

ORDER NO. PSC-93-0562-FOF-TL
DOCKETS NOS. 920193-TL, 920188-TL
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the Company). After consideration of the record in this case, we now enter our order.

FINAL ORDER ESTABLISHING RATES AND CHARGES
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER TRUEING-UP REVENUES AND REMOVING
GTEFL FROM INTERLATA ACCESS SUBSIDY POOL

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed in Section VI of this Order 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.

I. CASE BACKGROUND

By Order No. PSC-92-0028-FOF-TL, issued March 10, 1992, in Docket No. 911108-TL, the Commission disposed of ALLTEL Florida, Inc.'s (ALLTEL's or Company's) 1991 overearnings, reduced the Company's interLATA subsidy, and disposed of projected 1992 overearnings. The remaining issue in that docket was whether the Commission should hold a hearing to determine whether to adjust ALLTEL's equity ratio for purposes of calculating an amount to be held subject to refund, pending the outcome of the Modified Minimum Filing Requirements (MMFR) Docket. By Order No. PSC-92-0140-FOF-TL, issued April 1, 1992, ALLTEL agreed to place \$600,000 subject to refund, rather than hold a hearing, pending the outcome of the MMFR docket, effective January 7, 1992.

On March 31, 1992, ALLTEL filed its MMFRs in conformance with Section 364.035, Florida Statutes. The Office of Public Counsel (OPC) intervened in the case on behalf of the Company's customers.

A service hearing was held on October 1, 1992, in Live Oak; however, no customers were in attendance. A prehearing conference was held on November 23, 1992, before Commissioner Betty Easley, acting as prehearing officer. Prehearing Order No. PSC-92-1373-

PHO-TL was issued November 25, 1992. Due to the impending unavailability of one of two members of the Commission panel, the parties stipulated to the conduct of the hearing before Commissioner Thomas M. Beard, acting as a Hearing Officer. The hearing was held on November 30, 1992.

On December 17, 1992, the Hearing Officer issued Order No. PSC-92-1435A-PCO-TL, entitled "Amended Order Establishing Post-Hearing Procedure." By this Order, the Hearing Officer stated that the filing requirements set forth in the Division of Administrative Hearings (DOAH) Rules on Post-Hearing Procedure should be followed in this proceeding. ALLTEL and OPC filed proposed findings of fact.

The substantive aspects of this case are governed by Section 364, Florida Statutes, and Chapter 25-4, Florida Administrative Code. The procedural aspects of this case are governed by the provisions of Chapter 120, Florida Statutes, and Chapter 25-22, Florida Administrative Code.

The text of the Hearing Officer's Recommended Order, beginning with Findings of Fact, is set forth below.

II. FINDINGS OF FACT

The following abbreviations are used in this section for purposes of citation: "TR" for Transcript, "EXH" for Exhibit No., "LF EXH" for Late-filed Exhibit No., and "p." and "pp." for page(s).

ISSUE 1: Is the quality of service adequate?

1. Staff performed a "mini" service evaluation during the period of August 17th through September 11, 1992. (TR 33)
2. This involved 4 of the 27 exchanges within ALLTEL's territory. (TR 33)
3. Of the 63 local exchange company standards measured, ALLTEL failed to meet 16. (TR 34)
4. Eleven of the failures related to the Company's pay telephone operations. (TR 34; EXH 12, p. 6)

5. Seven of the failures were rules violations. (TR 34)
6. Of the remaining five failures, two were rules violations and three were missed standards. (TR 34)
7. The two rules violations involved adequacy of directory services (EXH 12 p. 5) and subscriber loops. (EXH 12, p. 8)
8. ALLTEL has filed its response to the service evaluation. (EXH 11)
9. The full description of the corrective actions implemented by ALLTEL satisfactorily addresses the service evaluation violations. (TR 35; EXH 11, pp. 1-8 & Attachment I pp. 1-2)
10. The majority of customer complaints involved service problems and delay connects. There were eight service problems and seven delay connects. (TR 33)
11. During the recent evaluation, staff found two instances of delay connects out of 143 installations from the offices reviewed. This amount is within the requirements of Commission rules. (TR 33)
12. ALLTEL'S ratio of .879 complaints/1000 customers places it well above the state average of .242 complaints/1000 lines. (EXH 12, p. 10)
13. There is generally a lack of detail given in the reports on follow-up action, credits provided, and events leading up to the initial complaint. (TR 44)
14. With the recent conversion of the Brooker office, over 98 percent of ALLTEL's customers are now served by digital switching technology. (TR 27-28)
15. This will have a positive impact on ALLTEL's ability to meet customer needs. (TR 27)
16. Staff has computed ALLTEL'S service evaluation performance using the weights and rule standards which are proposed for adoption. (TR 36)

17. As a result, ALLTEL achieved a weighted score of 72.6 points as compared with the minimum score of 75.0 if every rule is met. (TR 36)

18. If the weighted index had been applied to those categories not measured in this evaluation, but which were above the standards in the 1990 evaluation the total points received would be 74.7 instead of the 72.6. (TR 37)

19. Since this is very close to the minimum standard of 75 points and is a major improvement over the 57.1 overall points scored in the 1990 evaluation, no penalty should be levied. (TR 37)

ISSUE 2: What is the appropriate amount of rate base for the test year?

20. ALLTEL provided budget data for 1992 and 1993, for Commission use in this proceeding to set future rates. (TR 330)

21. ALLTEL's adjusted forecast reflects a rate base of \$74,056,000. (EXH 37, p. 15)

ISSUE 3: What is the appropriate cost of common equity for the test year?

22. A firm's equity ratio is a significant factor in determining its cost of capital. (TR 221)

23. ALLTEL's forecasted equity ratio for 1993 is 56.92%. (TR 191, 193; EXH 37, p. 16)

24. The following leverage formula calculates the cost of equity for comparable companies at different equity ratios:

$$8.76\% + 1.683/ER$$

where ER is the equity ratio. (TR 221-223; EXH 27, p. 1; LF EXH 35)

25. At 56.92%, this leverage formula calculates a cost of equity of 11.72%. (LF EXH 35)

26. The above leverage formula is derived from a discounted cash flow analysis of the Regional Bell Holding Companies and a risk premium analysis of Moody's Natural Gas Distribution index. (TR 224, pp. 1-10; EXH 27)

27. An adjustment to recognize the additional risk of BBB rated companies is included in the leverage formula. (TR 224; EXH 27, p. 1)

28. Telephone companies and natural gas distribution companies face similar business risk and have similar risk profiles. (TR 240-241, 246-247)

29. The leverage formula considers business risk. (TR 254)

30. ALLTEL proposes a 13.2% cost of equity (TR 51-52)

31. ALLTEL faces a somewhat unique form of business risk since it has a heavy reliance on the Universal Service Fund. (TR 56)

ISSUE 4: Is the Company's proposed test year equity ratio prudent and reasonable? If not, how should this be treated?

