

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed tariff filing to introduce) DOCKET NO. 910179-TL
 Extended Calling Service (ECS) plan which)
 allows the conversion of intraLATA toll) ORDER NO. 24488
 routes between exchanges of Tampa, Clear-)
 water, Tarpon Springs and St. Petersburg) ISSUED: 5/7/91
 to 7-digit local measured service, by GTE)
 FLORIDA, INC. (T-91-037 filed 1/29/91))
)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER

ORDER GRANTING REQUEST FOR HEARING

BY THE COMMISSION:

On January 29, 1991, GTE Florida, Incorporated (GTEFL or the Company) filed proposed revisions to its General Subscriber Services Tariff to introduce its Extending Calling Service (ECS) Plan in four exchanges. As proposed, the ECS Plan (the Plan) would convert all intraLATA (local access transport area) toll routes between the exchanges of Tampa, Clearwater, Tarpon Springs, and St. Petersburg to seven-digit local measured service (LMS). Under the ECS Plan, calls between these four exchanges would be billed on a nondistance-sensitive per minute basis, at rates approximately seventy percent (70%) below current intraLATA toll rates. The Plan would be implemented automatically for all customers in the designated exchanges and would have no effect upon either present basic local service rates or current local calling scopes. In its filing, the Company requested an effective date of January 1, 1992.

On March 5, 1991, the Florida Interexchange Carriers Association (FIXCA) filed a Petition requesting that we reject GTEFL's tariff filing outright or, in the alternative, that we hold a hearing on this matter prior to taking action on the tariff. As grounds for its Petition, FIXCA states that its members are presently authorized to compete with GTEFL, through resale, for toll traffic between the designated exchanges and that, effective January 1, 1992, its members will be permitted to carry this same toll traffic over their own facilities under existing Commission orders. However, FIXCA alleges, "GTEFL's pricing proposal will effectively and unilaterally remonopolize these services through predatory pricing..." FIXCA further alleges that GTEFL itself

DOCUMENT NUMBER-DATE

04436 MAY-7 1991

PSC-RECORDS/REPORTING

ORDER NO. 24488
DOCKET NO. 910179-TL
PAGE 2

admits that its proposal does not qualify as extended area service (EAS) under Commission rules. Being indistinguishable from toll service, FIXCA continues, the Plan must recover access charges in the aggregate and fails to do so. For these reasons, FIXCA urges that a hearing be held to evaluate the ramifications of this tariff filing.

Chapter 120, Florida Statutes, requires that agencies afford notice and an opportunity to be heard to those whose substantial interests are affected by agency action. Section 120.57(1) requires a formal evidentiary proceeding where there are disputed issues of material fact. We are not required, however, to postpone action on a tariff when a hearing has been requested.

Upon consideration of the matters set forth in FIXCA's Petition, we find it appropriate to set this matter for hearing. In addition, we find it appropriate to take no further action on this tariff filing, pending the outcome of the hearing. We note that GTEFL has waived the sixty-day statutory tariff suspension deadline. Finally, we believe that customer hearings should be held in the areas where this service is proposed. To that end, the Prehearing Officer shall determine the appropriate location(s) and date(s) for customer hearings.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition filed on March 5, 1991, by the Florida Interexchange Carriers Association is hereby granted to the extent outlined herein. It is further

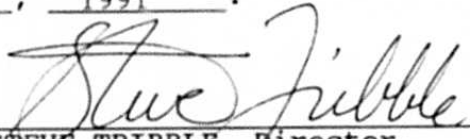
ORDERED that customer hearings shall be scheduled in this docket as set forth herein. It is further

ORDERED that a Section 120.57(1), Florida Statutes, hearing shall be scheduled in this docket for the reasons set forth in the body of this Order. It is further

ORDERED that this docket shall remain open.

ORDER NO. 24488
DOCKET NO. 910179-TL
PAGE 3

By ORDER of the Florida Public Service Commission, this 7th
day of MAY, 1991.


STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

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 25-22.038(2), Florida Administrative Code, if issued by a Preheating Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, 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

ORDER NO. 24488
DOCKET NO. 910179-TL
PAGE 4

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.