

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the Inter-)	DOCKET NO. 870675-TL
connection of Mobile Carriers with)	ORDER NO. 20554
Facilities of Local Exchange Companies)	ISSUED: 1-5-89

The following Commissioners participated in the decision not to refer the issue of whether Commission jurisdiction should be asserted over mobile carriers from the three-member panel assigned to this proceeding to the full Commission for disposition :

KATIE NICHOLS, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON
 MICHAEL MCK. WILSON

After the decision was reached not to refer this issue to the full Commission, the following Commissioners participated in the disposition of this issue:

GERALD L. GUNTER
 JOHN T. HERNDON
 MICHAEL MCK. WILSON

APPEARANCES: JOHN P. FONS, Esquire, Aurell, Fons, Radey & Hinkle, P. O. Drawer 11307, Suite 1000, 101 N. Monroe Street, Tallahassee, Florida 32301; and ROBERT J. MCKEE, JR., 1200 Peachtree Street, N.E., Atlanta, Georgia 30357 on behalf of AT&T Communications of the Southern States, Inc.

PATRICK K. WIGGINS, Esquire, Ranson & Wiggins, Post Office Drawer 1657, Tallahassee, Florida 32302 and FREDERICK W. JOHNSON, Suite 600, 5600 Glenridge Drive, Atlanta, Georgia 30342 on behalf of BellSouth Mobility, Inc.

LEE L. WILLIS, Esquire, and JAMES D. BEASLEY, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, Florida 32302 on behalf of Central Telephone Company of Florida.

C. EVERETT BOYD, JR., Esquire, Ervin, Varn, Jacobs, Odom & Kitchen, 305 South Gadsden Street, Tallahassee, Florida 32301 on behalf of Florida Radio Telephone Association, Inc.

THOMAS R. PARKER, Esquire, GTE Florida Incorporated, P. O. Box 110 MC 7, Tampa, Florida 33601-0110 on behalf of GTE Florida Incorporated.

KATHYRN G.W. COWDERY, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308; and WANDA L. MCKEE, Esquire, and RICHARD STIMSON, Esquire, 616 FM 1960 West, Suite 400, Houston, Texas 77090 on behalf of GTE Mobilnet, Inc.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. 20554
 DOCKET NO. 870675-TL
 PAGE 2

BRUCE W. RENARD, Esquire, and FLOYD SELF, Esquire, Messer, Vickers, Caparello, French and Madsen, Suite 701, First Florida Bank Building, Post Office Box 1876, 215 South Monroe Street, Tallahassee, Florida 32302-1876; WILLIAM F. SQUADRON, Esquire, Morrison & Foerster, 2000 Pennsylvania Avenue, Washington, D.C. 20006; and KAREN SHINEVAR, Esquire, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036; on behalf of McCaw Cellular Communications, Inc.

RICHARD D. MELSON, Esquire, Hopping, Boyd, Green and Sams, Suite 420, First Florida Bank Building, Post Office Box 6526, Tallahassee, Florida 32314 on behalf of MCI Telecommunications Corporation.

R. DOUGLAS LACKEY, Esquire, and WILLIAM ELLENBERG, Esquire, Southern Bell Telephone and Telegraph Company, 4300 Southern Bell Center, Atlanta, Georgia 30375, and SID J. WHITE, Esquire, 150 West Flagler Street, Suite 1901, Miami, Florida 33130 on behalf of Southern Bell Telephone and Telegraph Company.

ALAN N. BERG, Esquire, United Telephone Company of Florida, P. O. Box 5000, Altamonte Springs, Florida 32716-5000 on behalf of United Telephone Company of Florida.

CHARLES J. BECK, Esquire, Office of the Public Counsel, c/o The Florida House of Representatives, The Capitol, Tallahassee, Florida 32399-1300 on behalf of the Citizens of the State of Florida.

PRENTICE P. PRUITT, Esquire, and WILLIAM BAKSTRAN, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862 on behalf of the Commissioners.

DONALD L. CROSBY, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863 on behalf of the Commission Staff.

FINAL ORDER ON JURISDICTION

BY THE COMMISSION:

At the Special Agenda Conference held on November 16, 1988, the three-member panel disposed of all issues in the above-captioned proceeding except the following issue:

Issue 1A: Under what circumstances, if any, is a mobile carrier an IXC for purposes of Florida Public Service Commission jurisdiction under Florida law? What regulatory requirements should apply?

ORDER NO. 20554
DOCKET NO. 870675-TL
PAGE 3

With regard to this issue (herein, the "Jurisdiction Issue"), the panel voted two-to-one to refer it to the full Commission for disposition. However, Rule 25-22.0355(3), Florida Administrative Code (the Rule), provides that a majority of the Commission must decide that the full Commission shall hear a case assigned to a panel.

The question of whether the Jurisdiction Issue should be referred was presented to the full Commission at its Agenda Conference held on December 20, 1988, in order for the Rule to be applied. The full Commission voted three-to-two against referral, and consequently the Jurisdiction Issue was not referred to the full Commission.

Accordingly, the three-member panel considered the Jurisdiction Issue at the December 20, 1988 Agenda Conference. The panel decided not to assert jurisdiction over mobile carriers at this time.

In view of the foregoing, it is

ORDERED by the Florida Public Service Commission that the hearing issue regarding whether mobile carriers fall under Commission jurisdiction as interexchange carriers shall not be referred to the full Commission for disposition. It is further

ORDERED that Florida Public Service Commission jurisdiction will not be asserted over mobile carriers at this time. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission,
this 5th day of JANUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DLC

Commissioner Gunter dissenting to the votes of Commissioners Herndon and Wilson to refer the Jurisdiction Issue to the full Commission for disposition.

Commissioners Herndon and Wilson dissenting to the full Commission's decision not to refer the Jurisdiction Issue to the full Commission for disposition.