

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Implementation of 1+) DOCKET NO. 960492-TP
intraLATA presubscription for) ORDER NO. PSC-96-0884-FOF-TP
non-LEC pay telephones and call) ISSUED: July 5, 1996
aggregators.)
_____)

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER PERMITTING NON-LEC PAY TELEPHONE PROVIDERS, CALL
AGGREGATORS AND SHARED TENANT SERVICE PROVIDERS TO ROUTE INTRALATA
TOLL CALLS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. CASE BACKGROUND

In Docket No. 930330-TP, In Re: Investigation into IntraLATA Presubscription, we considered whether intraLATA presubscription should be implemented to complement interLATA presubscription and to further open the local exchange toll market to competition. On February 13, 1995, we issued Order No. PSC-95-0203-FOF-TP memorializing our decision that intraLATA presubscription is in the public interest, thus opening the intraLATA toll market to competition.

IntraLATA presubscription allows the end user to presubscribe his intraLATA long distance calls to the intraLATA carrier of his choice in the same way he presubscribes his interLATA long distance calls to the interLATA carrier of choice. Although the software needed for presubscription had been developed as of the date we ordered intraLATA presubscription, we did not require the Local

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Exchange Companies (LECs) to install it immediately in Florida. Rather, we decided to allow the LECs to install the presubscription software when future scheduled switch software upgrades took place. This, the LECs asserted and we agreed, would help decrease the costs associated with installation.

In docket No. 930330-TP, we decided that intraLATA presubscription is in the public interest, but did not address whether Non-LEC Pay Telephone providers (NPATs), Call Aggregators (CAs) and Shared Tenant Service (STS) Providers could use their existing technology to route intraLATA toll calls. Currently NPATs, CAs and STS providers can route intraLATA toll calls to the carrier of their choice without LEC offices being upgraded for intraLATA presubscription. NPATs can program their "smart" phones to forward all long distance calls, interLATA and intraLATA alike, to any designated carrier. The CAs and STS providers can do the same by programming their private branch exchanges (PBXs).

We first considered whether CAs, NPATs and STS providers should be permitted to route intraLATA toll calls at the May 7, 1996, Agenda Conference. At that time several parties addressed the Commission with their concerns. After considering their arguments, we postponed our decision and directed staff to examine the issues raised by the parties. Thereafter, at the June 11, 1996, Agenda Conference, we decided to allow these providers to use their technology to route intraLATA toll calls as discussed in detail below.

II. DECISION

A. Non-LEC Pay Telephones and Call Aggregators

NPATs and CAs are, in many cases, already equipped to route traffic from their systems or phones. NPATs have a particular type of phone that can route intraLATA calls. It is referred to as a "smart" phone because, like a PBX, it is programmable. CAs offer service through a PBX. The PBX can be programmed to transfer 1+/0+ calls to the CA's chosen carrier by translating 1+/0+ into an access code such as 10XXX, 1-800, or 950. We note, however, that end users can still dial 10XXX or 1-800 to reach the interexchange carrier of their choice.

As stated earlier we considered the issue of allowing NPATs, CAs, and STS providers to route intraLATA calls at the May 7, 1996, Agenda Conference. At that time, we directed staff to examine what effect, if any, allowing these providers to begin routing intraLATA

toll calls prior to the LECs' installation of 1+ presubscription software would have on existing ECS routes.

Florida contains many LEC ECS routes. Although these routes can be as long as 140 miles, LEC-carried calls on these routes are often rated at less than what would be the rates if the routes were toll. For example, a residential call placed between Miami and Key West and carried by BellSouth is \$.25, regardless of duration. If a CA decided to program its system for a carrier other than the LEC for intraLATA calls, a caller making a call over an ECS route could be assessed toll charges rather than the ECS rate. We note that an end user could access the LEC by dialing the company's carrier identification code (CIC). However, not all LECs have activated CICs.

BellSouth informed us, at the Agenda Conference, that it does not have a CIC code in place and proposed that if we permitted call routing, that CAs, NPATs and STS only be allowed to do so in BellSouth's territory when its central offices are converted to handle intraLATA presubscription. BellSouth argues that, without having a CIC in place, it would be at a competitive disadvantage because it would be excluded from the list of intraLATA carriers end users could select. The company asserts that it will have a CIC code in place as offices are converted and expects most of its offices to be converted by the end of this year. According to the company, two translation tables are needed, one containing the list of interLATA carriers and one containing the list of intraLATA carriers. The translation table is what the LEC uses to determine who is to carry a toll call. Today, there is only one table, because end users can only select a carrier for interLATA calls. There has been no need for a table identifying any other carriers because only one carrier, the LEC, has carried 1+/0+ intraLATA calls. Only by having a second translation table will the LEC be able to allow intraLATA presubscription. This second table will contain the LEC's CIC.