32. For 1993, ALLTEL's equity ratio as forecasted is 56.92%. (TR 191, 193; EXH 37, p. 16)

33. ALLTEL has approximately 62,000 access lines (TR 209)

34. Central Telephone Company of Florida (Centel), the next largest local exchange company, has approximately 240,000 access lines. (TR 209)

35. Centel is the smallest local exchange company in Florida that has rated debt. (TR 191, 204-206)

36. ALLTEL is the largest, according to access lines, of the local exchange companies that rely on Rural Electrification Administration (REA) financing. ALLTEL has approximately three times as many access lines as St. Joseph Telephone Company, the next largest company receiving REA financing. (TR 228)

37. ALLTEL is also unique among REA companies in that most of its debt is Federal Financing Bank (FFB) debt which is guaranteed by the REA. (TR 163)

38. The Commission has adjusted the equity ratios, for ratemaking purposes, of other small telephone companies that participate in REA lending programs. (TR 183, 209)

39. The Commission recently adjusted the equity ratio of United Telephone Company of Florida from 60.2% to 57.5%, for ratemaking purposes. (TR 185-186; EXH 21, p. 4-5)

40. The Commission looked to the S & P benchmarks for telephone company equity ratios as part of the basis for the adjustment (EXH 21, p. 4-5)

41. Most of ALLTEL's debt is Federal Financing Bank debt (FFB debt) which is guaranteed by the REA. Compared to conventional debt, FFB debt carries a lower interest rate and has less stringent coverage ratio requirements. The interest rate is tied to the 30 year Treasury Bond rate and is not based on the borrower's business or financial risks. (TR 163-165; EXH 8, pp. 1-4)

42. ALLTEL does not have rated debt and has no plans to issue rated bonds. (TR 168)

43. ALLTEL would borrow from a bank or insurance company if it lost the ability to participate in the REA lending program, though it has no plans to borrow from a source other than the REA. (TR 180; EXH 8, p. 1; EXH 5, p. 18)

44. ALLTEL has a commitment from the FFB for \$20 million through 1996. (TR 168)

45. Although proposals from the Bush administration to modify or eliminate the REA were included in the federal budget in 1991, 1992, and 1993, no proposal was adopted. Thus, the REA is currently funded. (TR 156, 166; EXH 5, pp. 8-10)

46. An equity ratio that is higher than necessary translates into a revenue requirement that is higher than is necessary for the provision of telephone service. (TR 179, 222)

ISSUE 5: What is the weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year?

47. The capital structure for 1993 before any adjustment for the equity ratio or return on equity is:

<u>Description</u>	<u>Ratio</u>	<u>1993</u>		
		<u>Original Cost Rate Base</u>	<u>Embedded Costs</u>	<u>Weighted Costs</u>
Long Term Debt	34.35%	\$25,437,000	8.65%	2.97%
Short Term Debt	1.74	1,288,000	4.96	0.09
Customer Deposits	0.44	325,000	8.00	0.04
Common Equity	47.68	35,312,000	13.20	6.29
ITC - Zero Cost	0.00	0	0.00	0.00
ITC - Wtd. Cost	3.56	2,640,000	11.16	0.40
Deferred Income Tax	<u>12.23</u>	<u>9,055,000</u>	<u>0.00</u>	<u>0.00</u>
TOTAL	<u>100.00%</u>	<u>\$74,056,000</u>		<u>9.78%</u>

(EXH 37, p. 16)

ISSUE 6: What is the appropriate amount of operating revenue for the test year?

48. ALLTEL's forecasted 1993 intrastate operating revenue is \$36,873,000. (EXH 37, p. 15)

49. Stimulation for the \$.25 calling plan was not included in the 1993 budget. (TR 332, 337)

50. An adjustment for stimulation should be made after the plan has been implemented based on actual data. (TR 332, 337)

51. An adjustment could be made in the third quarter of 1993 based on the period ending June 30, 1993 if earnings warrant such an adjustment. (TR 332)

52. The effects of an unapproved Centrex tariff filing were included in the 1993 budget. (TR 341)

53. Estimated data was used to determine the impact of the filing. (TR 342)

54. The change is known and measurable, even though the Commission had not acted on the tariff filing as of the date of the hearing. (TR 341)

55. The purpose of the tariff revision was to unbundle the SLC charge from the Centrex base rate. (TR 345, 352)

56. Similar tariffs have been approved for other local exchange companies. (TR 345, 352)

ISSUE 7: What is the appropriate amount of O&M expense for the test year?

57. The forecasted 1993 intrastate O&M expense is \$17,173,000. (EXH 37, p. 15)

58. An adjustment has been made to the revised 1993 budget to recognize the staff's audit adjustments numbers 1, 2, and 7. (TR 331)

59. This adjustment reduces the operating expense for 1993 by \$42,000. (TR 331-332; EXH 37, p. 15)

ISSUE 8: What is the appropriate amount of depreciation expense for the test year?

60. The forecasted 1993 intrastate depreciation expense is \$7,941,000. (EXH 37, p. 15)

61. Witness Shaffer testified that the Company's estimate of depreciation expense based on the unapproved depreciation study is "a very solid estimate." (TR 338)

62. A true-up should be made subsequently if the approved depreciation study produces a different number from that used by the Company. (TR 339, 340)

63. The new study produces about \$1 million more expense per year, or \$750,000 intrastate. (TR 342)

ISSUE 9: What is the appropriate amount of taxes other than income for the test year?

64. The forecasted 1993 amount of taxes other than income taxes is \$1,701,000. (EXH 37, p. 15)

ISSUE 12a: What amount, if any, of the revenue held subject to refund should be refunded?

