

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL
ORDER NO. PSC-03-1061-PCO-TL
ISSUED: September 23, 2003

ORDER ON ISSUES FOR HEARING

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth) (collectively "ILECs"), each filed petitions pursuant to Section 364.164, Florida Statutes, and respective Dockets Nos. 030867-TL, 030868-TL, and 030869-TL have been opened

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to address these petitions in the time frame provided by Section 364.164, Florida Statutes. On September 4, 2003, the Order Establishing Procedure for these Dockets, Order No. PSC-03-0994-PCO-TL, was issued setting the schedule and procedure for these cases, as well as consolidating the Dockets for hearing. Thereafter, on September 11, 2003, Commission staff conducted an Issues Identification meeting with all of the parties in an effort to identify and define the issues that should be addressed at hearing.

As a result of the Issues Identification meeting, an agreement was reached on a number of the issues to be addressed. However, there was disagreement regarding the wording of two issues.

I. DISPUTED ISSUE 1

Specifically, with regard to the first disputed issue, Commission staff had proposed the following language:

Will the ILECs' rebalancing proposals result in benefits for residential consumers? If so, what are the benefits?

The Office of Public Counsel (OPC), as well as the American Association of Retired Persons (AARP), however, preferred that the phrase "net overall" be inserted before the word "benefits" in the language identified above. The ILECs disagreed with the both Commission staff's proposal and OPC's proposal, preferring instead that the language be identical to the language in the statute, such that the issue would read:

Will the ILECs' rebalancing proposals result in the creation of a more attractive competitive local exchange market for the benefit of residential consumers?

OPC and AARP argue that without the inclusion of the phrase "net overall", the issue does not properly recognize the pluses and minuses that must be considered in order to determine whether there is truly an ultimate overall benefit for customers. OPC maintains that the legislative history behind the new statute clearly indicates that the Commission is to consider whether there will be

overall benefits for customers, not just whether there will be any benefits for customers.

The ILECs, however, argue that the issues should reflect only what the Legislature intended the Commission to address. They contend that the issues should not enlarge the scope of the Commission's consideration beyond that contemplated by the Legislature, as clearly set forth in the statutory language, nor should the issues create standards that are not in the statute.

Decision

Upon consideration, I find that the issue shall be defined as set forth in Issue 1(c) in the list in Section III of this Order. Not only does this version specifically reference the statute, thereby recognizing the language identified by the Legislature, but it also provides adequate opportunity for all parties to present their arguments regarding how that language should be construed for purposes of our final decision.

II. DISPUTED ISSUE 2

The second disputed issue was proposed by Commission staff as follows:

Do the ILECs' rebalancing proposals induce enhanced market entry?

OPC and AARP indicate that they would prefer the following language:

What effects will the ILECs' proposed rebalancing have to induce enhanced market entry?

The ILECs, however, again argue that the issue should track the statutory language and should not be worded in such a way as to expand the scope of the proceeding beyond that contemplated by the Legislature.

Decision

Upon consideration, I find that this issue shall be defined as set forth in Issue 2 in the list in Section III of this Order. As with the decision above, the language identified in Issue 2 appropriately reflects the statutory language, while providing adequate room for the parties to present their arguments regarding the interpretation of that language.

I note that the decisions herein should not be construed as acknowledging that the statutory language is, in fact, subject to interpretation. Rather, this Order merely frames the issues in such a way as to allow all parties to present their arguments so that we will have a full and accurate record upon which to base our final decision in this matter.

III. ISSUES LIST

Based on the foregoing, the Issues for this proceeding are as follows:

1. Will the ILECs' rebalancing proposals remove the current support for basic local telecommunications services that prevents the creation of a more attractive competitive market for the benefit of residential consumers?
 - A. What is a reasonable estimate of the level of support provided for basic local telecommunications services?
 - B. Does the current level of support prevent the creation of a more attractive competitive local exchange market for the benefit of residential consumers?
 - C. Will the ILECs' rebalancing proposals benefit residential consumers as contemplated by Section 364.164, Florida Statutes? If so, how?
2. Will the effects of the ILECs' rebalancing proposals induce enhanced market entry? If so, how?

3. Will the ILECs' rebalancing proposals reduce intrastate switched network access rates to interstate parity over a period of not less than two years or more than four years?
4. Are the ILECs' rebalancing proposals revenue neutral, as defined in Section 364.164(2), Florida Statutes?
5. Should the ILECs' rebalancing proposals be granted or denied?
6. Should these Dockets be closed?

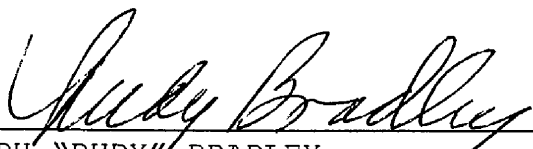
Prefiled testimony and exhibits, as well as prehearing and post-hearing statements, shall address these issues, unless otherwise modified by the Prehearing Officer or the Commission.

It is therefore

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the dispute regarding the issues for this proceeding is resolved as set forth in the body of this Order. It is further

ORDERED that the Issues identified for this proceeding are as set forth in the body of this Order.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 23rd Day of September, 2003.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code; or (2) 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 the Commission Clerk and Administrative Services, 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.