexchange carriers, may not utilize interstate facilities for the purpose of carrying intrastate traffic and that all intrastate traffic must be

carried over intrastate facilities so that appropriate revenues can be recognized.^{2/}

It is also clear that certain AOS providers are providing intraLATA service by the same method, that is, through the use of interexchange facilities. The Commission has already determined that for the present the local exchange companies retain the exclusive franchise to provide intraLATA service. Resellers may resell intraLATA service only by means of local exchange company facilities authorized for resale, which at present are WATS and MTS facilities. It is therefore concluded that AOS providers, like all other resellers, may not provide intraLATA service except by means of properly leased facilities from the local exchange company. Of course, AOS providers may not place local exchange calls at all as this is the exclusive domain of the local exchange companies.

Each AOS provider must certify to the Commission that it is routing intrastate calls through the appropriate intrastate facilities. It is not sufficient for an AOS provider to express ignorance as to how its calls are routed, as did Mr. Freels of

^{2/}Concern was raised at the hearing concerning the potential that AOS providers were charging customers mileage and usage rates for transporting the call to and from the provider's point of presence, which might be located outside of the state, as opposed to charging only for the distance between the originating and terminating points of the call. All parties agreed that charges should be based upon the distance between the originating and the terminating points of the call. It is therefore concluded that AOS tariffs shall provide that all charges shall be based upon the distance between the originating and the terminating points of the call as calculated by using the V and H coordinates as set forth in Southern Bell's General Subscriber Services Tariff Section A18

ITI. Mr. Freels expressed similar ignorance as to how his company's intrastate traffic was handled when he testified in November, 1987 before the Alabama Public Service Commission. 92 PUR4th 211, 212 (Ala. PSC 1988). The Alabama Commission denied ITI's application to operate. To ensure that access revenues are properly accounted for, the public interest requires that each AOS provider certify that it is properly routing intrastate calls.

7.

A significant amount of customer confusion has been produced as a result of the growth of AOS providers, particularly during the early stages of the industry's development. One factor leading to customer confusion has been the failure of some AOS providers to properly identify themselves. Even when identification is made, it is easy for a customer to misunderstand the identification. For example, "thank you for calling ITI" can easily be confused with "thank you for calling AT&T."

Another factor leading to customer confusion is that bills are rendered by the local exchange company and not generally by the AOS provider. Therefore, the end user has no pre-established relationship with the AOS provider. Customer expectation has also been a factor in that many members of the public associate operators with AT&T and have not yet become accustomed to the use of operators by other carriers. This is compounded by the fact that most AOS providers will accept AT&T and local exchange company calling card numbers for billing purposes leading the customer to believe that the service is being rendered by AT&T

and that AT&T rates will be charged. Finally, many customers are not aware that the location from which they are placing their call has been presubscribed to an AOS provider and not to one of the facilities-based interexchange carriers.

It is clearly in the public interest that consumers of telephone service know the identity of the carrier who is handling their call before the call is placed. It is also clearly in the public interest that telephone users know the rates that they will be charged. Conduct which causes a likelihood of confusion or of misunderstanding as to the source of services, or which causes confusion or misunderstanding as to one carrier's affiliation or association with another, is a deceptive trade practice prohibited by Georgia law. O.C.G.A. Sections 10-1-372 and 10-1-393. Given the unique nature of the AOS market and the potential for abuse in that market, it is concluded that specific regulation is necessary to insure free customer choice and to prevent unfair or deceptive acts or practices.^{3/} Such regulations shall include the following:

(a) each carrier providing operator services shall be required to clearly state its name at the initiation of any encounter with a customer and before any charges are incurred so that the customer is fully informed as to which carrier will be handling his or her call. Each carrier shall also be required to

^{3/} Many of the problems noted herein are not unique to AOS providers but arise from the market in which they operate. The regulations set forth above should be equally applicable to any carrier that provides operator services to transient customers at a traffic aggregator location.

clearly state its name at the conclusion of its contact with the customer;

