

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Ron White) DOCKET NO. 920956-TP
against AT&T COMMUNICATIONS and) ORDER NO. PSC-92-1321-FOF-TP
GTE FLORIDA INCORPORATED) ISSUED: 11/16/92
regarding responsibility for)
disputed calling card charges)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CUSTOMER COMPLAINT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On April 27, 1992, Ron White contacted the Public Service Commission's Division of Consumer Affairs (Consumer Affairs) and filed a complaint against GTE Florida Incorporated (GTEFL) and AT&T Communications of the Southern States, Inc. (ATT-C) regarding disputed calling card charges billed to his account. Consumer affairs investigated the complaint, and made an initial determination that it appeared Mr. White was responsible for payment of the charges in question. Mr. White was advised of this determination on August 4, 1992. Pursuant to Rule 25-22.032, Florida Administrative Code, Mr. White subsequently requested an informal conference.

The informal conference was held in St. Petersburg on September 16, 1992, and was attended by Mr. White, the Consumer Affairs staff, and representatives from GTEFL and ATT-C. The parties were unable to resolve the issues, and Mr. White requested that the matter be brought before the Commission.

The primary facts necessary to resolve this matter are as follows. In October 1991, Mr. White established phone service at his residence in St. Petersburg. His service was transferred to a new address on or about January 23, 1992. In March 1992, GTEFL billed Mr. White \$889.33 at his new address, for credit card calls

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made between January 2 and January 22, 1992, prior to Mr. White's service being transferred. That group of calls had been the subject of a dispute by another resident of the premises, and were subsequently rebilled to Mr. White's account when his service was transferred to that address.

Rule 25-4.113, Florida Administrative Code, sets forth the conditions upon which the utility may refuse or discontinue phone service to a customer. Upon review, nothing in the facts presented to us warrants GTEFL's discontinuation of Mr. White's service within the provisions of Rule 25-4.113. None of the facts suggest that Mr. White is responsible for the calls. First, the calls in question were made from the residence before Mr. White's service was transferred there. Additionally, the calling card used to make the calls was not issued in his name. To our knowledge, Mr. White did not initiate any of the calling card calls.

The calling card calls for which Mr. White was billed totalled \$889.33. At the September 16 informal conference, Mr. White agreed to pay \$91.80 for those calls which were initiated from his phone. This reduces the amount of disputed charges to \$797.53. Additionally, GTEFL's tariffs provide for a 1.5% late payment charge per month on outstanding balances. Mr. White was advised at the informal conference that he could pay separately for those calls which were made from his phone. Thus, we believe it is appropriate for GTEFL to remove late payment charges for the entire \$889.33.

Upon review, we find that Mr. White is not responsible for the disputed calls made prior to January 23, 1992. Accordingly, GTEFL shall remove disputed charges in the amount of \$797.53 from Mr. White's account. Mr. White shall pay the undisputed charges of \$91.80, as he agreed. If Mr. White pays the agreed upon amount of \$91.80, then GTEFL shall not discontinue his service for nonpayment of the disputed calls.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that GTE Florida Incorporated shall not disconnect Mr. White's service for nonpayment of charges in the amount of \$797.53. Mr. White shall pay \$91.80 for those calls which he has acknowledged are undisputed. It is further

ORDERED that the 1.5% late payment charges shall also be removed from Mr. White's account. It is further

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ORDERED that if no timely protest is filed in accordance with the requirements below, then this docket shall be closed.

By ORDER of the Florida Public Service Commission this 16th day of November, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

By Kay Flynn
Chief, Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 7, 1992.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.