



VIA OVERNIGHT DELIVERY

29 August 2001

Ms. Blanca Bayó  
Florida Public Service Commission  
Division of Records and Reporting  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0872

RE: Petition of the Citizens Of the State of Florida To Initiate Rulemaking Which Will Require Telephone Companies to Give Customers Reasonable Notice Before Customers Incur Higher Charges or Change in Services, And Allow them to Evaluate Offers For Service From Competing Alternative Providers. Docket No. 010774-TP

Dear Ms. Bayó:

Enclosed are an original and fifteen (15) copies of the *Comments of the Association of Communications Enterprises* in the above referenced proceeding.

Thank you for your attention to this matter. Questions should be directed to the undersigned.

Sincerely,

Association of Communications Enterprises

A handwritten signature in cursive script that reads "Andrew O. Isar".

Andrew O. Isar  
Enclosures

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of the Citizens Of the State of  
Florida To Initiate Rulemaking Which Will  
Require Telephone Companies to Give Customers  
Reasonable Notice Before Customers Incur Higher  
Charges or Change in Services, And Allow them  
to Evaluate Offers For Service From Competing  
Alternative Providers \_\_\_\_\_ /

Docket No. 010774-TP

Filed: August 30, 2001

**COMMENTS OF THE ASSOCIATION OF COMMUNICATIONS  
ENTERPRISES**

The Association of Communications Enterprises (“ASCENT”)<sup>1</sup>, on behalf of its members and pursuant to the Florida Public Service Commission’s July 2, 2001 *Notice of Proposed Rule Development* (“Notice”), hereby comments on the Office of Public Counsel’s proposed regulations governing notice of rate or service changes, as applicable to alternative local exchange companies (“ALECs”) and interexchange companies (“IXCs”). While ASCENT supports the spirit of the proposed rules, the Association urges the development of general service and rate change notification guidelines, rather than strict regulations. Such guidelines will accord needed flexibility to competitive companies, consistent with existing practice, with no added risk to consumers.

**I. Introduction**

ASCENT commends efforts to promulgate rules designed to ensure that Floridians continue to receive high-quality telecommunications services in an emerging competitive market. Yet in this instance, a “one size fits all” approach is overly binding on

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<sup>1</sup> A national industry association, ASCENT represents more than 500 entities engaged in, or providing products and services in support of, the provision of telecommunications services. ASCENT was created, and carries a continuing mandate, to foster and promote telecommunications competition, to support the competitive telecommunications industry, and to protect and further the interests of entities engaged in the provision of competitive telecommunications services. ASCENT is the largest association of competitive carriers in the United States, numbering among its members not only the large majority of providers of domestic interexchange and international services, but the majority of competitive local exchange carriers.

companies who have historically relied on a variety of approaches to notify subscribers. Companies need flexibility to find the best method for notifying customers of service-related changes. The customer notice rules as proposed will act as a regulatory straitjacket, rather than a spur to increased competition in the Florida market, with negligible countervailing benefit to consumers.<sup>2</sup> The Commission should consider adopting more general notification guidelines, as discussed herein.

## II. Questions Regarding Specific Proposed Rules

The Commission's *Notice* raises a series of questions regarding the proposed customer notification rules. ASCENT responds as follows:

1. What is the problem that this rule is intended to correct?

It is not clear to ASCENT what, if any, problem precipitated the proposed rules, or why the proposed rules are now necessary.

2. Does this rule accomplish what it is intended to accomplish?

If the precipitating cause is unclear, the proposed regulations would appear to further burden the Commission and industry without accomplishing any stated objective.