(b) whenever a customer desires to utilize a billing mechanism other than direct billing by the AOS provider, such as collect calls, third party billing and calling cards, the operator, whether live or mechanical, shall advise the customer that the customer will be charged the AOS provider's rates^{4/};

(c) each operator will fully disclose the rates to be charged, including surcharges, if requested by the customer;

(d) each AOS provider must provide in its contract with the traffic aggregator (for example: hotel, motel, hospital, university, institution or private pay phone operator) that the owner of the telephone shall place on the telephone instrument, or within twelve inches of the instrument, a clear and conspicuous disclosure that the telephone has been presubscribed to the AOS provider, that toll service will be provided by the AOS provider and billed by the AOS provider at its rates, and the method by which the customer may reach the local exchange company operator and the customer's interexchange carrier of choice. Copies of the contract form shall be furnished to the Commission.

8.

The public has traditionally thought that by dialing "0" the telephone user can reach the telephone company operator.

^{4/}A calling card can be used without the intervention of an operator by dialing "0+", the number to be called, and the calling card number. In those instances the AOS mechanical recording must contain the substance of the following: "This is [AOS provider]. The charges for this call will be [AOS provider's] rates. Thank you for using [AOS provider]."

However, as to interexchange service, there is no longer "the telephone company" nor "the operator." As this proceeding has made clear, there are now large numbers of interexchange carriers, both resellers and facilities-based carriers, and there are now carriers providing operator services in addition to AT&T and the local exchange companies. Thus in this case the question of how "0-" and "0+" calls should be routed was hotly contested.^{5/} Southern Bell and the independent local exchange companies argue that "0" is their exclusive province and that all "0-" and "0+" intraLATA calls should be routed to the local exchange company. They argue that under the North American Dialing Plan interexchange operators should be accessed by dialing "00". The North American Dialing Plan is the numbering system used throughout the telephone industry in all of North America to insure compatibility of the network. While it is not a plan mandated by government regulation, it is quite clear that if each telephone company attempted to adopt its own numbering system there would be utter chaos in the telecommunications network. It is in the public interest that people know that they can access the local exchange company by dialing "0" regardless of the locale from which they are calling.

The AOS providers argue that the local exchange companies do not have a monopoly on interexchange traffic and that the owner

^{5/}Zero minus ("0-") refers to a call where just zero is dialed. Zero plus ("0+") refers to a call where 0+ seven or ten additional digits is dialed. Such a call can be an intraLATA interexchange call, an interLATA intrastate toll call, or an interLATA interstate toll call.

of the instrument should be free to determine to whom "0-" and "0+" traffic should be routed. Of particular concern to the AOS providers is their contention that the local exchange company operators will refer all interLATA toll calls to AT&T and not to the AOS provider even though the AOS provider has been preselected by the owner of the instrument. The local exchange companies contend that they have the franchise monopoly on local exchange service and that local operator services, accessed through "0-", are their exclusive monopoly. In addition, they argue that "0+" intraLATA calls are also part of their exclusive franchise and that permitting "0+" calls to go to AOS providers would deprive them of important intraLATA revenue.

This matter is further complicated by the calling patterns created by the method by which traffic aggregators program their PBX switches or their private pay telephones. Traffic aggregators such as hotels and hospitals frequently block access to local exchange operators by blocking all "9-0" calls. All "8-0" calls go to the AOS provider. In addition, access is often blocked to other interexchange carriers by blocking their access arrangements (for example: 950-XXXX, or 1-800 or 10XXX).

9.

The starting point for resolving this controversy is to determine the scope of each competing telephone company's operations. The local exchange companies have the exclusive monopoly franchise for providing local exchange service. This includes providing operator services associated with local exchange calls. Therefore, all operator assisted local exchange

calls should be routed to the local exchange company. The local exchange companies in Georgia also presently hold the right of exclusive provision of intraLATA service. Therefore, operator assisted intraLATA calls should also be routed to the local exchange company. Southern Bell and the other local exchange companies cannot at present provide interLATA service. Thus the interexchange carriers, including the AOS providers, have the right to provide operator services on interexchange calls.