65. ALLTEL forecasts a 1992 revenue requirement deficiency of \$729,000. (TR 333)

66. With respect to 1991 and 1992, the Company's 1991 revenue shortfall of \$132,563 has been included in the calculation of 1992 earnings as required by Order No. PSC-92-0028-FOF-TL, issued March 10, 1992. (TR 353)

67. This amount was calculated using the rate base, capital structure and net operating income filed with the MMFRs in this docket as adjusted to reflect the final 1991 toll and private line cost studies and staff's audit adjustments and disclosures filed in this docket. (TR 329)

68. The shortfall was calculated using the Company's last authorized return on equity ceiling of 14% and using the same revenue requirement methodology used by the staff and the Company on its 1991 final earnings surveillance report. (TR 329)

69. At the March 10th, 1992 Agenda Conference the Company agreed to place \$600,000 subject to refund rather than hold a hearing at that time, as stated in Commission Order No. PSC-92-0140-FOF-TL. (TR 379; EXH 41)

70. The Commission's ultimate determination of the appropriate amount to be held subject to refund for 1992 will be effective January 7, 1992. (TR 370; EXH 41)

71. While the Commission did not make a determination of the equity ratio at that time, the \$600,000 was held subject to refund pending the determination of the equity ratio and other issues in this docket. (TR 370; EXH 41)

ISSUE 14: What is the appropriate recovery treatment of any revenue excess (shortfall) that is identified?

72. ALLTEL has a pending tariff filing to unbundle the SLC charge for its Centrex rates; this filing will result in a \$56,000 reduction in annual operating revenues. (TR 352)

73. The revenue effect of this tariff filing should be acknowledged when determining the disposition of any excess revenues. (TR 352)

74. The Company currently receives \$6,950,000 in Universal Service Fund (USF) revenues. (TR 352)

75. ALLTEL estimates that its 1993 USF revenues will increase by \$1,075,000 over the current level. (TR 352)

76. During the years 1993 and 1994 ALLTEL proposes to refund all USF revenues received in excess of \$6,950,000 to ratepayers by credits on their bills. (TR 352)

77. ALLTEL currently has gross receipts taxes bundled in its rates for various services; the 1993 embedded gross receipts taxes is approximately \$243,000. (TR 364)

78. Of this amount, approximately \$150,000 is embedded in rates for residential and business basic service; the Company proposes to reduce these rates by the amount of the embedded gross receipts tax. (TR 368)

79. The remaining embedded gross receipts tax is bundled into rates for numerous services; ALLTEL proposes that these monies be used to reduce rates for selected services, such as TelTouch or the interLATA subsidy. (TR 368)

80. The Company presently receives interLATA subsidy monies; ALLTEL estimates its 1993 interLATA subsidy will be \$1,374,000. (TR 353) Company witness Brooks stated that if excess revenues were still available for disposition after the proposed treatment of USF

monies and reductions to TelTouch, such monies should be used to reduce the interLATA subsidy. (TR 353)

81. At the present time, ALLTEL has seven rate groups for basic local exchange service; however, there are no customers in rate groups 1 and 2. (EXH 2, Schedule E-2, pp.1-7)

III. CONCLUSIONS OF LAW

The Florida Public Service Commission has jurisdiction over the parties and the subject matter of this docket pursuant to Chapters 120 and 364, Florida Statutes, and Chapter 25-22, Florida Administrative Code.

Attached hereto and incorporated herein by reference is Schedule B, which is the Commission's calculations for rate base, net operating income, and excess revenue, for 1993.

The following conclusions are enumerated according to the issue they address. I find that the evidentiary record in this proceeding supports the following conclusions:

1. ALLTEL has satisfactorily addressed the issues to the 1992 mini-evaluation as shown in Exhibit 11. The quality of service was found to be adequate. However, the Company needs to improve its pay telephone and directory services. It also needs to reinforce its customer service relations in order to reduce complaints.

OPC submitted findings of fact which reveal that ALLTEL's complaint rate has been high, particularly considering the Company's number of access lines. While I have accepted those findings, I conclude that even though improvement is needed, ALLTEL's service is adequate at this time. However, the Company should be aware that this Commission will continue to monitor ALLTEL's quality of service. If the Company does not continue to improve service, then this Commission may find it necessary to take further action.

2. The 1993 rate base is \$74,056,000, based on the Company's 1993 budget which includes the effect of the depreciation study. OPC submitted findings of fact which state that ALLTEL has used its unapproved depreciation study to develop its budget. I have accepted those findings, and further discussion of this issue is found in conclusion number 8.

3. In theory, a firm's cost of equity moves inversely with its equity ratio. As a result, a firm's equity ratio will significantly influence its cost of equity. At ALLTEL's projected equity ratio for 1993 of 56.92%, the leverage formula yields a cost of equity of 11.72%. A small allowance for the additional unique business risk imposed by ALLTEL's dependence on the Universal Service Fund is appropriate. Therefore, the appropriate cost of equity for ALLTEL is 11.90%, with a range of plus or minus 100 basis points.

4. In other cases involving small local exchange companies that rely on REA financing, the Commission has made equity ratio adjustments to 45% for ratemaking purposes. However, ALLTEL is unique among companies relying on REA financing since it depends almost exclusively on FFB debt and has considerably more access lines than these other companies. Additionally, ALLTEL's projected equity ratio for 1993 of 56.92% is within the S & P financial benchmarks for an A rated local exchange company. Accordingly, ALLTEL's projected equity ratio is appropriate for ratemaking purposes.

5. The capital structure for 1993 including the adjustments for the equity ratio and return on equity is:

<u>Description</u>	<u>Ratio</u>	<u>Original Cost Rate Base</u>	<u>Embedded Costs</u>	<u>Weighted Costs</u>
Long Term Debt	44.33%	\$32,829,000	8.65%	2.97%
Short Term Debt	1.74	1,288,000	4.96	0.09
Customer Deposits	0.44	325,000	8.00	0.04

<u>Description</u>	<u>Ratio</u>	<u>Original Cost Rate Base</u>	<u>Embedded Costs</u>	<u>Weighted Costs</u>
Common Equity	37.70	27,919,000	11.90	5.67
ITC - Zero Cost	0.00	0	0.00	0.00
ITC - Wtd. Cost	3.56	2,640,000	10.31	0.37
Deferred Income Tax	<u>12.23</u>	<u>9,055,000</u>	<u>0.00</u>	<u>0.00</u>
TOTAL	<u>100.00%</u>	<u>\$74,056,000</u>		<u>9.14%</u>

6. The 1993 unadjusted intrastate operating revenue is \$36,873,000. An adjustment for stimulation should be made after the \$.25 plan has been implemented based on actual data. An adjustment should be made in the third quarter of 1993 based on the

six months ended June 30, 1993. The adjustment should be made to the Company's 1993 budget which is being used to set rates in this proceeding.

