

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filing ) DOCKET NO. 910967-TL  
to reprice and restructure local )  
private line services by GTE )  
FLORIDA INCORPORATED. )

In re: Proposed tariff to allow ) DOCKET NO. 920335-TL  
contract service arrangements for ) ORDER NO. PSC-92-1473-FOF-TL  
extended communications service ) ISSUED: 12/21/92  
(EXCS) and area communications )  
service (ACS) by SOUTHERN BELL )  
TELEPHONE AND TELEGRAPH COMPANY. )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER DELAYING THE EFFECTIVE DATE FOR  
IMPLEMENTATION OF RESTRUCTURE AND REPRICING  
OF GTEFL'S PRIVATE LINE SERVICE AND SETTING  
CERTAIN MATTERS FOR HEARING

BY THE COMMISSION:

I. BACKGROUND

By Order No. PSC-92-0401-FOF-TL, issued on May 5, 1992, we approved GTE Florida Incorporated's (GTEFL's or the Company's) tariff proposal to restructure and reprice local (intraexchange) private line services with an effective date of August 1, 1992.

By Order No. PSC-92-0738-FOF-TL, we delayed the implementation of the restructure until December 1, 1992, due to concerns about the impact of the rate increases on the alarm industry. In the course of extending the effective date, we directed GTEFL to determine if alternatives were available, such as derived channel service or some form of switched service. In response, on October 13, 1992, GTEFL proposed to implement the restructure on December 1, 1992, except for alarm circuits. The Company seeks to delay implementation of the alarm circuit charges until April 1, 1993.

DOCUMENT NUMBER-DATE

14708 DEC 21 1992

PSC-RECORDS/REPORT

## II. GTEFL's Proposed Revision

GTEFL revised the effective date on its filing to December 1, 1992, for all services except for alarm circuits. The Company has proposed an effective date of April 1, 1993, to allow the alarm companies to further migration to other services if desired. The services affected by the delayed effective date include local channels connected to the alarm company premises, the local channel connecting the alarm client to the central office, and any required interoffice channel.

In examining alternatives for alarm companies, GTEFL determined that it does not provide a derived channel service suitable for alarm circuits anywhere in the nation. The Company states that this presents a problem in identifying vendors of the necessary equipment, and selecting equipment that meets GTEFL's technical requirements. To offer the service would require a main monitor location and a microscanner in each central office where an alarm client is located at a cost \$850,000 for seventy (70) central office locations. GTEFL noted that installation practices as well as other methods and procedures would have to be developed along with sales and service procedures before such a service could be brought to the market.

GTEFL further indicated that it has received no requests for this service and believes that there are other viable alternatives for alarm companies. The Company also states that its market research concluded that alarm companies preferred not to have GTEFL involved in the direct provision of alarm service because GTEFL is viewed as a potential competitor. GTEFL points out that the alarm company that protested the rate change, only requested additional time to make a transition and did not request a service alternative be provided by GTEFL.

We have reviewed the information provided by GTEFL. We agree with the Company that the cost of providing a derived channel service coupled with a low prospective demand precludes reasonably offering the service. We note that the delay in the implementation was to allow alarm companies additional time to make adjustments in their service provisions to allow for the rate increases. The original effective date of the restructure was August 1, 1992; the delay until December 1, 1992, has already allowed an additional four months for the alarm companies to institute changes.

Since the principal problem is only with alarm circuits, GTEFL has proposed delaying the alarm restructure until April 1, 1993, with phases 2 and 3 implemented on December 1, 1993 and December 1, 1994, respectively. This schedule would give customers eight (8) months, from the original date of August 1, 1992, to make necessary changes.

Upon consideration, it does not appear to us that eight months is sufficient time for alarm companies to secure other alternatives, especially for parties that may have delayed action until all options were known. Accordingly, we find that the effective date for the restructure and repricing of alarm circuits should be delayed. We will address this issue at a later date. For the remainder of the restructure and repricing of the Company's private line services, we find that Phase I should be effective on December 1, 1992. The second and third phase of the private line restructure and repricing should be implemented on December 1, 1993 and December 1, 1994, respectively.

### III. Complaint By Intermedia

On June 16, 1992, Intermedia Communications of Florida, Inc., (ICI) filed a petition protesting Order No. PSC 92-0401-FOF-TL, approving the restructuring of GTEFL's private line services. In support of its protest, ICI argues that GTEFL's waiver of nonrecurring charges for customers who upgraded their service by purchasing a digital private line service, and the use of customer proprietary [network] information (CPNI) in "competition" with ICI in the marketing of digital private line services to those customers who will migrate to digital service because of the rate increase was anti-competitive.