3. Are there any other Commission rules that already address the problems this rule is intended to address?

While ASCENT is not aware of other Commission rules that specifically require competitive carriers to notify customers of rate or service changes, it is instructive to note that Commission Rule 25-22.0406, *Notice and Public Information on General Rate Increase Requests by Electric, Gas, and Telephone Companies*, obligates rate of return companies filing a request for rate increase to notify each affected municipality of the proposed rate increase, and

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<sup>2</sup> For example, the proposed notice regulations dictate that customer notice must be achieved at least 30 days prior to any rate change, and specify the method by which such notice must be accomplished, two aspects of customer notifications that, if modified slightly by individual service providers, would not adversely impact end users.

ensure that a copy of materials filed before the Commission in support of the rate increase are available for public inspection in the company's business offices in each affected city. This rule further requires Companies to distribute to both municipalities and business offices a synopsis of the rate increase request, and must mail a Commission-approved notice to customers regarding the rate increase.

ASCENT recognizes that Rule 25-22.0406 is inapplicable to competitive providers. Ironically, in some respects, the proposed regulation governing customer notice requirements appears more stringent than the provisions Rule 25-22.0406, governing incumbent carriers.<sup>3</sup> ASCENT proposes that a generic *approach*, similar to Rule 25.22.0406 be taken with respect to competitive carrier notification to the public, specifically the use of notification guidelines, rather than strict regulations. Such a requirement achieves the Commission's stated goal of protecting Florida consumers, while allowing service providers the latitude to provide customer service that is best suited for their company, their services, and their individual subscriber base.

4. Are there any other laws (i.e. federal rules, statutes, etc.) which already address the problems this rule is intended to address?

ASCENT is aware of no other laws that specifically address the issue of customer notification of rate and service changes for in-state service. However, the Federal Communications Commission (FCC), as part of its *Detariffing Order*<sup>4</sup>, has implemented regulations governing company disclosure of changes in rates, terms, or conditions of service.<sup>5</sup>

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<sup>3</sup> While Rule 25-22.406 does set forth specific timelines for the accomplishment of notice requirements, and specifies particular documents carriers are to include in the notice, the regulation does not stipulate particular language carriers must use in drafting those notices, nor does it detail the means by which consumer notice shall be accomplished, as does the notice regulation proposed by the Office of Public Counsel.

<sup>4</sup> *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61, Second Order On Reconsideration And Erratum* (March 31, 1999). ("Detariffing Order")

<sup>5</sup> *Id.* at Paragraph 18.

Under the FCC's public disclosure rules, companies who have a Website must post all rates, terms, and conditions of service online.<sup>6</sup> Further, companies must have available for public inspection at no less than one physical location a copy of all rates, terms, and conditions of service.<sup>7</sup> Service providers must update all information "in a timely manner" as new rates, terms, and conditions of service are adopted.<sup>8</sup> Any further communications with end users regarding company rates, terms, or conditions is left to the discretion of the individual service providers.

The FCC's regulations also take a more general approach in directing companies to ensure that consumers remain informed of company rates, terms, and conditions of service. The FCC's rules, most importantly, recognize the need to give individual companies the latitude to provide customer notice of changes in service in a manner that is most effective for that company's subscribers and the company itself. Competitive carriers should retain such flexibility in customer notification requirements, consistent with the spirit and intent of the FCC's notice requirements.

5. What are the costs involved if this rule is adopted?

ASCENT cannot ascertain implementation costs for its members, but maintains that any new costs associated with stringent regulations should be considered unnecessary.

6. Are there other noticing mechanisms that would accomplish the same goal at less cost?

Yes. Companies have historically notified customers of service changes through a variety of approaches, including direct mail, bill inserts or notices, and newspaper advertisements. In the future, Internet-based notices may become increasingly effective in

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<sup>6</sup> 47 C.F.R. §42.10 (b)

<sup>7</sup> 47 C.F.R. §42.10 (a)

<sup>8</sup> 47 C.F.R. §42.10

conjunction with other notification methods, as the FCC envisions. Companies routinely determine (and should be allowed to determine) how to most effectively communicate with their customers.

7. Are companies already providing notice to customers in regard to changes in rates? If so, how?

Please see response to Question 6, above.