7. The 1993 intrastate O&M expense is \$17,174,000.

8. The 1993 intrastate depreciation expense is \$7,941,000. This amount should be trued up after ALLTEL's current depreciation study, in Docket No. 920755-TL, is completed.

OPC maintains that the use of unapproved depreciation rates violates Rule 25-4.0175(5), Florida Administrative Code. That rule provides that "[u]pon Commission approval by order establishing an effective date, the utility may reflect on its books and records the implementation of the proposed rates, subject to adjustment when final depreciation rates are approved."

On July 27, 1992, in Docket No. 920755-TL, ALLTEL filed its request for new depreciation rates effective January 1, 1993. A staff recommendation is currently scheduled to come before the Commission on May 18, 1993. For the purposes of this proceeding, the 1993 depreciation expense currently reflects the impact of ALLTEL's proposed depreciation rates. This Commission reserves the right to true up the depreciation expense after the completion of the depreciation study docket. This will protect the ratepayers during the interim, and should adequately address OPC's concerns.

9. The 1993 amount of taxes other than income taxes is \$1,701,000, based on the Company's 1993 budget.

10. This issue was stipulated to by the parties. I recommend approval of the stipulation. The parties originally agreed that the 1993 intrastate income tax expense is \$2,037,0900, but that the amount was subject to change based on the Commission's decisions in other issues. Based on the adjustments made in this proceeding, the amount of 1993 income tax is \$2,005,191.

11. This issue was stipulated to by the parties. I recommend approval of the stipulation. The parties agreed that this amount is a calculation based on the Commission's decisions in the prior issues. Based on the adjustments made in this proceeding, the achieved 1993 net operating income is \$8,020,853.

12. This issue was stipulated to by the parties. I recommend approval of the stipulation, and the revenue decrease resulting

from the following calculation. Using an 11.9% return on equity and ALLTEL's actual equity ratio, the revenue decrease for 1993 is \$2,074,983.

12a. The calculation of the amount of refund, if any, should be made based on ALLTEL's 1992 budget filed in its revised direct testimony and applying the mid-point return on equity and the equity ratio which the Commission finds appropriate in Issues 3 and 4. Using an 11.9% return on equity and ALLTEL's actual equity ratio, there will be no refund for 1992. The \$600,000 held subject to refund shall be returned to the Company.

13. This issue was stipulated to by the parties. I recommend approval of the stipulation that this MMFR proceeding should be treated as the most recent rate case for all future purposes.

14. The gross receipts tax embedded in rates, approximately \$243,000, should be unbundled, with the monies disposed of as shown below. The Company should eliminate rate groups 1 and 2 and renumber the remaining rate groups accordingly. The revenue decrease associated with the pending tariff filing to unbundle the SLC from Centrex rates should be an offset to the revenue decrease identified in Conclusion No. 12. For the years 1993 and 1994, ALLTEL should refund to its ratepayers, via a monthly credit on customer bills, all USF revenues received in excess of \$6,950,000. The TelTouch charge should be eliminated, and the remaining excess revenues should be used to reduce the interLATA subsidy. Upon the determination of the true-up amounts for the depreciation and the \$.25 calling plan, the Commission will approve the appropriate disposition of the amount.

A summary of the revenue effects follows:

a) Revenue decrease	\$ 2,074,983
b) Unbundle gross receipts tax	243,000
c) Unbundle SLC from Centrex rates	<u>(56,000)</u>
d) Revenues for disposition	\$ 2,261,983
e) 1993 USF credits on customer bills	(1,075,000)
f) Eliminate TelTouch	(657,000)
g) Reduction to interLATA subsidy	(529,983)

OPC states that if ALLTEL does not reduce each rate by the amount of the embedded gross receipts tax, then the Company would

have a revenue windfall. OPC concludes that it would violate Commission rules to unbundle the gross receipts tax (GRT) in any matter other than that outlined in Rule 25-4.110(8)(a) through (e). I must assume that OPC is suggesting that the tax be deducted from each rate. Rule 25-4.110(8)(b), provides that "[i]f the tariffed rates in effect have a provision for gross receipts tax, the rates must be reduced by an amount equal to the tax liability . . . thereby rendering the customer's bill unaffected by the election to add the Gross Receipts Tax as a separately stated tax." Although it might be argued that this Rule requires that unbundling the GRT means that each rate be reduced identically by the GRT percentage, I do not believe that, practically, this is possible. If every rate element were reduced by the amount of the GRT, it would result in some fractional rates. The intent of the Rule is that no company benefit, at its customers' expense, from the unbundling of the GRT and that customers are held harmless. I believe that the unbundling has been done in a practical and efficient manner.

IV. HEARING OFFICER'S RECOMMENDATION

The hearing officer recommended that the Commission enter a final order incorporating the foregoing Findings of Fact and Conclusions of Law.

V. ALLTEL'S EXCEPTIONS

As previously indicated, ALLTEL filed exceptions to several of the Hearing Officer's findings. ALLTEL's exceptions are divided into four parts. We will address each exception sequentially within each part.

A. ALLTEL'S EXCEPTIONS, PART I

In Part 1, ALLTEL takes exception to the Hearing Officer's rejection of the Company's proposed Findings Nos. 4, 6-8, 10, 16-18, 20, and 21. ALLTEL further states that, other than the rejection of its proposed Findings Nos. 7 and 8, the rejection of the other proposed findings does not materially affect the end result reached in the Recommended Order. ALLTEL does not address these findings other than that they were improperly rejected on the erroneous statement that they were "conclusions of law" instead of fact. We also note ALLTEL's seeming acknowledgment of harmless error in the Hearing Officer's rejection of ALLTEL's proposed Findings Nos. 4, 6-8, 10, 16-18, 20, and 21.

Notwithstanding ALLTEL's statements on these issues, we believe it appropriate to examine each of ALLTEL's exceptions. The first two of ALLTEL's proposed findings rejected by the Hearing Officer, Nos. 4 and 6, related to Issue 2. Issue 2 was: "What is the appropriate amount of rate base for the test year?" ALLTEL's proposed Finding No. 4 states:

4. For purposes of calculating the Company's 1993 revenue requirement, the Company assumed that its recently filed depreciation study will be approved as filed which is reasonable because the Commission has not made significant adjustments to ALLTEL's depreciation studies in the past. [Tr. 338-339, Shaffer].

