

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 920987-TI
interexchange telecommunications) ORDER NO. PSC-93-0535-FOF-TI
companies' cellular pay) ISSUED: 04/08/93
telephone tariff provisions.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER DENYING APPROVAL OF PROPOSED TARIFF FILING

On October 28, 1991, we issued Order No. 25264 concluding that exemption of cellular carriers from the definition of telecommunications company in Section 364.02, Florida Statutes, should be narrowly construed. We further concluded that we had regulatory jurisdiction over pay telephone service using cellular technology. However, we also noted that these conclusions were based on the facts in that particular docket and that as a declaratory statement the effect of Order No. 25264, while persuasive, was not binding on any entities not a party to the docket.

In a subsequent Order (Order No. 25799, dated February 24, 1992) we directed our staff to conduct an investigation into cellular pay telephone regulations. Staff has conducted informal workshops and selected information from interested and affected parties concerning the nature and effect of our assertion of jurisdiction over cellular pay telephone service.

On April 16, 1992 Southnet Services, Inc. filed a tariff to offer Alternative Operator Services to Cellular Pay Telephone Services. The rates in the proposed tariff exceeded the rate caps established in Order NO. 20489. Based on the information before us, we can find no evidence that substantially differentiates the services described in Order No. 25799 from those described in Southnet's proposed tariff. Whether our Rules should be revised to reflect the operating costs associated with cellular pay telephone service is beyond the scope of the current proceeding. It is sufficient to note that Southnet's rates exceed the currently established rates for interexchange carriers (IXCs) providing alternative operator service to pay telephone service and that the company neither distinguishes its services from currently available

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services nor petitions for rulemaking. In any event, at this time we find no cause to approve Southnet's tariff as filed. We do find it appropriate to direct our staff to continue to move forward with a generic investigation into issues relating to the cellular pay telephone industry.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that approval of tariff T-92-268 filed on April 16, 1992 by Southnet Services, Inc. is hereby denied. It is further

ORDERED that any protest of this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that this docket shall remain open pending the close of the protest period in the Proposed Agency Action also issued in this docket.

By ORDER of the Florida Public Service Commission, this 8th day of April, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

Commissioner Laredo dissented in favor of deferring action on these tariffs pending decisions on the generic issues.

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 Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), 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 April 29, 1993.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

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 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 date this Order becomes final, 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.