

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Modified Minimum Filing) DOCKET NO. 920195-TL
Requirements Report of QUINCY) ORDER NO. PSC-95-0046-FOF-TL
TELEPHONE COMPANY.) ISSUED: January 11, 1995
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER DENYING RECONSIDERATION

BY THE COMMISSION:

I. BACKGROUND

By Order No. PSC-94-0645-FOF-TL this Commission directed Quincy Telephone Company (Quincy or the Company) to survey its subscribers for nonoptional, flat rate, two-way calling on the routes between the Gretna, Greensboro, and Quincy exchanges, and the Tallahassee exchange. The Gretna, Greensboro, and Quincy exchanges are served by Quincy Telephone Company and the Tallahassee exchange is served by Central Telephone Company of Florida (Centel). Consistent with the Order, the Company's customers were surveyed to determine whether a sufficient number of the customers would be willing to pay monthly charges of \$12.70 for residence, \$35.00 for businesses and \$69.95 for PBX trunks in order to have flat-rate EAS for the routes indicated. The proposed monthly charges, if approved, were to replace current charges of \$9.10 for residence, \$25.10 for businesses and \$50.15 for PBX trunks. The \$.20 per message calling plan which has a monthly five (5) free call allowance would be eliminated if EAS is implemented.

The survey was conducted in accordance with Rule 25-4.063, Florida Administrative Code. The customers were surveyed during the month of August 1994. Ballots returned prior to the August 31, 1994, expiration date were tabulated. The results of the survey were:

Ballots Mailed	9,572	100.00%
----------------	-------	---------

DOCUMENT NUMBER-DATE

00317 JAN 11 95

FPSO-RECORDS/REPORTING

Ballots Returned	3,732	38.99%
Ballots Not Returned	5,840	61.01%
Minimum Ballots Required to be Returned	3,829	40.00%
Ballots Short of 40%	97	1.01%

RESULTS ON RETURNED BALLOTS:

Ballots FOR	2,054	55.04%
Ballots AGAINST	1,597	42.79%
Ballots INVALID	81	2.17%

By Order No. PSC-94-1384-FOF-TL, issued November 14, 1994, we ordered implementation of nonoptional, flat rate, two-way calling on the routes between the Gretna, Greensboro, and Quincy exchanges, and the Tallahassee exchange.

On November 28, 1994, Mr. N. E. "Gene" Allen timely filed a Motion for Reconsideration of Order No. PSC-94-1384-FOF-TL. Mr. Allen opposes the implementation of EAS. In addition, a letter from Mr. Marvin J. Kolhoff dated November 25, 1994, was received in the Office of the Chairman of the Commission on November 30, 1994. Mr. Kolhoff's letter is directed to correspondence from the Commission in response to a letter explaining the action of the Commission. Mr. Kolhoff opposes the implementation of EAS and states that the matter deserves serious reconsideration.

II. Motion for Reconsideration

By Order No. PSC-94-1384-FOF-TL, we ordered implementation of nonoptional, flat rate, two-way calling on the routes between the Gretna, Greensboro, and Quincy exchanges, and the Tallahassee exchange. The decision was based on a number of public interest factors as discussed in the Order, principally the need for toll relief and the positive response rate to the survey notwithstanding the low ballot return rate.

On November 28, 1994, Mr. N. E. "Gene" Allen filed a Motion for Reconsideration of Order No. PSC-94-1384-FOF-TL. In support of his motion, Mr. Allen states that the Gadsden County Times reported that since the EAS ballot return rate was only 39 percent,

the Commission would only consider reducing the per-call calling rate at the Agenda Conference at which the survey results were addressed. Mr. Allen further states that over 1,000 subscribers make no calls to Tallahassee and that they are "being required to pay at least \$3.60 or \$9.90 monthly if a business, in order for those who are heavy users to pay less." According to Mr. Allen, there is an even larger number that make calls to Tallahassee, but will be adversely affected by the new rate structure. With respect to the low ballot return rate, Mr. Allen states that it is "indicative of the high rate of apathy over their preference being considered by government." Based on the forgoing, Mr. Allen argues that the decision to implement EAS should be reconsidered and the adversely affected persons be allowed to be heard.