The Hearing Officer rejected this statement because it appeared to be a conclusion. ALLTEL maintains that this statement is a finding of ultimate fact. ALLTEL further claims that even if a finding of fact is conclusory or ultimate in nature, that it should not be rejected on that basis without meaningful discussion. We agree. However, the finding must still be rejected. We find that competent substantial evidence supports the Hearing Officer's rejection. The Hearing Officer made a finding that a true-up shall be made if the approved depreciation study produces a different number from that used by the Company. (See Finding No. 62). The Hearing Officer also accepted ALLTEL's proposed Finding No. 5 in which the Company agrees to a true-up. The fact that the Commission has not made significant adjustments to ALLTEL's depreciation studies in the past is not competent substantial evidence to support what action the Commission will take in the impending study. Accordingly, we will not accept ALLTEL's exception to the Hearing Officer's rejections of ALLTEL's proposed Finding No. 4.

ALLTEL's second exception is related to its proposed Finding No. 6, which states:

6. Accordingly, there is no need to adjust ALLTEL's 1993 rate base and the amount of ALLTEL's 1993 rate base is \$74,056,000. [Ex. 37, Document 5, Shaffer].

The Hearing Officer accepted the amount of rate base, but rejected the remainder of the statement. Since the Hearing Officer accepted the amount of the rate base, the rest of the statement is immaterial and unnecessary to the issue. Additionally, as noted above, the Company has agreed to a true-up in the event that the

depreciation study yields different rates. It would be inappropriate for the Commission to accept a statement claiming there is no need to adjust the rate base, when the Hearing Officer determined that a true-up is appropriate. Accordingly, for the above reasons, we reject ALLTEL's second exception.

ALLTEL's third exception is related to Issue 4. Issue 4 asks, "Is the Company's proposed test year equity ratio prudent and reasonable? If not, how should this be treated?" ALLTEL's proposed Finding No. 10, rejected by the Hearing Officer, states:

10. ALLTEL's 56% equity ratio is reasonable relative to other LECs, rating agency criteria and ALLTEL's business risk, and should not be adjusted to 45%. [See ALLTEL's Post-Hearing Memorandum].

ALLTEL contends the direct and rebuttal testimony provided by witness Brennan and the discussion in its Post Hearing Memorandum support its proposed finding.

The Hearing Officer rejected ALLTEL's proposed findings as a conclusion which is not accompanied by supporting findings of fact. Order No. PSC-92-0970-PCO-TL (the Order), issued September 10, 1992, established the procedures to be followed in this docket. The Order specifically stated that if proposed findings of fact are submitted, each one must cite to the record. Additionally, the Order stated that all proposed findings of fact which relate to a particular issue shall be grouped together and shall identify the issue number to which they relate. On December 17, 1992, Order No. PSC-92-1435A-PO-TL was issued requiring the parties to submit proposed findings of fact and conclusions of law, rather than briefs. In addition to its proposed findings, ALLTEL also submitted a Post-Hearing Memorandum containing citations to the record as well as legal argument. As record support for its proposed Finding No. 10, ALLTEL cited the Hearing Officer to "ALLTEL's Post-Hearing Memorandum." Failure to adequately cite to the evidentiary record in this instance is inappropriate. The Hearing Officer should not be referred to this memorandum and be forced to distinguish fact from argument. This undermines the purpose of requiring proposed findings of fact to be supported by citation to the record.

Moreover, although ALLTEL's projected equity ratio is 56.92% (see Finding 23), it is not necessarily reasonable simply because of its relation to other LECs, rating agency criteria and ALLTEL's

business risk. There was also testimony in the record that 45% was a reasonable equity ratio relative to other LECs, rating agency criteria and ALLTEL's business risk. ALLTEL's proposed finding was appropriately rejected based on competent substantial evidence.

ALLTEL's fourth exception is related to Issue 6 which states, "What is the appropriate amount of operating revenue for the test year?" ALLTEL's fourth exception concerns its proposed Finding No. 16 which states:

16. The Commission should not impute stimulation revenues for 1993 because there is no reliable basis upon which to predict the correct amount [Tr. 338, Shaffer], and because the true-up proposed by ALLTEL provides an adequate safeguard should the Company experience stimulation [Tr. 337, Shaffer].

The Hearing Officer accepted in part and rejected in part this finding. The Hearing Officer stated that whether the Commission should impute stimulation is a conclusion of law and policy. This proposed finding is a combination of at least two separate findings despite the fact that the Company was required by the procedural order to separately state each proposed finding. However, rejecting this proposed finding solely on this technical basis is elevating the importance of form too much over substance. We find it appropriate to accept ALLTEL's exception to the Hearing Officer's rejection of this proposed finding and accept ALLTEL's proposed Finding No. 16 in its entirety.

ALLTEL's fifth exception is also related to Issue 6. This exception concerns the rejection of ALLTEL's proposed Finding No. 17 which states:

17. The fact that the Company included the effect of its recent Centrex filing in this case is no reason to impute stimulation revenues for 1993 because the effect of the Centrex tariff filing is known and measurable while stimulation is not. [Tr. 341, Shaffer].

The Hearing Officer accepted in part and rejected in part this finding. The Hearing Officer stated that whether the Commission should impute stimulation is a conclusion. This finding is a combination of at least two separate findings. Again, as in the previous finding, we find it appropriate to accept ALLTEL's

exception to the Hearing Officer's rejection of this proposed finding and accept ALLTEL's proposed Finding No. 17.

ALLTEL's sixth exception is also related to Issue 6. This exception concerns the rejection of ALLTEL's proposed Finding No. 18 which states:

18. Accordingly, no adjustment to the Company's proposed 1993 revenues is necessary and 1993 intrastate operating revenues are \$36,873,000. [Ex. 37, Schedule 5, Shaffer].

The Hearing Officer accepted the portion of the finding that states the amount of 1993 operating revenues. The Hearing Officer rejected the remainder of finding as stating a conclusion. Upon our review of the record, the Hearing Officer properly rejected that portion of the statement. On Page 13 of the Recommended Order the Hearing Officer found that a third quarter adjustment will be made to the Company's 1993 budget, based on the six months ending June 30, 1993. While there may be a dearth of discussion, we conclude that there is competent substantial evidence contrary to ALLTEL's statement which supports the Hearing Officer's finding.