The result of the foregoing is that all "0-" calls must be routed to the local exchange company operator. All "0+" intraLATA calls should also be routed to the local exchange company.^{6/} This traffic generates revenue which provides a valuable contribution to local exchange rates. This traffic should therefore be reserved to the local exchange companies at present.

"0+" interLATA calls should be routed to the interexchange carrier. Local exchange operators who are requested to place an interLATA call should refer that call to the interexchange carrier to whom the line is presubscribed and should not automatically refer the call to AT&T. Likewise, an AOS operator must advise customers of the method by which they can access their long distance carrier of choice should the customer desire not to place their call with the AOS provider.

^{6/}Likewise, all "1+" intraLATA calls must be routed to the local exchange company or placed over local exchange company facilities authorized for resale. "1+" interLATA calls should be routed to the selected interexchange carrier.

10.

One of the fundamental principals underlying the divestiture of the Bell Operating Companies from AT&T and the opening of the interexchange market to competition was that telephone users should be able to choose their long distance carrier. However, many traffic aggregators such as hotels, motels, universities and private pay telephone operators block access to any long distance carrier other than the AOS provider. The reason for blocking is that the traffic aggregator receives a commission from the AOS provider and it is therefore in its interest to maximize the amount of calls placed over the AOS provider's network. Such a practice is contrary to the public interest. In fact, the Commission has previously determined in the private pay telephone context that all private pay telephones must be capable of providing access to all certificated interexchange carriers providing service in the geographic area and that the caller must be permitted to access his or her interexchange carrier by means of the dialing sequence chosen by the carrier. In Re: Customer Owned Coin/Coinless Operated Telephones (COCOT), Docket No. 3494-U (February 5, 1985 as amended March 5 and 7, 1985). Also see, Letter Order dated July 12, 1988. It is in the public interest that the telephone user have access to his or her interexchange carrier of choice and that this access not be artificially blocked.

11.

In order to effectuate the public interest in insuring access to all interexchange carriers, and in insuring that each

telephone company receives the traffic appropriate to its franchised service territory, it is concluded that each AOS provider must include provisions in its contract with the traffic aggregator (for example: hotel, motel, university, hospital or private pay phone) as follows: (a) The customer must have access to the local exchange operator through the use of "0". All "0-" and "0+" intraLATA calls shall be routed to the local exchange company. Such access may be provided through the use of the "9-0" dialing pattern. Access to an interexchange carrier operator, including an AOS operator, may be provided by use of the dialing pattern "8-0" as long as it is disclosed on the telephone instrument or on a prominent disclosure within 12 inches of the telephone, of the method of reaching the local exchange operator. Access to the local exchange operator through the dialing of "0-" for local exchange calls and "0+" for intraLATA calls may not be blocked; (b) The traffic aggregator may not block the customer from accessing his or her interexchange carrier of choice by means of the dialing sequence chosen by the particular carrier (for example: 950-XXXX, 1-800 or 10XXX); (c) At private pay telephones the customer must be able to access the local exchange operator through the mechanism of dialing "0-" and, for intraLATA calls, by the mechanism of dialing "0+". Access to the interLATA operator may be provided by the dialing mechanism of "0+" on interLATA calls or "00". "00" calls may not be used as the method to access the local exchange operator. This is because the local exchange companies have the monopoly on local exchange operator services and that it is in the public interest that access to the local exchange operator continue to be by the use

of "0".

In order to insure that each carrier receives the calls appropriate to its jurisdiction, local exchange operators who receive interLATA calls should refer those calls to the presubscribed carrier. AOS operators who receive intraLATA calls should refer those calls to the local exchange company. AOS providers may not, of course, place local exchange calls either. Both local exchange operators and AOS operators who are requested to provide access to interexchange carriers other than those to whom the line is presubscribed may do so by advising the customer to use the dialing sequence chosen by the customer's carrier of choice.^{7/}

12.