A NPAT provider's smart phone can discern an ECS call from other calls because smart phones contain a table listing all local NXX codes. When a call is placed on an ECS route, if an ECS route NXX code is contained in that table, the call is rated at the ECS residential rate of \$.25. If the NXX code is not in the table, the call would go out as a toll call. In past orders approving ECS routes the following language is included, and should continue to apply:

- Pay telephone providers will charge end users \$.25 per message and pay the standard measured

interconnection usage charge. See Order No. PSC-96-0557-FOF-TL, for example.

Unlike, NPATS, there is no such provision for CAs. An individual placing a call on an ECS route from his hotel or motel room could be charged toll rates. However, the visitor has the option of using a phone other than the one in the room, such as a pay telephone in the lobby.

B. STS Providers

An STS provider is similar to a CA in that it provides service to its tenants through its own switch such as a PBX. However, there are at least two subtle differences between the tenants of an STS provider and the tenants of a CA. First, the STS's tenants have historically been business customers, and second, these customers have tended to be longer term residents than those of the CA. In the past, the provision of STS service was restricted to business customers residing in a single location such as a large building. These subscribers were not viewed as transient, usually having signed lease agreements extending over lengthy time periods. These tenants have always been able to choose either the STS provider or the LEC for the provision of phone service.

With passage of the amendments to Section 364.339, Florida Statutes, STS providers can now provide service to residential customers and business customers, as well as multiple buildings and single buildings. As in the past, the commercial customer has the option of choosing the serving local exchange company or the STS provider. See Rule 25-24.575, Florida Administrative Code, and Section 364.339(5), Florida Statutes. However, Section 364.339(5), Florida Statutes, addresses only commercial customers. It does not address residential customers. Therefore, it is unclear whether a residential tenant can select the serving LEC for service or if he is restricted to the STS provider. Despite this ambiguity, we believe residential tenants would have a choice. We have opened a rulemaking proceeding for STS service which will address this issue. See Docket No. 951522-TS. We note that even if residential customers are allowed to choose their intraLATA carrier and they choose the LEC as their local service provider, that LEC may still not have upgraded its system to allow the tenant to select a carrier other than that LEC for his intraLATA toll traffic.

Regarding ECS routes, STS providers can program their PBXs to have an IXC carry calls on these routes. However, the potential customer of an STS provider also has the choice of the LEC for his local service. If the end user selects service from the STS provider and is assessed excessive toll charges on ECS routes, he

or she can change to the LEC. The STS provider is, in effect, competing with the LEC for the end user's business.

Finally, with call routing, end users will continue to have the same options they had prior to intraLATA presubscription. If an end user continues to be a LEC customer, and wants a different provider for his or her intraLATA traffic, he or she will be required to dial around the LEC. If he or she selects STS service, and wants an intraLATA carrier other than the one the STS provider routes to, he or she will have to dial around. Most STS customers will have a selection of carriers from the LEC for their intraLATA toll traffic by February, 1997 at the latest.

C. Conclusion

Upon consideration, we find that, NPATS, CAs and STS providers located in GTE Florida Incorporated, Sprint-United, and Sprint-Centel territories should be permitted to route 1+/0+ intraLATA toll traffic from their phones or systems to the intraLATA carrier of their choice at this time. NPATS, CAs and STS providers may route intraLATA toll calls in BellSouth's territory as the company's central offices are converted to handle intraLATA presubscription. We decided in Docket No. 930330-TP to move forward with intraLATA competition. We find that allowing NPATS, CAs and STS providers to program their phones or systems to route 1+/0+ intraLATA toll calls is one more step in that direction. Our decision is also consistent with the Florida Legislature's resolution to move forward with competition conveyed in its passage of amendments to Chapter 364, Florida Statutes.

