

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 920987-TI
interexchange telecommunications) ORDER NO. PSC-93-0539-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

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING TARIFF REVISION AND
ORDER DENYING APPROVAL OF PROPOSED TARIFF FILING

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 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.

Protel Services has been a certificated interexchange carrier (IXC) since May 1, 1993. As an IXC, Protel is subject to our jurisdiction pursuant to Chapter 364, Florida Statutes.

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On May 7, 1991 Protel filed a tariff with discrete rates and charges for cellular pay telephone service. The rates for cellular pay telephone service exceeded the rate caps established in Orders Nos. 20489 and 14132.

Protel was contacted and informed of this discrepancy. The company was also requested to revise its tariff to conform to currently established rate caps. The company has declined to do so.

At this time we have no request to differentiate between conventional and cellular pay telephone service rather we simply have a tariff that does not conform to current rate caps. While we will direct staff to continue to study the regulatory effects on the cellular pay telephone industry, we find it appropriate to direct Protel to revise its tariff.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Protel, Inc. shall file a revised tariff, Section 4, Part 2, Cellular Originated COCOPTPhone, that shall conform to currently established rate caps. 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 resolution of any protest of this Order and the Order Denying Tariff Approval also filed 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

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 April 29, 1993.

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.