

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for approval of) DOCKET NO. 950565-TI
tariff filing to introduce) ORDER NO. PSC-95-0725-FOF-TI
IntraLATA Forgiveness Incentive) ISSUED: June 19, 1995
for CustomNet Service by AT&T)
Communications of the Southern)
States, Inc. (T-95-300 filed)
5-12-95))
_____)

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 DENYING TARIFF

BY THE COMMISSION:

I. Background

On May 12, 1995, AT&T Communications of the Southern States, Inc. (ATT-C) filed a tariff introducing an IntraLATA Forgiveness Incentive. This incentive is exclusively for ATT-C's CustomNet Service customers in the 305 NPA area (Southeast LATA).

ATT-C is targeting its IntraLATA Forgiveness Incentive to certain customers in the 305 NPA. Specifically, ATT-C would allow participation in the IntraLATA Forgiveness Incentive for those customers who: 1) enrolled in AT&T CustomNet IntraLATA Incentives A or P between October 8, 1994 and January 31, 1995, and have experienced EAS (extended area service) changes, or 2) are new subscribers to AT&T CustomNet IntraLATA Incentives A or P. ATT-C is "forgiving" its CustomNet customers who have enrolled in the IntraLATA A or P incentive plan and find it difficult to meet the minimum usage commitment level of the plan.

We note that EAS has not been implemented between Dade and Broward Counties; however, the \$.25 hybrid plan for a limited number of traffic routes has been implemented between Dade and Broward Counties. See Order No. PSC-94-0572-FOF-TL, issued May 16, 1994.

DOCUMENT NUMBER-DATE

05704 JUN 19 95

FPSC-RECORDS/REPORTING

The CustomNet IntraLATA A or P Incentive Plan first ran from October 8, 1994 through January 31, 1995. Since then, four extensions have been approved that will allow this promotion to run through June 30, 1995. This "Forgiveness" plan is an add on to the CustomNet IntraLATA A and P Incentive Plan, but only for those customers in the 305 NPA area.

II. Description of CustomNet IntraLATA Incentive A and P Plans

A. Incentive Plan-P

Plan-P offers incentives to ATT-C's customers with an aggregate average annual intraLATA usage of \$750 at the location level who enroll in the Plan-P for a period of 12 months beginning with the enrollment date. With this incentive, customers who qualify may either elect for: 1) an ATT-C incentive coupon, valued at \$600, for goods and services from participating vendors, or 2) an ATT-C incentive credit of \$600. The incentive credit will be applied to the customer's CustomNet usage on the second full billing statement after the enrollment date. However, customers who enroll in Plan-P but fail to meet the Minimal Annual Average IntraLATA Usage during the 12-month incentive period will be billed \$600.

B. Incentive Plan-A

Plan-A similarly requires a 12-month commitment period, with an aggregate average annual intraLATA usage of \$600 at the location level. Qualified customers may either elect for: 1) an ATT-C coupon for goods and services from participating vendors based on the customer's number of lines, or 2) an ATT-C incentive credit based on the customer's number of lines. If a credit incentive is elected, an amount commensurate to the customer's number of lines will be applied to the customer's CustomNet usage on the second billing statement after the enrollment date. However, customers who enroll in Plan-A but fail to meet the Minimum Annual Average IntraLATA Usage for the 12-month incentive period will be billed the commitment shortfall charge.

C. Forgiveness Incentive

ATT-C's proposed tariff would allow those CustomNet customers in the 305 NPA area a lower minimum annual average usage commitment level. Essentially, ATT-C has reduced the minimum usage level by half, but has retained the same credit/coupon refund amount as the CustomNet IntraLATA incentive plan offers. Customers outside of the 305 NPA area will still have to meet a higher usage amount in order to receive the same credit as those customers in the 305 NPA area.

III. Evaluation of Proposed Tariff

ATT-C has previously attempted to offer promotions which were geographically specific. ATT-C's filings to offer market trial tests which reduced intraLATA rates to residential customers in the Southeast LATA and to residential customers throughout Southern Bell Telephone and Telegraph Company's service territory were denied because of our requirement that ATT-C maintain statewide average rates for residential customers. See Order Nos. 19758, issued August 3, 1988; PSC-94-1043-FOF-TI, issued August 24, 1994; PSC-94-1317-FOF-TI, issued October 26, 1994. As a result, we directed our staff to perform an investigation into deaveraged toll rates. The investigation has been set for hearing on August 28, and August 30 - September 1, 1995 in Docket No. 940880-TP.

ATT-C's proposed tariff is similar to the market trial tests mentioned above in that the Company is offering the Forgiveness Incentive to a specific, limited geographic area, but not to all CustomNet customers throughout the entire state. This proposed incentive plan offered by ATT-C would violate Section 364.08, Florida Statutes, which states:

(1) A telecommunications company may not charge, demand, collect, or receive for any service rendered or to be rendered any compensation other than the charge applicable to such service as specified in its schedule on file and in effect at that time. A telecommunications company may not refund or remit, directly or indirectly, any portion of the rate or charge so specified or extend to any person any advantage of contract or agreement or the benefit of any rule or regulation or any privilege or facility not regularly and uniformly extended to all persons under like circumstances for like or substantially similar service.

ORDER NO. PSC-95-0725-FOF-TI
DOCKET NO. 950565-TI
PAGE 4

In addition, this proposed tariff would violate Section 364.10, Florida Statutes, which provides that:

A telecommunications company may not make or give any undue or unreasonable preference or advantage to any person or locality or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Further, ATT-C's proposed tariff does not meet the provision of Rule 25-24.485(1)(e), Florida Administrative Code, which requires all IXC rates to be tariffed on a nondiscriminatory basis.

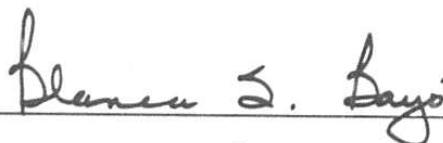
Accordingly, we find that ATT-C's proposed tariff is denied, because it is not consistent with current decisions in which we have denied a similar, geographically specific promotion for the Southeast LATA. See Order No. PSC-94-1043-FOF-TI. This policy is currently under review in Docket No. 940880-TP. We believe that it is premature to approve this tariff when that policy is the subject of a different docket which is set for hearing on August 28, and August 30 - September 1, 1995.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that AT&T Communications of the Southern States, Inc.'s tariff to introduce the IntraLATA Forgiveness Incentive is hereby denied for the reasons set forth in the body of this Order. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 19th day of June, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DLC

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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), 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 July 10, 1995.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

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 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 date this Order becomes final, 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.