8. Should customers be notified of a rate decrease?

Whether to notify customers of a rate decrease should be left to the discretion of an individual company. As ASCENT has argued, companies operating in a competitive environment require the flexibility to be able to communicate with their customers in a way that is most effective for their businesses and their individual subscriber bases. Many companies will see rate decreases as marketing tools to highlight competitive services pricing. Further, as rate decreases do not have an adverse financial impact on customers, as might a rate increase, the lack of specific Commission rules regarding rate reduction notices should not adversely impact consumers. There is no need to establish regulatory notification obligations for rate decreases.

9. How many complaints has your company received from customers when rates are changed without notice?

This question is inapplicable to ASCENT.

10. What changes in terms and conditions should be subject to the noticing requirement?

ASCENT recognizes that consumers should be apprised of changes to services that will affect the consumer's charges or conditions for service. Consumers must have the ability to obtain information to make informed decisions regarding their telecommunications

services.<sup>9</sup> To this end, notice requirements, if adopted, should apply to rate increases and to changes in terms or conditions of contracts that will affect the service provided to the customer.

11. Does “customer” include wholesale customers?

The relationship between carriers is typically governed by an interconnection agreement, contract, or tariff. Given the inherent legal protection afforded carriers by these agreements, there is little need to establish specific notice requirements for service changes to wholesale customers of competitive carriers.

However, additional Commission protection is necessary for wholesale customers of incumbent local exchange carriers. Incumbent carriers have historically proven unwilling suppliers (and competitors). Competitor enforcement of contract or tariff provisions and performance assurance plans alone is inefficient and costly, particularly for smaller companies. Competitors require specific Commission notice obligations that will serve as a basis for compelling incumbent compliance.

12. What is meant by “cost of service” and why is that phrase used when the rest of the rule refers to a “price increase”?

ASCENT takes no position with regard to this question.

13. Should companies be required to provide a copy of their notices to the Commission?

Companies should not be required to provide a copy of their notices to the Commission. Rather, the Commission should require provision of company notice on an *ad hoc* basis, when a complaint arises, signaling the need for Commission review. Absent customer dissatisfaction, however, requiring Commission review of each and every company rate change

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<sup>9</sup> As the FCC noted in its *Detariffing Order*, “...the growth of competition in the long distance market means that consumers have more choices and, in turn, need more information in order to choose the long distance service plan that best suits their needs.”

notice unnecessarily increases administrative burdens not just on individual companies, but on valuable Commission resources.

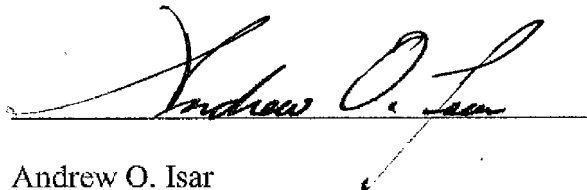
### III. Conclusion

In an emerging competitive market, competing companies should be accorded greater flexibility in the meeting of service quality obligations that are more administrative in nature and which do not directly affect service quality. Strict regulations governing customer notice of service changes are increasingly unnecessary as customers are able to avail themselves of greater competitive choice. For the reasons stated herein, ASCENT urges the Commission to amend its proposed customer notice requirements consistent with the foregoing.

Respectfully Submitted,

ASSOCIATION OF COMMUNICATIONS ENTERPRISES

By:



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August 31, 2001



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Citizens Of the State of )  
Florida To Initiate Rulemaking Which Will )  
Require Telephone Companies to Give Customers ) Docket No. 01074-TP  
Reasonable Notice Before Customers Incur Higher )  
Charges or Change in Services, And Allow Them ) August 29, 2001  
To Evaluate Offers For Service From Competing )  
Alternative Providers )

CERTIFICATION

This is to certify that on August 29, 2001, an original and fifteen (15) copies of the *Comments of the Association of Communications Enterprises* have been sent via overnight delivery to Ms. Blanca S. Bayo, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd, Tallahassee, FL 32399-0850, and copies of the foregoing have been mailed via first class mail, postage prepaid, to:

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