Mr. Kolhoff's letter states that the 55 percent support for EAS is a borderline majority percentage that reflects the desire of only 21 percent of the total to whom ballots were mailed. He argues that it is unlikely that it represents the interests of a majority of customers. He further states that "a large majority of the 'no returns' were infrequent callers who did not understand the proposal and the penalty they will incur -- probably many who can ill afford a 22.5% increase were incapable of responding." Finally Mr. Kolhoff suggests that Commission should address the "disproportionately large dollar amount of benefits going to the most frequent callers, and the increased burden to be borne by the other customers who will have to subsidize those benefits."

The purpose of a motion for reconsideration is to bring to the Commission's attention some point that it overlooked or failed to consider in reaching its decision. A motion for reconsideration is not intended as a procedure for re-arguing the case simply because a party disagrees with the result. See Diamond Cab of Miami v. King, 146 So. 2d. 889, 891 (Fla. 1962).

Mr. Allen's Motion for Reconsideration raises basically two issues. First, he implies that he has not had an adequate opportunity to be heard because the article in the Gadsden County Times did not state that the Commission could or would consider the action that was actually taken. Second, he argues that imposing the EAS additive on all subscribers to the benefit of the high volume callers is inappropriate. Regarding the allegation of opportunity to be heard, Mr. Allen clearly had notice that the matter of EAS was at issue and was to be addressed by the Commission. Mr. Allen had the same notice and opportunity to address the Commission as the other customers who availed themselves of this opportunity. Mr. Allen's point of entry into the proceeding was provided pursuant to Order No. PSC-94-0645-FOF-TL. Mr. Allen has had adequate notice and opportunity to be heard;

he simply failed to avail himself of that opportunity. With respect to the second argument, the issue of the financial effects of the implementation of flat-rate EAS on the subscribers was discussed at length during our consideration of this matter at our Agenda Conference. Since Mr. Allen's Motion for Reconsideration fails to raise any matter of fact or law that the Commission overlooked or failed to consider, we find that the Mr. Allen's Motion for Reconsideration should be denied.

Mr. Kolhoff's letter argues that the Commission should reconsider its decision to implement EAS. The basis of his argument is that the number of votes in favor of EAS do not represent the interests of the majority of subscribers and that an increase in each subscriber's bill will benefit high volume callers at the expense of those that make few or no calls. Mr. Kolhoff's request for reconsideration fails for both procedural and substantive reasons. The letter was received in the Chairman's office on November 30, 1994, and was not filed with the Commission's Division of Records and Reporting. Moreover, it was not received until one day after the time allowed for filing for reconsideration. With respect to the substantive arguments, the matter of the financial effects of the implementation of flat-rate EAS on the subscribers was discussed at length during our consideration of this matter. Mr. Kolhoff fails to raise any matter of fact or law that the Commission overlooked or failed to consider. Accordingly, we find that Mr. Kolhoff's request for reconsideration should be denied for both substantive and procedural reasons.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration of Order No. PSC-94-1384-FOF-TL by Mr. N. E. "Gene" Allen is denied as set forth in the body of this Order. It is further

ORDERED that the request for reconsideration of Order No. PSC-94-1384-FOF-TL by Mr. Marvin J. Kolhoff is denied as set forth in the body of this Order. It is further

ORDERED that this docket be closed.

ORDER NO. PSC-95-0046-FOF-TL
DOCKET NO. 920195-TL
PAGE 5

By ORDER of the Florida Public Service Commission, this 11th
day of January, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Lynn
Chief, Bureau of Records

(S E A L)

TWH

Commissioner Diane K. Kiesling dissented from the Commission's decision to deny the Motion for Reconsideration and the request for reconsideration.

NOTICE OF 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 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 wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, 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.