This proceeding was initiated for the purpose of determining whether and to what extent regulation of AOS providers was necessary. It is clear that the disclosure requirements set out in paragraph seven, the dialing arrangements set out in paragraphs 9 and 11, and the prohibition on blocking set out in paragraph 11, are applicable to all interexchange carriers that

^{7/}This resolution of the use of "0-", "0+" and unrestricted access to the customer's interexchange carrier of choice is consistent with a recent order dealing with "calling cards" and public telephone presubscriptions. United States of America v. Western Electric Company, No. 82-0192 (October 14, 1988). Although dealing with Bell Regional Company public pay telephones, as opposed to COCOTs, Judge Green found that "0+" calls should be routed to the interexchange carrier to which the telephone is presubscribed. Judge Green did not address "0+" intraLATA calls. The accommodation reached in this Order, "0+" intraLATA to the LEC's and "0+" interLATA to the interexchange carriers, is consistent with Judge Green's approach.

provide operator services. Therefore, a notice of proposed rulemaking will be issued setting out the provisions adopted herein as applicable to all interexchange carriers providing operator services.

WHEREFORE, based upon the above findings of fact and conclusions of law, it is hereby ORDERED as follows:

(1) All AOS providers must obtain a certificate of public convenience and necessity from the Commission in order to lawfully provide intrastate interexchange telecommunications services.

(2) The Commission will prescribe the form which AOS providers will use to obtain a certificate of public convenience and necessity. The form will include the identity of the AOS provider, including its registered agent in Georgia; a description of the services it intends to provide including any specialized operator services; the geographic area it intends to serve; the mechanism by which it intends to bill for its services; financial statements containing sufficient information to establish the financial viability of the AOS provider; a sworn certification from a corporate officer that the AOS provider will abide by the Rules of the Commission and the provisions of this Order; and such other information as the Commission may deem necessary to assure itself that the public interest is protected.

(3) Each AOS provider shall separately file a list of those traffic aggregators with which it has contracted to provide services. The list shall be updated no less than every six months. The customer lists submitted by the AOS provider shall

be deemed confidential and proprietary and not subject to public disclosure as provided in O.C.G.A. Section 50-18-72(b).

(4) All AOS providers should file tariffs with the Commission which set forth the services provided and the charges for those services. Any surcharges that an AOS provider collects for remittance to the traffic aggregator must also be set forth. x Only those rates filed and approved by the Commission may be charged. Any AOS provider tariff that sets its tariffed rates at or below the tariffed operator services rates for existing interexchange carriers will be deemed just and reasonable and will be permitted to go into effect without the need for further supporting data. Any AOS provider that desires to charge above the existing tariffed rates shall file cost, revenue and expense data justifying the proposed charge. Such tariffs shall require 30 days' notice as required by O.C.G.A. Section 46-2-25(a) and the effective date may be suspended by the Commission for the purpose of conducting a hearing. As with other interexchange carriers, AOS providers may make rate reductions after having given the Commission 14 days' notice. All rate increases shall require 30 days' notice as required by O.C.G.A. Section 46-2-25(a).

(5) AOS providers may not utilize interstate facilities for the purpose of carrying intrastate traffic. All intrastate traffic must be carried over intrastate facilities and appropriate intrastate access charges paid. In addition, *AOS providers may not provide intraLATA service except by means of local exchange company facilities authorized for resale. Each AOS provider must file with the Commission a sworn certification

from a corporate officer stating that the company is routing intrastate calls over the appropriate intrastate facilities.

(6) Each AOS provider operator, live and mechanical, shall clearly state the name of the AOS company at the initiation of any encounter with a customer so that the customer is fully informed as to which carrier will be handling his or her call. Each AOS provider operator shall also clearly state the AOS company name at the conclusion of its contact with the customer.

(7) Whenever a customer desires to utilize a billing mechanism other than direct billing by the AOS provider, such as collect calls, third party billing and calling cards, the operator, live and mechanical, shall advise the customer prior to placing the call that the customer will be charged the AOS provider's rates.

