

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by FLORIDA ) DOCKET NO. 920178-TL  
CABLE TELEVISION ASSOCIATION to) ORDER NO. PSC-92-0317-FOF-TL  
institute annual reporting of ) ISSUED: 05/08/92  
allocations for investments )  
and expenses of local exchange )  
telecommunication companies. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING PETITION BY FLORIDA  
CABLE TELEVISION ASSOCIATION

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On February 26, 1992, the Florida Cable Television Association (FCTA) filed a petition which asks us to require each local exchange telecommunications company (LEC) to include the information required by Section 364.3381 (2), Florida Statutes, in its annual surveillance report. Section 364.3381 (2), Florida Statutes, provides that:

A local exchange telecommunications company which offers both monopoly and competitive telecommunications services shall segregate its intrastate investments and expenses in accordance with allocation methodologies as prescribed by the commission to ensure that competitive telecommunications services are not subsidized by monopoly telecommunications services.

FCTA would have us require each LEC to describe the allocation procedures used, and to identify the competitive services provided during the reporting period. For purposes of initial filings, FCTA suggests that the LECs adhere to the allocation criteria required by the FCC for segregating regulated and non-regulated services.

FCTA relies on Rule 25-4.018, Florida Administrative Code, which requires each local exchange telephone company to file annual

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reports with the Commission. Although FCTA cites the annual report Rule, the Petitioner refers to an annual "surveillance" report. Rule 25-4.0245, Florida Administrative Code requires each local exchange telephone company to file a "Telephone Earnings Surveillance Report" monthly for telephone companies with 100,000 or more access lines and quarterly for telephone companies with fewer than 100,000 access lines. Since FCTA has merged the concepts of annual and surveillance reports, we will address its petition from the standpoint of both types of reports.

On April 15 of each year, LECs file annual reports for the preceding year. These annual reports contain financial data primarily on a total company basis -- unseparated jurisdictionally, and unseparated between regulated and nonregulated operations. For the purpose of monitoring the LECs' earnings, we rely on the surveillance reports rather than the annual reports. In contrast to the annual reports, however, data in the surveillance reports is separated jurisdictionally and nonregulated amounts have been excluded.

If FCTA considers LEC competitive services to be the same as LEC unregulated services, we find that the surveillance report fulfills the requirements of Section 364.3381 (2), Florida Statutes, concerning the allocation of investment and expenses between monopoly and competitive services. Since most of the data in the LEC's annual report is not segregated between regulated and unregulated services, these documents do not comply with Section 364.3381 (2). However, since we do not rely on the annual report for monitoring LEC earnings, we believe it is unnecessary to require the LECs to file additional segregated information. We find that Section 364.3381 (2), Florida Statutes, does not require the LECs to reflect an allocation of its intrastate investments and expenses between competitive and monopoly services in its annual report.

If FCTA considers LEC competitive services not to be identical to LEC unregulated services, we find that FCTA's petition is premature. We have opened Docket No. 910757-TP (the cross-subsidy docket) to investigate the regulatory safeguards required to prevent cross-subsidization by telephone companies. A hearing in that docket is scheduled for March 1993. A key issue in the cross-subsidy docket is precisely to which services the requirements of Section 364.3381 apply. We find that the issues in Docket No. 910757-TP must be resolved in order to know how to implement Section 364.3381. For the foregoing reasons, FCTA's instant petition shall be denied.

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While we deny FCTA's petition, we acknowledge the Petitioner's concerns and direct our staff to investigate the matter in the upcoming rate cases and the cross subsidization docket. We acknowledge also that, given the constraints of our hearing calendar, the matter can be resolved more expeditiously in the existing proceedings than in the instant docket.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Cable Television Association's petition to require local exchange companies to segregate intrastate investment and expenses in their annual reports between monopoly and competitive services, is hereby denied. It is further

ORDERED that if no timely protest to this proposed agency action is received, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 8th day of May, 1992.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CWM

by: Kay Flynn  
\_\_\_\_\_  
Chief, Bureau of Records

Commissioner Lauredo 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

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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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 29, 1991.

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 adversely 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.