ALLTEL's seventh exception is related to Issue 7. Issue 7 is as follows: "What is the appropriate amount of O&M expense for the test year?" ALLTEL's seventh exception concerns its proposed Finding No. 20 which states:

20. No depreciation-related adjustment to the Company's 1993 O&M expenses is needed and ALLTEL's 1993 intrastate O&M expense is \$17,174,000. [Tr. 37, Schedule 5, Shaffer].

The Hearing Officer rejected this finding as a conclusion not accompanied by supporting findings of fact. However, our review of the record indicates that portion of the Hearing Officer's rejection of the forecasted O&M expense amount is in error and is in conflict with his Finding No. 57 in his Recommended Order. Whether a depreciation related adjustment is necessary cannot be determined at this time. Accordingly we accept the Hearing Officer's rejection of that portion of ALLTEL's proposed Finding No. 20 related to depreciation equipment.

ALLTEL's eighth exception is related to Issue 8. Issue 8 is as follows: "What is the appropriate amount of depreciation expense for the test year?" The eighth exception concerns ALLTEL's proposed Finding No. 21 which states:

21. The 1993 intrastate depreciation expense is \$7,941,000 [Ex. 37, Schedule 5, Shaffer] and no adjustment to ALLTEL's 1993 depreciation expense is necessary.

The Hearing Officer accepted in part and rejected in part this finding. Although the amount of depreciation expense as forecasted for 1993 is correct, the amount is not final as implied by the proposed finding. Whether a depreciation related expense adjustment is necessary cannot be determined at this time. As determined by the Hearing Officer in his Finding No. 62, a true-up will be necessary if the final approved depreciation study produces a different amount.

ALLTEL took specific exception with the Hearing Officer's Findings Nos. 7 and 8. ALLTEL believes that its proposed findings of fact numbers 7 and 8 should not have been rejected by the Hearing Officer without more explanation. ALLTEL's proposed Finding No. 7 is as follows:

7. Using ALLTEL's actual 56% equity ratio, a fair rate of return on equity for ALLTEL is 13.2% ± 1%. [Tr. 52, Brennan].

ALLTEL argues that the final order should reject the Hearing Officer's application of a leverage formula in deriving the appropriate ROE, or specifically refute ALLTEL's arguments. In support, ALLTEL cites to page 52 of the transcript in which witness Brennan recommends the 13.2% ROE. In his Recommended Order the Hearing Officer adopted ten findings to support his ultimate finding or conclusion of an 11.9% ROE. ALLTEL merely cited to its witness' statement. Our review of the record indicates that the Hearing Officer's findings were based on competent, substantial evidence, and his conclusion of 11.9% is a logical inference that follows from that evidence. We note that ALLTEL does not claim that there is a lack of competent substantial evidence to support the Hearing Officer's findings here.

ALLTEL's proposed Finding No. 8 is as follows:

8. Staff's leverage formula should not be used to determine ALLTEL's return on equity because it understates the required return on equity relative to recent FPSC decisions. [See ALLTEL's Post-Hearing Memorandum].

The Hearing Officer rejected this statement as a conclusion which is not accompanied by supporting facts. We believe the Hearing Officer's rejection of ALLTEL's proposed finding is supported by competent substantial evidence. However, because of the financial impact to the Company inherent in this particular issue, we believe that further discussion is warranted. As in its proposed finding of fact number 10, ALLTEL refers the Hearing Officer to its Post Hearing Memorandum. As mentioned above, we believe that this undermines the purpose of requiring findings of fact and conclusions of law. Instead of listing the findings as required, and as done by the other parties, ALLTEL presented its "facts" within a memorandum or brief. Those "facts" were interspersed with opinion and argument. Requiring a Hearing Officer to cull through a brief and separate fact from argument subverts the process by clouding the facts. We believe that this is not an appropriate exercise in fact finding. ALLTEL was not precluded from filing a brief, but was required by the procedural order to file findings of fact and conclusions of law, with the understanding that the Hearing Officer's determination would be based on those findings and conclusions.

In its exceptions ALLTEL states that the Recommended Order adopts the leverage formula and applies it to ALLTEL without meaningful discussion regarding the decision to do so. ALLTEL further states that when an agency adopts or applies non-rule policy to a substantially affected person, the agency must explain its decision to do so and must support its decision with the record.

The Company specifically argues that the leverage formula is biased downward. In support, the Company compares the ROE that was granted to UTF of 12.5% and the ROE that the leverage formula presented in witness Neil's testimony would have produced for UTF of 11.8%. It then concludes that because of the 70 basis point differential, the leverage formula is biased downward.

Contrary to ALLTEL's assertion, the leverage formula was not strictly applied to ALLTEL. The leverage formula as presented in witness Neil's testimony would indicate an ROE of 11.7% based on the Hearing Officer's recommended equity ratio of 56.92%. The Hearing Officer recommended an ROE of 11.9% at this equity ratio, which included an adjustment based on additional business risk faced by ALLTEL. It is clear that he did not simply apply the leverage formula advocated by the Commission to ALLTEL.

Also contrary to ALLTEL's assertion, the leverage formula was not demonstrated to be biased downward. First of all, the leverage formula as presented in witness Neil's testimony was neither proposed nor considered in the UTF case. Consequently, the Commission was not able to consider the leverage formula when it decided the allowed ROE for UTF. Although it would be speculation to contemplate what the ROE might have been had the leverage formula been available for Commission consideration, it is equally speculative to assume that the decision could not have been influenced by such information.

The second problem with the Company's argument that the leverage formula is biased downward is the method the Company claims demonstrates this bias. The Company argues that because the return indicated by the leverage formula is 70 basis points below what the Commission ultimately allowed in the UTF case, then the method must be biased downward. However, it is extremely doubtful that the companies cited by ALLTEL in Part II of its exceptions would agree that a 70 basis point difference between a recommended return and the return ultimately allowed by the Commission would necessarily constitute bias. The average differential between the company witnesses' recommended ROEs and the ROEs the Commission ultimately allowed in these cases is approximately 169 basis points. More importantly, however, these Commission decisions were rendered on based on the evidence in each of those specific cases. These decisions are not the appropriate benchmark for determining upward or downward bias of the methodologies employed by the particular witnesses.

