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STATE OF FLORIDA  
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c/o The Florida Legislature  
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RECORDS AND REPORTING

May 22, 2001

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

010774-TL

Re: Rulemaking Docket/Rate Change Notice

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Petition to Initiate Rulemaking. A diskette in Word format is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Stephen M. Presnell  
Associate Public Counsel

SMP:bsr

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- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
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DOCUMENT NUMBER-DATE

06465 MAY 22 01

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Citizens of the State of Florida )  
Petition to Initiate Rulemaking )  
\_\_\_\_\_ )

Docket No. 010774-TL  
Filed: May 22, 2001

**PETITION TO INITIATE RULEMAKING**

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Section 120.54(7), Florida Statutes (2000), and Rule 28-103.006, Florida Administrative Code, petition the Commission to initiate rulemaking. The Citizens allege the following:

PARTIES

1. The name and address of the agency affected by this petition is:

Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

2. Petitioners are the Citizens of the State of Florida, represented by the Office of Public Counsel. Notices, pleadings, correspondence and orders in this docket should be served on:

Stephen M. Presnell  
Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

Telephone: 850.488.9330

DOCUMENT NUMBER-DATE

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FPSC RECORDS/REPORTING

## SUBSTANTIAL INTEREST

3. The Public Counsel is appointed to appear on behalf of the State or its Citizens in matters under the jurisdiction of the Public Service Commission pursuant to Sections 350.061 and 350.0611, Florida Statutes (2000). In this petition, the Office of Public Counsel represents customers of telephone companies who are substantially and adversely affected by the failure of the telephone companies to provide reasonable notice directly to each customer prior to any change in rates or other terms and conditions of service that may increase the cost of service to the customers.

4. There is no rule in the State of Florida that requires telephone companies to give customers actual notice before implementing any change in rates or other terms and conditions of service. The only notices that are required are in the form of tariff filings, posting in telephone company offices, annual itemized billing to customers, and requirements for monthly billing (e. g. Rules 25-4.034, 25-4.107, 25-4.110, 25-24.485, 25-24.825, and 25-24.915, F.A.C.).

5. The current notices are clearly inadequate. It is illogical and unreasonable to require customers to wait until they receive a bill or to contact the Commission or visit the telephone company offices on a daily basis to learn of any changes in rates or other terms and conditions of service. In this situation the customers may not know the rates and terms and conditions for services until some days, weeks, or months after rates have increased. In the meantime they are incurring increased rates and higher bills without prior notice. This situation is unfair and unjust. The telephone companies know when they are going to change rates, and terms and conditions, and how to get in touch with their customers. Yet, under the current system, the burden is on the customers. It does

not make any sense. Customers should not be forced to pay any higher rates or receive services under different terms and conditions than those they know about and agreed to.

6. It is a basic principle of the competitive marketplace that customers should know what services they are receiving and the rates and terms and conditions for those services in advance of purchase of those services. If customers do not have this information they will incur excessive charges with no chance to change services, adjust usage or seek competitive alternative providers.

7. Effective competition requires that customers know of available services, the quality of the services, and the rates and terms and conditions for the services. This proposed rule promotes competition by providing reasonable notice to customers.

8. This proposed rule does not prevent the telephone companies from changing rates and terms and conditions -- it merely requires that the telephone companies give customers reasonable notice before the customers incur higher charges or experience a change in services. By including notice of price decreases, the proposed rule also provides the customers information that is necessary for them to evaluate offers for service from competing alternative providers.

#### STATUTORY AUTHORIZATION

9. This proposed rule implements the requirement of the Florida Legislature that the Commission

"shall expand its current consumer information program to inform consumers of their rights as customers of competitive telecommunications services and shall assist customers in resolving any billing and service disputes that customers are unable to resolve directly with the company. The commission may, pursuant to

this program, require all telecommunications companies providing local or long distance telecommunications services to develop and provide information to customers. The commission may specify by rule the types of information to be developed and the manner by which the information will be provided to the customers . . ." (Section 364.0252, Florida Statutes (2000)).

10. Section 364.0252, Florida Statutes (2000), provides the Commission with the authority required by Section 120.536(1), Florida Statutes (2000), to adopt this proposed rule.

#### PROPOSED RULE

11. All telecommunications companies furnishing service within this state shall provide notice of any change in rates or other terms and conditions of service directly to each customer that may be affected by the change. If the change may increase the cost of service for a customer, notice shall be provided at least 30 days in advance of any change in rates or terms and conditions of service. Notice of price increase shall be sent via first class mail. Service by mail of the notice of price increase shall be complete upon mailing. No change in tariffs, price lists, or terms and conditions that may increase the cost of service for a customer will be effective unless notice of the change is provided to customers as required in this rule. In the case of a rate decrease, telecommunications companies shall notify each affected customer no later than the first bill following implementation of the rate change. Any notice required by this sub-section shall be printed in a 12-point type or larger, and shall be clear, conspicuous, and legible. The notice shall include, at a minimum, the name and nature of any and all services to be changed, the past rates and the anticipated new rates. Notice of price increase shall

include as a heading "NOTICE OF PRICE INCREASE" in uppercase, bold print. The envelope containing the notice of price increase shall contain a notice on the front thereof: "NOTICE OF PRICE INCREASE ENCLOSED" in uppercase, bold print. That telecommunications companies have tariffs or price lists for services on file with the commission is not a defense to any action brought for failure to disclose prices for which disclosure is required under this rule.

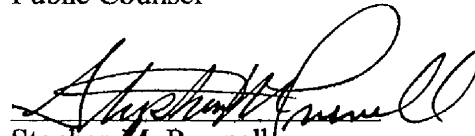
DEMAND FOR RELIEF

12. The Commission should initiate rulemaking proceedings to adopt the rule proposed herein.

WHEREFORE the Citizens of the State of Florida, through the Office of Public Counsel, request the Commission to initiate rulemaking proceedings to adopt the rule proposed herein.

Respectfully submitted,

Jack Shreve  
Public Counsel



Stephen M. Presnell  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

Telephone 850.488.9330

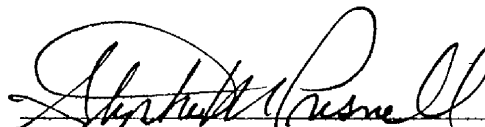
Attorneys for the Citizens  
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the foregoing PETITION TO INITIATE RULEMAKING has been served by hand delivery to the following parties on this 22nd day of May, 2001.

Beth Keating, Esquire  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Richard Bellak, Esquire  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

  
Stephen M. Presnell  
Associate Public Counsel