

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of) DOCKET NO. 950146-TL
appropriate subscriber plant) ORDER NO. PSC-95-0572-FOF-TL
factor to apply to ALLTEL) ISSUED: May 9, 1995
Florida, Inc.)
_____)

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

ORDER REQUESTING INTERPRETATION
OF THE APPLICABILITY OF 47 C.F.R. § 36.154(f) (1987)

BY THE COMMISSION:

Commission Staff, the Office of Public Counsel (OPC), and ALLTEL Florida, Inc. (ALLTEL) began discussions on January 4, 1995, concerning the company's authorized return on equity (ROE) and its projected earnings for 1995 and 1996.

In addition to the possible high level of ALLTEL's projected earnings for 1995 and 1996, there is an issue concerning the Federal Communications Commission's (FCC's) rules on the interaction of the Universal Service Fund and the allocation of costs to the interstate jurisdiction. Staff suggests that ALLTEL's intrastate earnings might be increased by approximately \$1,353,000 in 1995, due to the FCC rule. ALLTEL does not believe that staff's interpretation of the rule is correct. If staff's interpretation is correct, then staff projects that ALLTEL will earn 15.14% ROE for 1995.

To preserve the interests of all parties, ALLTEL presented a proposal for Commission approval. In essence, the agreement provides that ALLTEL shall collect \$1,353,000 of annual revenues subject to refund, pending a ruling by the FCC on the proper interpretation of the rule. The agreement also provides that the Commission will seek a ruling from the FCC concerning the proper interpretation of the rule. If ALLTEL is correct in its interpretation, the revenues shall be released. If staff's interpretation of the FCC rule is correct, then further proceedings are likely after the FCC renders an opinion to address the

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overearnings. By Order No. PSC-95-0370-FOF-TL we approved the agreement.

The request for interpretation prepared by staff is included in this Order as Attachment A. We believe it appropriately states the question for resolution by the Federal Communications Commission. Accordingly, the request for interpretation is approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request for interpretation of the applicability of 47 C.F.R. § 36.154(f) (1987), attached to this Order as Attachment A shall be presented to the Federal Communications Commission. It is further

ORDERED that this docket shall remain open pending the FCC's interpretation of 47 C.F.R. § 36.154(f) (1987), and the final disposition of the revenue held subject to refund.

By ORDER of the Florida Public Service Commission, this 9th day of May, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Ferguson
Chief, Bureau of Records

(S E A L)

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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

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hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Request for Interpretation

The Florida Public Service Commission requests an interpretation of the applicability of 47 C.F.R. § 36.154(f) (1987), Limit on Change in Interstate Allocation, to study areas after 1993 and after that study area's subscriber plant factor (SPF) has reached a level of 25 percent.

47 C.F.R. § 36.154(f)(1) (1987) states:

No study area's percentage interstate allocation for Subcategory 1.3 Exchange Line C&WF and COE, Exchange Line Circuit Equipment Excluding Wideband- Category 4.13 investment as well as associated maintenance and depreciation shall decrease by a total of more than five percentage points from one calendar year to the next as a result of the combined operations of §§ 36.154(d) and 36.641(a) and (b).

Although the transition began in 1986, 47 C.F.R. § 36.154(d) describes the transition mechanism for the allocation factor, known as SPF, from its level in 1988 to 25 percent in 1993. §§ 36.641(a) and (b) describes the transition mechanism for the expense adjustment, commonly known as the Universal Service Fund (USF) amount, from 1988 to its full amount in 1993 and subsequent years.

Application of 47 C.F.R. § 36.154(f) can result in the SPF level being higher than 25 percent in 1993 and subsequent years. This higher level of SPF can occur if a study area's transition SPF declines too much from one year to the next due to 47 C.F.R. § 36.154(d) or if a study area's USF declines too much from one year to the next.

The purpose of 47 C.F.R. § 36.154(f) is to mitigate a large shift in revenue requirements from the interstate jurisdiction to the intrastate jurisdiction in one year and thereby help to stabilize a company's earnings and rates. We believe that this purpose is still valid.

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ATTACHMENT A
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The reference in 47 C.F.R. § 36.154(f)(1) to 47 C.F.R. §§ 36.154(d) and 36.641(a) and (b) makes it clear that the limit on change in interstate allocation applies through 1993. However, it is not clear if 47 C.F.R. § 36.154(f) applies to a study area after 1993 and after its SPF has reached a level of 25 percent. A review of the relevant Federal Communications Commission rules indicates that there is no prohibition against applying 47 C.F.R. § 36.154(f) to a study area after 1993 and after that study area's SPF has reached 25 percent.

Therefore, the Florida Public Service Commission requests an interpretation from the Federal Communications Commission concerning the applicability of 47 C.F.R. § 36.154(f) to a study area after 1993 and after that study area's SPF has reached a level of 25 percent.