

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for review of) DOCKET NO. 860723-TP
rates and charges paid by PATS) ORDER NO. PSC-93-0896-AS-TP
providers to LECs.) ISSUED: June 14, 1993
_____)

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 ACCEPTING SETTLEMENT

BY THE COMMISSION:

On February 14, 1991, we issued Order No. 24101, a final order after hearing in this docket. That hearing was a comprehensive examination of the pay telephone service (PATS) industry in Florida, both local exchange company (LEC or LPATS) and nonLEC (NPATS). Order No. 24101, among other things, established new end user rate caps for both LPATS and NPATS, and reduced the rates paid by NPATS for interconnection to LEC facilities. A number of parties filed motions for reconsideration of Order No. 24101, which were addressed by Order No. 25312, issued November 12, 1991.

On December 12, 1991, the Florida Pay Telephone Association, Inc. (FPTA) filed its Notice of Appeal of Order No. 24101 to the Supreme Court of Florida, along with a Motion for Stay of Order No. 24101 (Motion) to the Commission. FPTA's Motion focused on the new end user rate cap levels. By Order No. PSC-92-0008-SPA-TP, issued March 3, 1992, we granted a stay of the reductions to end user rates prescribed by Order No. 24101. We declined, however, to stay any other portion of Orders Nos. 24101 and 25312.

At our April 6, 1993, Agenda Conference, we approved an amended settlement offer submitted by FPTA and agreed to by the parties remaining in this docket on appeal. That agreement provided, among other things, that FPTA would withdraw its current appeal in this docket. However, at our May 18, 1993, Agenda Conference, we voted to reconsider that decision, due to an error in the information we were provided regarding the revenue impact of the settlement offer.

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Subsequently, we voted to approve a revised settlement offer which was agreed to by the parties remaining on appeal. That settlement includes the following terms and conditions:

- 1) NPATS providers will forego the \$.25 set use fee on 0- and 0+ local calls for nine months beginning June 1, 1993;
- 2) the \$.25 set use fee on revenue generating 0- and 0+ intraLATA and interLATA calls will go into effect June 1, 1993;
- 3) FPTA will not appeal to the Florida Supreme Court our decisions in Dockets Nos. 920255-TL and 910590-TL, nor will they independently appeal our decisions in Docket No. 920399-TP;
- 4) FPTA will withdraw its current appeal in this docket (Docket No. 860723-TP); and
- 5) the LECs will implement the \$.25 set use fee on revenue generating 0- and 0+ intraLATA and interLATA calls effective June 1, 1993. (Proposals for revenue offsets should be filed according to Order No. 24101.) However, the LECs will delay implementation of the set use fee on 0+ and 0- local calls until nine months after the June 1, 1993, effective date.

In approving this settlement, we have attempted to balance the interests of all concerned in this matter. We believe it is long past time to implement the rate caps established by Order No. 24101. At the same time, we recognize that some NPATS providers have been enriched during the pendency of the appeal because they have been allowed to charge rates that are higher than those established in Order No. 24101. We believe that foregoing the set use fee on 0- and 0+ local calls for nine months represents a fair compromise, considering all of the facts and circumstances of this case.

Having approved this settlement offer, it shall now be necessary for all local exchange companies to file appropriate tariff revisions and reports on revenues and proposed offsets to reflect our decisions. These tariff revisions shall be filed within one week of the date of this Order.

ORDER NO. PSC-93-0896-AS-TP
DOCKET NO. 860723-TP
PAGE 3

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that our decision on April 6, 1993, to accept a certain settlement proposal as set forth herein is hereby reconsidered and set aside for the reasons discussed herein. It is further

ORDERED that having reconsidered our prior decision, we shall now accept another settlement offer in its place as described herein. It is further

ORDERED that all local exchange telephone companies shall file appropriate tariff revisions in accordance with the directives contained herein. It is further

ORDERED that this docket shall be closed following receipt of appropriate notification that the appeal presently pending before the Florida Supreme Court has been withdrawn.

By ORDER of the Florida Public Service Commission this 14th day of June, 1993.



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

ORDER NO. PSC-93-0896-AS-TP
DOCKET NO. 860723-TP
PAGE 4

hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter 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 sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.