The ultimate issue is the appropriate cost of common equity for the test year, not whether the leverage formula should be applied in this case. Competent substantial evidence in this case fully supports the Hearing Officer's finding. Although the leverage formula has not been adopted as a rule, the evidence in this docket showed that the formula has been applied to a number of small local exchange companies in recent Commission decisions.

Competent, substantial evidence was presented showing that ALLTEL is similar to the types of small local exchange companies to which this type of leverage formula has been applied. While ALLTEL maintains that it is three times the size of the next smallest LEC, we note that ALLTEL is one-fourth the size of the next largest LEC, Central Telephone Company of Florida. Again, we find that the Hearing Officer's general application of the Commission's staff proposed leverage formula is supported by competent substantial evidence.

B. ALLTEL'S EXCEPTIONS, PART II

Part II of ALLTEL's exceptions state that the recommended ROE of 11.9% is too low on its face. In support, the Company cites the ROEs allowed by the Commission during 1992 for United Telephone of Florida (UTF) of 12.5%, GTE of Florida (GTEFL) of 12.2%, and Tampa Electric Company (TECO) and Florida Power Corporation (FPC) of 12.0%. It concludes that, in light of these decisions, the ROE recommended for ALLTEL is too low and that the Commission's final order should reflect a higher ROE.

The ROEs granted in the decisions cited were based on the evidentiary records in those respective cases at past points in time. The ROE recommended by the Hearing Officer for ALLTEL was based on the record in this case at a more current point in time. The cost of equity witnesses in this proceeding recommended returns to the Hearing Officer ranging from 11.7% to 13.2% based on their application of generally accepted market pricing models to indices of companies demonstrated to be of comparable risk to ALLTEL. Our review of the record indicates that the Hearing Officer's decision is supported by competent and substantial evidence in this record. Accordingly, ALLTEL's exception to the Hearing Officer's recommended 11.9% ROE is rejected.

C. ALLTEL'S EXCEPTIONS, PART III

In Part III of its exceptions, the Company argues that the leverage formula is unfairly biased downward. In support, the Company compares the ROE that was granted to UTF of 12.5% and the ROE that the leverage formula presented in witness Neil's testimony would have produced for UTF of 11.8%. It then concludes that because of the 70 basis point differential, the leverage formula is biased downward.

Despite the Company's claim, it has failed to demonstrate that the leverage formula is biased downward. First of all, the leverage formula as presented in witness Neil's testimony was not part of the record in the UTF case. Consequently, the Commission was not able to consider the leverage formula when it decided the allowed ROE for UTF. Although it would be speculation to contemplate what the ROE might have been had the leverage formula been available for Commission consideration, it is equally speculative to assume that the decision could not have been influenced by such information.

The second problem with the Company's argument that the leverage formula is biased downward is the method the Company claims demonstrates this bias. The Company argues that because the return indicated by the leverage formula is 70 basis points below what the Commission ultimately allowed in the UTF case, then the method must be biased downward. However, it is extremely doubtful that the companies cited by ALLTEL in Part II of its exceptions would agree that a 70 basis point difference between a recommended return and the return ultimately allowed by the Commission would necessarily constitute bias. The average differential between the company witnesses' recommended ROEs and the ROEs the Commission ultimately allowed in each case is approximately 169 basis points. Commission decisions are rendered on a case-by-case basis based on the evidence in the specific records and therefore are not the appropriate benchmark for determining upward or downward bias of the methodologies employed by the particular witnesses.

The Company also argues that because the Commission has begun the rulemaking process on a leverage formula rule that, contrary to the letter and spirit of Section 120.535, Florida Statutes, ALLTEL is being unfairly subjected to an agency policy before the policy is adopted in a rule. As mentioned previously, the Commission staff proposed leverage formula was not strictly applied to ALLTEL. Moreover, contrary to the allegation of a violation of Section 120.535, Florida Statutes, that section specifically provides that rulemaking is presumed feasible unless:

3. The agency is currently using the rulemaking procedure expeditiously and in good faith to adopt rules which address the statement.

As acknowledged by ALLTEL, the Commission is currently engaged in the rulemaking process regarding a leverage formula for small LECs. Again, we find that the Hearing Officer's findings are

supported by competent substantial evidence and reject ALLTEL's exception in Part III of its exceptions.

D. ALLTEL'S EXCEPTIONS, PART IV

Part IV of ALLTEL's exceptions raises five separate exceptions to various parts of the Hearing Officer's Recommended Order. As discussed in each subpart below, we accept ALLTEL's exceptions in Part IV. Each subpart is addressed sequentially.

1. ALLTEL takes exception to the statement on page 2 of the Hearing Officer's Recommended Order that MCI and AT&T of the Southern States, Inc. intervened. ALLTEL states that they did not intervene and were not parties in this docket.

We agree with ALLTEL. MCI and ATT-C did not intervene in this case. This statement appears to be a simple error. Therefore, the Final Order hereby reflects this.

2. ALLTEL takes exception to the ratios and original cost rate base for long-term debt and common equity stated on pages 12 and 13 of the Hearing Officer's Recommended Order. According to ALLTEL, the ratio and original cost rate base for long-term debt is 34.35% and \$25,437,000, respectively. Similarly, the ratio and original cost rate base for common equity is 47.68% and \$35,312,000, respectively.

Upon review of the record, we agree with ALLTEL. The correct ratio and original cost rate base for long-term debt is 34.35% and \$25,437,000, respectively. Likewise, the correct ratio and original cost rate base for common equity is 47.68% and \$35,312,000, respectively. In addition, the term "reconciled jurisdictional capital structure" is more appropriate than "original cost rate base". The Final Order hereby reflects these changes.

3. ALLTEL takes exception to the 1993 intrastate income tax expense amounts stated on page 14, paragraph 10 of the Hearing Officer's Recommended Order. ALLTEL also takes exception to the achieved 1993 net operating income amount stated on page 14, paragraph 11 of the Hearing Officer's Recommended Order.

Upon review of the record, we agree with ALLTEL. The income tax expense amounts in paragraph 10 should be \$2,037,000.

Furthermore, the net operating income amount in paragraph 11 should be \$8,021,000. The Final Order hereby reflects these changes.

4. ALLTEL takes exception that the gross receipts tax discussions on pages 15 and 24 of the Recommended Order are inconsistent. ALLTEL suggests that the Recommended Order be clarified to make it clear that customers will receive the full benefit from the unbundling of gross receipts tax through rate decreases in touchtone and the interLATA subsidy.

