

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Request by AT&T COMMUNICATIONS) | DOCKET NO. 881508-TI |
| OF THE SOUTHERN STATES, INC. for approval) | |
| of a reduction in its evening and night) | |
| weekend discount on its MTS and Reach Out) | |
| Florida Services and a reduction in its) | |
| day rates) | |
|) | |
| In re: Petition of GTE FLORIDA) | DOCKET NO. 881344-TL |
| INCORPORATED requesting a reduction to) | |
| the BHMOC rate element) | |
|) | |
| In re: Dispute by CITIZENS OF THE STATE) | DOCKET NO. 870460-TI |
| OF FLORIDA of amount of 1986 overearnings) | |
| refund offered by AT&T COMMUNICATIONS OF) | |
| THE SOUTHERN STATES, INC.) | |
|) | |
| In re: Petition of AT&T COMMUNICATIONS) | DOCKET NO. 870347-TI |
| OF THE SOUTHERN STATES, INC. for) | |
| Commission forbearance from earnings) | ORDER NO. 20871 |
| regulation and waiver of Rule 25-4.495(1)) | |
| and 25-24.480(1)(b), F.A.C., for a trial) | ISSUED: 3-9-89 |
| period) | |
|) | |

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER CLARIFYING PRICE CAPS AND
DENYING PROPOSED PRICE CAPS

BY THE COMMISSION:

On December 30, 1988, AT&T Communications of the Southern States, Inc. (ATT-C), filed tariff revisions pursuant to Order No. 20609, issued January 17, 1989 (the Revisions). The Revisions proposed changes in ATT-C's rates and price caps. By Order No. 20842, issued March 2, 1989, we approved the proposed rates and suspended the proposed price caps. We were unable to approve the proposed price caps because we were unsure as to whether they comply with our decision in Docket No. 870347-TI (the Forbearance Proceeding). Based on this concern, we directed our Staff to review the record of the Forbearance Proceeding and present an appropriate recommendation for our resolution of this issue.

The Revisions propose price caps for MTS and WATS Services which were computed by reducing those price caps that were in effect prior to our decision in the Forbearance Proceeding by recent rate reductions. In settling ATT-C's 1986 overearnings in Docket No. 870460-TI, the company agreed to reduce MTS and WATS price caps by the same amount that these services' rates are reduced. GTEFL's BHMOC reduction in Docket No. 881344-TL produced lower access costs for ATT-C, and thus the price caps should be lowered as well as ATT-C's rates. Similarly, our

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approval of the removal of the gross receipts tax from MTS rates lowered ATT-C's costs and should result in price cap reductions. The reduction of MTS daytime rates was intended by ATT-C to offset its revenue increase resulting from the reduction in Evening and Night/Weekend discounts. The reduction in Evening and Night/Weekend discounts was intended to allow ATT-C to cover its costs incurred during those time segments and not to increase revenues. Since the reduction in discounts was not intended to increase ATT-C's revenues, the MTS daytime reduction should also be flowed through in a price cap reduction.

In Docket No. 830489-TI, we initially set price caps and price floors for ATT-C's rates for MTS, WATS and 800 Services. See Order No. 16180, issued June 2, 1986. Under our policy, ATT-C is allowed to adjust its rates up or down within the caps and the floors in response to competitive forces. Any rate reduction made voluntarily by ATT-C in response to market competition will not require a price cap reduction. However, we intend that the price caps be lowered by the same reductions made to rates each time ATT-C's access costs are reduced. See Order No. 17053, issued January 2, 1987.

We reaffirmed this policy in the Forbearance Proceeding where we required ATT-C to continue passing through all access charge reductions to its customers. In that proceeding, we granted ATT-C forbearance from rate-of-return and rate base regulation for a period of two years. As a condition of forbearance, ATT-C is required to maintain price caps and price floors in its rate structure. This action is explained in Order No. 19758, issued August 3, 1988. At page 8 of that order, we said: "It is our view that ATT-C's current MTS and WATS rates are appropriate price caps for the forbearance experiment because they have already endured scrutiny under our tariff review process."

Order No. 19758 appears unclear as to whether the Commission intended that ATT-C file tariff revisions at that time to reset its price caps equal to its then-effective rates. In Staff's opinion, we intended that ATT-C file such tariff revisions, lowering its price caps to equal its rates that were in effect at that time. ATT-C did not believe this to be our intention and thus did not file tariff revisions to lower its rate caps pursuant to Order No. 19758.

In accordance with Order No. 20842, Staff has reviewed the transcript of our Special Agenda Conference in the Forbearance Proceeding held on July 11, 1988. Staff has brought to our attention references that support its understanding of our intention regarding the action ATT-C was supposed to take in connection with its price caps. At the Special Agenda Conference, Staff recommended that ATT-C's price caps be reset at a level equal to ATT-C's rates which were in effect at that time. ATT-C's rates were then actually below the price caps that were in effect.

The transcript shows that we questioned Staff specifically concerning its price cap recommendation. That discussion makes clear that we understood that some difference existed between the price caps and the rates in effect at that time. We observed that some of ATT-C's rates were below their price caps, and Staff pointed out that it was proposing that the

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then-current rates will be the new price caps. Based on our review of the transcript, we believe the Commission's intent in approving Staff's price cap recommendation was for ATT-C to lower its price caps, making them equal to its rates in effect at that time.

We clarify Order No. 19758 to make clear that we intended ATT-C to file tariff revisions for reducing its price caps to the level of its rates that were then in effect. In reliance upon its interpretation of Order No. 19758, ATT-C did not file tariff revisions to establish new price caps until rate reductions were being implemented as directed by Order No. 17053. Our review of the price caps that became effective through these tariff revisions concludes that they were incorrect because they failed to reflect the reduction contemplated by our action in the Forbearance Proceeding. Because the Revisions propose price caps that were based on rate reductions made to incorrect price caps, we deny the Revisions' proposed price caps.

ATT-C is directed to establish price caps at levels consistent with this decision through reductions in its price caps by the same amounts of all rate reductions that have been approved to date. Consequently, ATT-C's price caps should be made identical to the current rates for ATT-C's switched services. ATT-C shall submit by March 7, 1989, the appropriate pages to modify the Revisions, making its price caps for the rates of MTS, WATS and 800 Services equal to these services' rates in effect following the company's implementation of Order No. 20842. The effective date of these price caps shall be March 15, 1989.

Therefore, it is

ORDERED by the Florida Public Service Commission that Order No. 19758, issued August 3, 1988, is hereby clarified by the discussion in the body of this Order. It is further

ORDERED that the proposed price caps contained in the tariff revision filed by AT&T Communications of the Southern States, Inc., on December 30, 1988, are hereby denied. It is further

ORDERED that AT&T Communications of the Southern States, Inc., shall modify those portions of its tariff revisions filed on December 30, 1988, that deal with price caps in order to bring them into conformity with the price caps approved in concept in this Order.

By ORDER of the Florida Public Service Commission,
 this 9th day of MARCH, 1989.


 STEVE TRIBBLE, Director
 Division of Records and Reporting

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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.