(8) Each AOS operator shall fully disclose the rate to be charged for the call including surcharges, if requested by the customer.

(9) Each AOS provider must include the following provisions in its contract with the traffic aggregator (for example: hotel, motel, hospital, university, institution or private pay telephone operator) and must adhere to the following in its provision of services:

(a) The owner of the instrument shall place on the telephone instrument or within 12 inches of the instrument a clear and conspicuous disclosure that the telephone has been presubscribed to the AOS provider, that toll service will be provided by the AOS provider and billed by the AOS provider at

its rates, that the AOS provider's rates may be obtained by calling the AOS operator, and the method by which the customer may reach the local exchange company operator.

(b) The customer must have access to the local exchange operator through the use of "0". All "0-" and "0+" intraLATA calls shall be routed to the local exchange company. In PBX settings, such access may be provided through the use of the "9-0" dialing pattern. Access to an interexchange carrier operator, including the AOS operator, may be provided by use of the dialing pattern "8-0" as long as it is disclosed on the telephone instrument or on a prominent disclosure within 12 inches, of the method of reaching the local exchange operator. Access to the local exchange operator through the dialing of "0-" or "0+" for intraLATA calls may not be blocked.

(c) The traffic aggregator may not block the customer from accessing his or her interexchange carrier of choice by means of the dialing sequence chosen by the particular carrier (for example: 950-XXXX, 1-800 or 10XXXX).

(d) At private pay telephones the customer must be able to access the local exchange operator through the mechanism of dialing "0-" and, for intraLATA calls, by the mechanism of dialing "0+". Access to the interLATA operator may be provided by the dialing mechanism of "0+" on interLATA calls or "00". "00" may not be used as the mechanism for accessing the local exchange company operator.

(10) In order to insure that each carrier receives the calls appropriate to its jurisdiction, local exchange operators who receive interLATA calls should refer those calls to the

presubscribed carrier. AOS operators who receive intraLATA calls should refer those calls to the local exchange company. Both local exchange operators and AOS operators who are requested to provide access to interexchange carriers other than those to whom the line is presubscribed may do so by advising the customer to use the dialing sequence chosen by his or her carrier of choice, or by making the connection directly for the customer.

(11) AOS provider tariffs shall provide that all charges shall be based upon the distance between the originating and the terminating points of the call as calculated by using the V and H coordinates as set forth in Southern Bell's General Subscriber Services Tariff, Section A18.

ORDERED FURTHER, that copies of this Order shall be distributed to all AOS companies who can be identified as doing business in Georgia and to all other carriers providing operator services, including AT&T, MCI and U.S. Sprint.

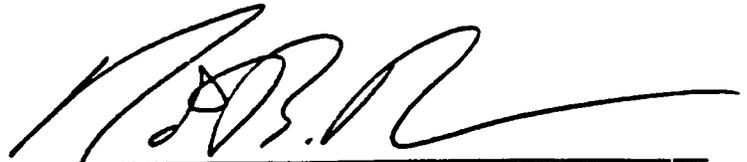
ORDERED FURTHER, that the Commission reserves the right to issue any further orders in this proceeding or to institute new proceedings addressing issues or problems not otherwise specifically addressed or resolved herein or which the Commission deems proper to address.

ORDERED FURTHER, that jurisdiction over this proceeding is expressly retained for the purpose of taking any further action, holding further hearings or entering such further orders as may be just and proper.

This matter was assigned to the Hearing Officer for hearing and initial decision pursuant to the provisions of O.C.G.A.

Section 50-13-13, et. seq. Therefore, pursuant to the provisions of O.C.G.A. Section 50-13-17(a), in the absence of an application for review to the Commission made within thirty days from the date of this decision, or an order by the Commission within said thirty days for review on its own motion, this decision shall, without further proceedings, become the final decision of the Commission.

SO ORDERED, this 10th day of November, 1988.

A handwritten signature in black ink, appearing to read 'R. B. Remar', with a long horizontal flourish extending to the right.

