

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of ) DOCKET NO. 961453-TX  
intraLATA and interLATA ) ORDER NO. PSC-97-0387-FOF-TX  
presubscription plan by TCG ) ISSUED: April 7, 1997  
South Florida. )  
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The following Commissioners participated in the disposition of this matter:

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

PROPOSED AGENCY ACTION  
ORDER APPROVING IN PART AND DENYING IN PART  
TCG SOUTH FLORIDA'S INTRALATA PRESUBSCRIPTION PLAN

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.

Section 251 (b) (3) of the 1996 Telecommunications Act (Act), 47 U.S.C. § 251 et. seq., states that it is the duty of all local exchange companies (LECs)

to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

Pursuant to Section 3 (a) (44) of the Act, the term LEC means all providers of local exchange service, incumbent LECs (ILECs) and alternative LECs (ALECs).

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FPSC-RECORDS/REPORTING

Section 51.213 (c) of the Federal Communications Commissions (FCC) rules regarding intraLATA toll dialing parity implementation states:

A LEC must file its implementation plan with the state commission for each state in which the LEC provides telephone exchange service....

Pursuant to this section of the FCC rules, TCG South Florida (TCG) filed a petition for approval of its intraLATA and interLATA presubscription implementation plan on December 5, 1996.

Pursuant to the FCC's Second Report and Order, FCC 96-333 issued August 8, 1996, all LECs are to implement toll dialing based on LATA boundaries no later than February 8, 1999, unless a state commission set an accelerated schedule. Section 51.211 of the rules contained in the August 8 Order discusses an implementation schedule and filing deadlines for all LECs. The applicable scheduling portions of Section 51.211 for LECs, other than a Bell Operating Company (BOC), are:

(c) A LEC that is not a BOC that begins providing in-region, interLATA or in-region interstate toll services in a state before August 8, 1997, shall implement intraLATA and interLATA toll dialing parity throughout that state by August 8, 1997. If the LEC is unable to comply with the August 8, 1997 implementation deadline, the LEC must notify the Commission's Common carrier Bureau by May 8, 1997. In the notification, the LEC must state its justification for noncompliance and must set forth the date by which it proposes to implement intraLATA and interLATA toll dialing parity.

(d) A LEC that is not a BOC that begins providing in-region, interLATA or in-region, interstate toll services in a state on or after August 8, 1997, but before February 8, 1999 shall implement intraLATA and interLATA toll dialing parity throughout that state no later than the date on which it begins providing in-region, interLATA or in-region, interstate toll services.

Consistent with our decision in Order No. PSC-95-0203-FOF-TP, Investigation into IntraLATA Presubscription, and the FCC's Order, TCG proposes to implement a full 2-PIC method for the implementation of IntraLATA presubscription (ILP). A 2-PIC method enables customers to select an intraLATA carrier, the LEC or an interexchange carrier (IXC), that may be different from its interLATA carrier. TCG asserts that a carrier must interconnect

with TCG to effectively utilize the 2-PIC capability. In addition, since the implementation of 2-PIC is a relatively expensive operation for a small carrier with few customers, TCG contends that requesting carriers must have a genuine intent to use the service.

TCG states that it will inform new customers and notify its existing customers of the option to choose alternative carriers for both their intraLATA and interLATA service. In addition, TCG asserts it will not automatically assign itself as the intraLATA toll carrier for new customers that fail to choose a carrier.

TCG asserts that it will provide ILP to any eligible carrier by August 8, 1997, as required by the FCC, provided that the request is submitted on or before February 8, 1997. However, TCG states that after February 8, 1997, it will attempt to provide ILP to the customer in not more than six months from the date the request is submitted. TCG asserts that this length of time is needed to allow it to make the necessary systems and billing modifications to implement the 2-PIC request.

Upon consideration, we realize that TCG may need additional time to modify its network, however, we believe that TCG is, at this time, equivalent to a small LEC with respect to ILP implementation in Florida. Although Order No. PSC-95-0203-FOF-TP, requires small LECs to entertain a bona fide request for ILP on or after January 1, 1997, we did not set a time period for the small LECs to implement ILP subsequent to a request. Accordingly, we do not believe that it is either appropriate or necessary to establish a set period of time for TCG to implement ILP after a bona fide request. We believe that the details regarding the implementation schedule should be negotiated by the parties involved in the request. Accordingly, we find that TCG shall be viewed the same as the small LECs regarding ILP implementation. Any disputes regarding the implementation time frame should be referred to us for resolution. We note, however, that if TCG begins providing interLATA or interstate toll service in Florida before August 8, 1997, it is required to implement intraLATA and interLATA toll dialing parity by August 8, 1997. Therefore, according to Section 51.211 (c) of the FCC rules, TCG should notify the FCC Common Carrier Bureau by May 8, 1997 if it is unable to comply with the August 8, 1997, deadline.

Based on the foregoing, we do not believe it is appropriate to allow TCG six months from the date of a request to implement ILP. However, we do believe that the remainder of TCG's proposed ILP implementation plan is appropriate since it is consistent with our decision in Order No. PSC-95-0203-FOF-TP, and the requirements set forth in the FCC Rules in its Second Report and Order. Therefore,

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TCG's petition regarding its ILP implementation schedule is approved in part and denied in part.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TCG South Florida's intraLATA and interLATA presubscription plan is approved in part and denied in part as discussed in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 7th day of April, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 April 28, 1997.

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.

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.