We agree with ALLTEL. The statements in paragraph 28(C) on page 24 and paragraph 55 on page 32 of the Recommended Order assert that the basic local rates will be reduced by the amount of the embedded gross receipts taxes. These statements are inconsistent with the statement on page 15. Upon review, we find it appropriate to accept ALLTEL's exception to the Hearing Officer's verbage "clarifying" ALLTEL's proposed Finding No. 28(c) and accept ALLTEL's proposed Finding No. 28(C). Consistent with this, we also reject the additional language attached to paragraph 55 on page 32 of the Recommended Order.

5. ALLTEL states that the Recommended Order is silent on the effective date of the rate changes. The Company proposes that the rate changes be effective as of April 1, 1993.

We agree with ALLTEL that the Recommended Order does not address the effective date of the rate changes. We also agree with the Company's proposed date of April 1, 1993. Accordingly, the effective date of the rate changes shall be April 1, 1993.

V. CONCLUSION

Upon review and consideration of the complete record, we find that the Recommended Order should be adopted subject to our decisions regarding ALLTEL's exceptions discussed in Section IV.

VI. ADDITIONAL ACTIONS

By our decisions above, we have approved new rates and charges. Several other actions are now appropriate that stem from our decisions. Each of these actions is discussed below:

A. Preliminary True-Up for \$.25 Plan

At the time of the preparation of its 1993 budget, ALLTEL did not have any experience with the \$.25 calling plan; therefore, the company did not estimate any stimulation. Our final Order, which adopts the Hearing Officer's Recommended Order, requires that a true-up be made of the revenue which ALLTEL receives from implementing the \$.25 calling plan. The true-up is to be completed in the third quarter of 1993, based on actual data for the six months ended June 30, 1993.

Due to unexpected delays in the schedule of this docket, some actual data is already available on the revenues from the \$.25 calling plans. The actual data so far indicates that a true up of \$200,000 to \$250,000 may be necessary.

A preliminary true up is not required by our decisions. However, since we have some actual data, we find it appropriate to require a preliminary true-up of \$160,000 in revenues from the implementation of the \$.25 calling plan. We take this action here because it has an impact on the interLATA subsidy amount which is currently being paid by GTE Florida Incorporated (GTE). As explained below, GTE currently has a Motion for Reconsideration pending in its rate case. It is most appropriate to deal with GTE's subsidy payments in the context of its rate case.

B. Removal of GTEFL From InterLATA Access Subsidy Pool

The interLATA access charge bill and keep subsidy pool was established on July 1, 1985 by Order No. 14452. The subsidy pool was established as a temporary mechanism to ease the transition from a pooling environment to a bill and keep environment. Originally, all 13 LECs participated in this pool. By Order No. 21678, Gulf's subsidy was eliminated, effective July 1, 1989. By Order No. 21954, Indiantown's subsidy was eliminated and Florala, Gulf, Indiantown, Quincy, Southland, United, and Vista-United were removed from the subsidy pool, effective September 1, 1989. By Order No. 22421, St. Joseph's subsidy was reduced and Centel was removed from the pool, effective January 1, 1990. By Order No. PSC-92-0337-AS-TL, Northeast's subsidy was reduced to \$23,000, effective July 1, 1992. By Order No. PSC-93-0228-FOF-TL, Northeast was removed from the interLATA subsidy pool, effective January 1, 1993. The current status of the interLATA subsidy pool is shown in ATTACHMENT C. The subsidy receipts and payments do not change each year except by specific action of the Commission.

Pursuant to our decision in the ALLTEL rate case described above, ALLTEL's subsidy will be reduced by \$690,000 (\$530,000 + \$160,000), annually. Based on the net reduction in ALLTEL's access subsidy, we find it appropriate that GTE be removed from the subsidy pool and the interLATA subsidy pool receipts and payments shown on ATTACHMENT D be approved, effective April 1, 1993.

C. Disposition of GTEFL's Access Subsidy Payments

Our actions above reducing ALLTEL's access subsidy and removing GTEFL from the access subsidy pool leave GTEFL with a windfall. In the past, when a company's payments into the subsidy pool have decreased, the Commission has disposed of the money by applying it to some specific purpose.

In Docket No. 920188-TL, GTE has requested reconsideration of several issues which may increase revenue requirements. Because of our actions above, GTEFL's payments into the subsidy pool will decrease by \$690,000, annually. In view of GTEFL's Motion for Reconsideration in its rate case in Docket No. 920188-TL, we find it appropriate that the reduction in subsidy payments by GTEFL be disposed of at the time the Commission addresses GTE's Motion for Reconsideration in Docket No. 920188-TL.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the specific findings set forth in the body of this Order are approved in every respect. It is further

ORDERED that ALLTEL Florida, Inc.'s exceptions in Part I of its exceptions to the Hearing Officer's Recommended Order are rejected as set forth in the body of this Order. It is further

ORDERED that ALLTEL Florida, Inc.'s exceptions in Part II of its exceptions to the Hearing Officer's Recommended Order are rejected as set forth in the body of this Order. It is further

ORDERED that ALLTEL Florida, Inc.'s exceptions in Part III of its exceptions to the Hearing Officer's Recommended Order are rejected as set forth in the body of this Order. It is further

ORDERED that ALLTEL Florida, Inc.'s exceptions in Part IV of its exceptions to the Hearing Officer's Recommended Order are accepted as set forth in the body of this Order. It is further

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ORDERED that a preliminary true-up of \$160,000 from the implementation of the \$.25 plan is approved as set forth in the body of this Order. It is further

ORDERED that GTE Florida Incorporated is hereby removed from the interLATA access subsidy pool as set forth in the body of this Order. It is further

ORDERED that the interLATA access subsidy payments and receipts are modified as set forth in Attachment A to this Order. It is further

ORDERED that disposition of GTEFL's excess revenue stemming from the elimination of its interLATA access subsidy payments shall be considered in Docket No. 920188-TL as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 13th day of April, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

TH

by: Kay Hegan
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.

As identified in the body of this order, our action in Section VI of this Order 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 May 4, 1993. In the absence of such a petition, this order shall become effective on the date 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 our action in Section VI of 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.

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Any party adversely affected by the Commission's final action in Sections I - V of this order may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) 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 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 after the issuance 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.