

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Objection to MCI ) DOCKET NO. 930544-TI  
TELECOMMUNICATIONS CORPORATION'S )  
Tariff No. T-93-234 by FLORIDA )  
PAY TELEPHONE ASSOCIATION, INC. )  
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In Re: Objection to AT&T ) DOCKET NO. 930946-TI  
TELECOMMUNICATIONS OF THE SOUTH, ) ORDER NO. PSC-95-0881-FOF-TI  
INC.'s Tariff No. T-93-504 by ) ISSUED: July 19, 1995  
FLORIDA PAY TELEPHONE )  
ASSOCIATION, INC. )  
\_\_\_\_\_)\_\_\_\_\_

The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING MOTIONS TO DISMISS AND CLOSING DOCKETS

BY THE COMMISSION:

I. Background

On January 14, 1993, we issued Order No. PSC-93-0070-FOF-TP. That Order provided intrastate dial-around compensation for 10XXX, 950, 800, and other access code calls which are dialed by the end user from a pay telephone to access his or her chosen interexchange carrier (IXC) and bypass the pay telephone's presubscribed IXC. We set the dial-around compensation surrogate rate at \$3.00 per compensable pay telephone per month for IXCs that provide operator services and generate \$50 million or more in gross intrastate revenues. Currently, only four companies in Florida meet these criteria: AT&T Communications of the Southern States, Inc. (ATT-C), MCI Telecommunications Corporation (MCI), LDDS Communications, Inc. d/b/a LDDSMetromedia Communications, and Sprint Communications Company Limited Partnership.

On May 6, 1993, MCI filed a tariff for its 1-800-COLLECT service (Tariff No. T-93-234). Under this tariff, the end user dials 1-800-COLLECT to reach an MCI operator to complete the call. On June 4, 1993, the Florida Pay Telephone Association (FPTA) filed a Petition Objecting to MCI's Tariff No. T-93-234 and Docket No. 930544-TI was opened. In its petition, FPTA claims we did

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not consider additional dial-around calls generated by the introduction of MCI's 1-800-COLLECT service when we issued Order No. PSC-93-0070-FOF-TP. The petition requested that we require MCI to compensate non-LEC pay telephone providers \$.50 per call for each call completed to MCI's 1-800-COLLECT service and that MCI and the local exchange companies track the number of calls made through this service. On June 5, 1993, Tariff No. T-93-234 became effective. On June 29, 1993, MCI filed a Motion to Reject And/Or Dismiss FPTA's Petition Objecting To MCI's Tariff T-93-234. FPTA filed a response on July 12, 1993.

On August 31, 1993, ATT-C filed Tariff No. T-93-504. The tariff, similar to MCI's, proposed to offer discounted rates to end users who make collect calls, including end users placing collect calls from pay telephones, by dialing 1-800-OPERATOR to reach an AT&T operator from September 30, 1993 through December 31, 1993. Tariff No. T-93-504 became effective on September 30, 1993. ATT-C has extended this service and made the offering permanent with a new access number, 1-800-CALLATT.

On September 23, 1993, FPTA filed a Petition Objecting To AT&T's Tariff No. T-93-504 and Docket No. 930946-TI was opened. In its petition, FPTA made essentially the same arguments made in its petition objecting to the MCI tariff. ATT-C filed a Motion to Dismiss FPTA's Petition Objecting to AT&T's Tariff No. T-93-504 on October 18, 1993. FPTA filed a response on November 1, 1993.

## II. MCI's Motion to Dismiss

In its motion, MCI argues that the FPTA petition should be rejected because:

1. the petition is untimely; and
2. the relief requested has already been granted; and
3. the petition is an untimely attempt to seek reconsideration of Order No. PSC-93-0070-FOF-TP.

Although we find that FPTA's petition is timely, we grant MCI's motion because, as explained below, we find that the relief requested has already been granted and because the petition is merely an attempt to seek reconsideration of Order No. PSC-93-0070-FOF-TP.

FPTA's petition is timely. MCI's tariff was filed on May 5, 1993 and was to become effective on June 5, 1993. FPTA filed its petition objecting to the tariff on June 4, 1993, 30 days after

2. fails to state a legal basis for denial of ATT-C's tariff; and
3. fails to state a legal basis for requiring a bond and tracking of calls; and
4. is an untimely attempt to seek reconsideration of Order No. PSC-93-0070-FOF-TP.

We find that FPTA filed a timely petition. The tariff was filed on August 31, 1993 to become effective on September 30, 1993. FPTA filed its petition on September 23, 1993. There is no time limit within which a person must file a petition seeking a change in the actions of a regulated entity. Therefore, the FPTA petition was filed timely.

ATT-C's argument that FPTA's petition fails to state a legal ground for denial of ATT-C's tariff also fails. ATT-C correctly notes that FPTA makes no showing that ATT-C's tariff violates any statute, rule, or Commission order. However, FPTA is not required to do so because it filed a petition and not a complaint. Order No. PSC-93-0070-FOF-TP leaves open the possibility of a change in the dial around compensation system in the future and a petition is an appropriate method to request that we revisit the issue. However, FPTA makes no allegation that supports changing the mechanism to per-call compensation at this time. Without some prima facie showing of changed circumstances, FPTA's petition is merely an untimely attempt to seek reconsideration of Order No. PSC-93-0070-FOF-TP. Accordingly, ATT-C's Motion to Dismiss FPTA's Petition Objecting to AT&T's Tariff No. T-93-504 is granted and the FPTA Petition Objecting to AT&T's Tariff No. T-93-504 is dismissed.

It is, therefore,

ORDERED by the Florida Public Service Commission that MCI Telecommunications Corporation's Motion to Reject And/Or Dismiss Florida Pay Telephone Association, Inc.'s Petition Objecting To MCI's Tariff T-93-234 is hereby granted. It is further

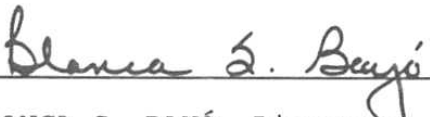
ORDERED that Docket No. 930544-TI is hereby closed. It is further

ORDERED that AT&T Communications of the Southern States, Inc.'s Motion to Dismiss Florida Pay Telephone Association, Inc.'s Petition Objecting to AT&T's Tariff No. T-93-504 is hereby granted. It is further

ORDERED that Docket No. 930946-TI is hereby closed.

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By ORDER of the Florida Public Service Commission, this 19th  
day of July, 1995.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

LMB

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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.