

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 930007-TI
proceedings against SOUTHNET) ORDER NO. PSC-93-0302-FOF-TI
SERVICES, INC. for violation of) ISSUED: 02/25/93
Rule 25-24.485(1)(i), F.A.C., by)
charging in excess of its)
tariff.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER TO SHOW CAUSE WHY PENALTIES SHOULD NOT BE IMPOSED
FOR NOT BILLING IN COMPLIANCE WITH TARIFFED RATES

Southnet Services, Inc. has been a certificated interexchange carrier (IXC) since October 3, 1989. As a certificated IXC, Southnet is subject to our jurisdiction pursuant to Chapter 364, Florida Statutes.

On November 6, 1992, an investigation into the billing practices of Southnet was initiated, by requesting specific universal call records. Southnet is an operator services provider and its customers for operator services are generally the patrons of call aggregators such as hotels, motels and pay telephone providers. As a result, Southnet does not usually have a pre-existing billing relationship with end users of its operator services. Therefore, Southnet bills most, if not all, of its operator assisted calls through a certificated clearinghouse, Zero Plus Dial, Inc. Accordingly, the Exchange Message Information (EMI) provided by Southnet for the same time frame from Zero Plus Dial, Inc. was also requested. More than 2,650 calls are involved for the three day period audited but, no calls were billed for less than two minutes duration. We believe that it is very unusual for a company, over a three day period, to have no calls billed for less than two minutes. Also, a random sample of these two different call records for the same calls shows that, after rounding up the elapsed conversation time to the next highest one minute interval, an additional minute, and sometimes more, was added by Southnet for billing purposes. The overall duration column includes the time the operator was on the line obtaining billing information. The conversation time column is the time available for two-way conversation. Both the overall duration and

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conversation time come from Southnet's Universal Call Record. The number of minutes billed comes from the EMI data provided to Zero Plus Dial, Inc. by Southnet.

Rule 25-24.485(1)(i), Florida Administrative Code states in part: "Companies shall charge only the rates contained in their tariff." Section 3.3, of Southnet's tariff, Call Billing Mechanism, provides that the billing timing process is activated upon notification from the network that the call attempt has been completed. Further, bill timing ceases when a disconnect signal has been received from the called termination. We interpret this language to mean that customers are charged for conversation time, meaning that time during which two way conversation is possible. The rates applicable to operator assisted calls are set forth in Section 4.8 of Southnet's tariff.

A comparison of the conversation time with the number of minutes billed seems to demonstrate that Southnet has improperly added time to the elapsed time of each call for billing purposes. Accordingly, we find that Southnet should be required to show cause why it should not have its certificate revoked, be fined up to \$25,000, or both for its billing practices in apparent violation of Rule 25-24.485(1)(i). With respect to the level of fine to be imposed, the Commission has not previously dealt with a similar case.

Based on the foregoing,

ORDERED by the Florida Public Service Commission that Southnet Services, Inc. shall show cause why its Certificate of Public Convenience and Necessity should not be revoked, or why it should not be fined up to \$25,000 per violation, or both for violation of Rule 25-24.485(1)(i), Florida Administrative Code. It is further

ORDERED that any response to this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that this docket shall remain open pending resolution of the show cause process.

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By ORDER of the Florida Public Service Commission this 25th
day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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.

This order is preliminary, procedural or intermediate in nature. 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 25-22.037(1), 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 March 17, 1993.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

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If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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.