ROBERT B. REMAR, HEARING OFFICER
Georgia Public Service Commission

LEGAL NOTICE

The Georgia Public Service Commission has initiated generic hearings to establish rules and regulations relative to the providers of alternate operator services.

This matter has been designated Docket No. 3783-U and has been set for public hearing before the Commission's Hearing Officer, such hearing to begin at 9:00 A.M., Thursday, August 18, 1988. This hearing will be held in the Commission's Hearing Room, 177 State Office Building, 244 Washington Street, S.W., Atlanta, Georgia 30334, at which time anyone interested in this matter will be given an opportunity to express their views pursuant to the O.C.G.A. Section 46-2-59(c).

In accordance with the O.C.G.A. Section 46-2-59(c) persons wishing to intervene must file a petition to intervene with the Commission within thirty (30) days of the first publication of notice in this proceeding. All intervenors and parties of record wishing to submit testimony in this docket must prefile testimony on or before 12:00 noon, Monday, August 8, 1988.

Comments are requested from all interested persons by August 4, 1988. A list of the issues in Docket No. 3783-U are as follows.

a) Should the Commission establish maximum rates which the AOS providers can charge for interexchange operator assisted calls? If yes, what should those maximum rates be and why? If no, why not?

b) If the Commission does not establish maximum rates which the AOS providers can charge for operator assisted calls, should there be different maximum rates for intraLATA and interLATA services? If yes, what should those different rates be and why? If no, why not?

c) Should the the AOS providers be permitted to charge end users bill rendering charges or other surcharges above operator assisted rates?

d) Should the commissions the AOS providers pay their customers be included in their tariffs?

e) Should the AOS providers be permitted to charge the end user for mileage and usage rates for hauling the call to and from the service provider's point presence, which may be located outside of the state of Georgia, as opposed to charging only for the distance between the originating and terminating points of the call?

f) Should the AOS providers be required to notify the end user, prior to the end user placing a call, of the rates he/she will incur by utilizing its service? If yes, how? If no, why not?

g) Should the AOS providers be required to notify the end user prior to the end user placing a call, that he/she is utilizing its service? If yes, how? If no, why not?

h) If an end user charges the call on either another IXC's or a LEC's calling card, should the AOS provider be required to inform the end user that he/she will be billed the AOS provider's rates, as opposed to the end user's IXC's rates?

i) Should AOS providers be restricted from using other IXCs and LECs for billing and collection purposes? Is the Commission prohibited from restricting AOS providers from using IXCs and LECs for such purposes by the deregulation of billing and collection?

j) Should AOS providers be required to provide end users access to other IXCs? If yes, under what circumstances and how? If no, why not?

k) Should AOS providers be required to utilize either an access code or telephone keypad other than "0" in order for an end user to access their long distance networks?

l) Should the AOS providers be prohibited from processing "0" calls (calls in which the caller dials "0" plus additional digits, such as when utilizing either another IXC's or a LEC's calling card) without the intervention of a live operator? If yes, what procedures, if any, should the providers be required to follow in order to process these calls? If no, why not?

m) Should the AOS providers be prohibited from handling long distance "0-" (calls in which the caller dials "0" only)? If yes, specifically what should happen to those "0-" calls? If no, why not?

n) Do AOS providers have the capability to process adequately 911 and other emergency calls? If yes, please explain. If no, why not?

o) Assuming the AOS providers have the capability to process 911 and other emergency calls, should the commission place requirements, and/or restrictions on AOS providers for the processing and timing of those calls? If yes, what should those requirements and/or restrictions be?

p) If an end user places an operator assisted local call through a COCOT served by an AOS provider, should that provider be permitted to handle that local call? If no, please explain. If yes, should there be a maximum rate which the provider can charge the end user for that local call and, if so, what should that maximum rate be?

This notice is published at the direction of the Georgia Public Service Commission.

GEORGIA PUBLIC SERVICE COMMISSION
BY:

 6/17/88
William J. Buckner
Executive Director/Secretary