On July 9, 1992, GTEFL responded to ICI's protest arguing that ICI's petition is procedurally out of time given ICI's broad policy concerns and the Commission's earlier restructuring of LEC private line services by Order No. 23400. Essentially, GTEFL argues that ICI's complaint is with the prior order and not the instant implementation efforts. The Company also argues that the Commission's determinations on CPNI do not apply in the instant situation. According to GTEFL, there is no reason to limit a LEC's use of network related data in view of the extensive regulatory examination of the subject. Finally, GTEFL objects to ICI's characterization of the waiver of nonrecurring charges as

anticompetitive. GTEFL states that such waivers have long been used to mitigate the impact of rate restructuring on customers.

By Order No. PSC-92-0341-FOF-TL, we approved BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's (Southern Bell's) proposal tariff to add Extended Communications Service (EXCS) and Area Communications Service (ACS) to the list of services available through contract service arrangements in Tariff Section A5.7 of the General Subscriber Service Tariff.

Extended Communication Service (EXCS) is an arrangement that provides subscribers to ESSX, Digital ESSX, or PBX service with the ability to extend service from its location to other locations within the same LATA without the use of point-to-point dedicated private line service. EXCS utilizes both the existing Equal Access End Office (EAEO) capability and the interoffice trunking network.

Area Communications Service (ACS) is an arrangement that provides ESSX service systems that serve a single customer calling with abbreviated dialing. Customers owning their own PBX switches can also subscribe to ACS.

ICI filed a petition protesting the proposed tariff on June 3, 1992. ICI is a subscriber to Southern Bell's common line service and a potential subscriber to their private line service. According to ICI's petition, the Commission's decision alters the basic policy framework within which competition for local private line and special access services is allowed or prohibited. ICI further states that approval of the contract service arrangements (CSAs) creates both the incentive and opportunity for Southern Bell to cross-subsidize its competitive offerings in the private line and special access markets by use of its network. Further, Intermedia states that the approval provides no mechanism to review such contracts; has no approved method for allocating the costs of common facilities between monopoly and competitive services; gives Southern Bell the opportunity to use customer proprietary network information; and allows the Company to trap existing customers with CSAs without the benefit of offers from competitors (Alternative Access Vendors).

Southern Bell's response to the petition argues that with respect to the cross-subsidization allegation, the tariff provides that "... rates for contract service arrangements are developed on an individual case basis and include all costs plus an appropriate

level of contribution." Therefore, additional specific guidelines already exist for pricing EXCS and ACS and that elaborate pricing guidelines are not necessary. On contract review, Southern Bell argues that Rule 25-22.036(5), Florida Administrative Code, provides a vehicle whereby an interested party may complain if he thinks there has been predatory pricing. Southern Bell also argues that the imposition of an additional contract review process is unnecessary and anti-competitive. The Company finally argues that, while Order No. PSC-92-0341-FOF-TL does not address customer proprietary information (CPNI), the Commission has rules governing such matters to which Southern Bell adheres. Accordingly, Southern Bell argues ICI's petition should be denied.

It is apparent to us that ICI's protests of Southern Bell's and GTE's tariffs have overlapping concerns. Further, the issues of cross-subsidization and CPNI raise factual matters that can only be resolved through the hearing process. Therefore, we find it appropriate to deny GTEFL's and Southern's requests to deny ICI's protests of the companies' respective tariffs and to set these matters for hearing. The schedule for this proceeding will be set by a subsequent Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, except for the provision of alarm circuits, the effective date for Phase I of GTE Florida Incorporated's restructuring and repricing of private line service is December 1, 1992, as set forth in the body of this Order. It is further

ORDERED that Phases II and III of GTEFL's restructuring and repricing of private line service shall be effective December 1, 1993, and December 1, 1994, respectively, as set forth in the body of this Order. It is further

ORDERED that the implementation of the restructure and repricing of alarm circuits shall be delayed until further addressed by the Commission as set forth in the body of this Order. It is further

ORDERED that the Petitions filed by Intermedia Communications of Florida, Inc., regarding Orders Nos. PSC-92-0341-FOF-TL and PSC-92-0401-FOF-TL are set for hearing as set forth in the body of this Order.



ORDER NO. PSC-92-1473-FOF-TL  
DOCKETS NOS. 910967-TL & 920335-TL  
PAGE 6

By ORDER of the Florida Public Service Commission this 21st  
day of December, 1992.

\_\_\_\_\_  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

by: Kay Flynn  
Chief, Bureau of Records

TH

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 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 or sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.