We do not believe it is necessary to prohibit NPATS, CAs and STS providers from utilizing preferred call routing for intraLATA traffic in small LECs' service territories. The statutory provisions which authorized these providers to operate in Florida never restricted or otherwise made a distinction as to where they could operate. Further, they currently operate in small LEC territories and the recent revisions to Chapter 364, Florida Statutes, have not imposed any restrictions. While we do not believe that an exception should be made for small LECs, we will delay implementation of preferred call routing in small LEC territories until January 1, 1997. We believe this date, which coincides with when a small LEC can receive a bona fide request for intraLATA presubscription, is reasonable and is consistent with the spirit of Order No. PSC-95-0203-FOF-TP.

We also find that all local calls and 0- calls should continue to be routed to the LECs or Alternative Local Exchange Companies (ALECs). Reserving local calls and 0- calls is consistent with our

decision in Docket 930330-TP where we ordered "...that 0- dialed calls shall be retained by the LECs...." See Order No. PSC-95-0203-FOF-TP, p. 46. This is also consistent with Rule 25-24.620(2)(d), Florida Administrative Code, which requires all CAs to:

route all end-user dialed 0- calls to the local exchange operator at no charge to the end user when no additional digits are dialed after 5 seconds.

Finally, Extended Calling Service calls shall continue to be routed to the LEC except where the Commission has permitted IXCs to carry this traffic, in which case preferred carrier routing may be utilized. NPATs-originated ECS calls should continue to be rated at \$.25 per call, regardless of carrier.

We do not address whether STS providers should be required to provide presubscription to their individual tenants, nor should our decision in this Order be construed to mean that STS providers should not be required to provide presubscription to their tenants. Most of the PBXs in use today do not have the technical capability of offering presubscription to individual tenants. It appears that the newest PBXs now entering the market may be technically capable of providing presubscription to individual tenants. Therefore, since the PBX technology is evolving, we find that this issue should be left for another day.

Since we find it appropriate to permit CAs and NPATs to route intraLATA toll calls, we will grant exemptions from the applicable rules that reserve 1+/0+ intraLATA toll calls to the LEC pursuant to Rule 25-4.002(2), Florida Administrative Code. First, Rule 25-24.620(2)(c), Florida Administrative Code, dictates that operator service providers impose certain requirements on call aggregators. Specifically, this provision requires that in its tariffs for and contracts with Florida call aggregators, an operator service provider shall require the other party to:

route all end-user dialed 1+, 0+, and 0- intraLATA local and toll calls to the local exchange company, unless the end user dials the appropriate access code for their carrier of choice, i.e., 950,800,10XXX.

Second, Rule 25-24.515(7), Florida Administrative Code, Pay Telephone Service, requires that all intraLATA calls, including operator service calls be routed to the local exchange company, unless the end user dials the appropriate access code for their carrier of choice, i.e., 950, 800, 10XXX.

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In summary, NPATS, CAs and STS providers located in GTE Florida Incorporated, Sprint-United, and Sprint-Centel territories may route 1+/0+ intraLATA toll traffic from their phones or systems to the intraLATA carrier of their choice at this time. NPATS, CAs and STS providers may route intraLATA toll calls in BellSouth's territory as the company's central offices are converted to handle intraLATA presubscription. Finally, NPATS, CAs and STS providers located in the 9 small LECs' territories may begin call routing January 1, 1997.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Call Aggregators, Non-LEC Pay telephones and Shared Tenant Service providers shall be permitted to route intraLATA toll calls as set forth in the body of this Order. It is further

ORDERED that Operator Service Providers are granted an exemption from Rule 25-24.620(2)(c), Florida Administrative Code. It is further

ORDERED that Non-LEC Pay Telephone Providers are granted an exemption from Rule 25-24.515(7), Florida Administrative Code. It is further

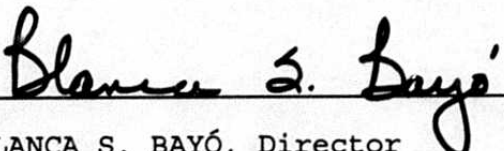
ORDERED that all local calls and 0- calls shall continue to be routed to the LECs or ALECs. It is further

ORDERED that Extended Calling Service calls shall continue to be routed to the LEC and be rated at \$.25 per call, regardless of carrier. It is further

ORDERED that, unless a person whose interests are substantially affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final and this docket shall be closed on the following date.

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By ORDER of the Florida Public Service Commission, this 5th
day of July, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MMB

Commissioner Julia L. Johnson Dissented from the Commission's
decision.

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 26, 1996.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 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 of the effective date 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.