

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Generic investigation) DOCKET NO. 930485-TL
into the proper regulatory) ORDER NO. PSC-95-0035-FOF-TL
treatment of inside wire.) ISSUED: January 9, 1995
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

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On behalf of Florida Telephone Company, Inc., Gulf Telephone Company, Indiantown Telephone System, Inc., Northeast Telephone Company, Quincy Telephone Company, Southland Telephone Company and St. Joseph Telephone & Telegraph Company.

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FINAL ORDER

BY THE COMMISSION:

I. BACKGROUND

This docket was initiated as a rulemaking proceeding on May 14, 1993. Initially, we determined to propose changes to Sections 25-4.0345, and 25-4.040, Florida Administrative Code, on September 7, 1993. A rule hearing, under Section 120.54, Florida Statutes was held on October 23, 1993. At that hearing we determined to hold an evidentiary hearing, pursuant to Section 120.570, Florida Statutes, to investigate the proper regulatory treatment of inside wire services. The rule was subsequently withdrawn and the docket proceeded as an investigation. An evidentiary hearing was held on September 7-9, 1994.

II. INTRODUCTION

The threshold issues in this case address our jurisdiction to order regulation of inside wire services in light of federal preemption of state statutory authority. The public interest considerations revolve around an analysis of competition for inside wire services offered by local exchange telephone companies (LECs).

As discussed in greater detail below, we have jurisdiction to proceed. In addition, it appears that re-regulation of inside wire is not appropriate at this time.

III. JURISDICTION

A. Federal Preemption

In 1986, the Federal Communications Commission (FCC), ordered that the provision and maintenance of all inside wire be deregulated. See Second Report and Order in CC Docket No. 79-105, adopted Jan. 30, 1986 and released Feb. 24, 1986. In effect, the FCC's Order preempted state regulation of inside wire. As a result of this Order, all revenues, expenses, and investments associated with the provision and maintenance of inside wire were placed "below the line." Thus, the benefits and risks of the services fell on the company and its shareholders rather than on the general body of ratepayers. In response, we directed Florida's LECs to remove inside wire services from their tariffs and move the related revenues, expenses and investments below the line. Alternatively, the LECs were permitted to offer inside wire services if provided by a structurally separate subsidiary. This occurred on January 1, 1987.

In a subsequent appeal of the FCC's preemption of state regulatory authority, the Federal Court of Appeals for the D.C. Circuit held that the FCC had failed to show that it was necessary to preempt all state regulation of simple inside wiring services to achieve its goals in relation to inside wiring, and remanded the case for further proceedings. See NARUC v. FCC, 880 F.2d 422 (D.C. Cir. 1989). The court required the FCC to show with some specificity that state regulation would "negate" federal policy, if it desired to preempt the states. As a result, the FCC issued a Third Report and Order in CC Docket 79-105, adopted Nov. 21, 1991 and released Feb. 14, 1992, which narrowed its preemption policy. In that order, the FCC concluded that, while it encouraged states not to regulate simple inside wiring services, it had not preempted state regulation of the prices and terms and conditions under which telephone companies provide those services. The FCC stated, "We have not precluded those states, if any, that choose to regulate the prices under which telephone companies provide simple inside wiring services from assigning the telephone companies' simple inside wiring costs and revenues to the intrastate jurisdiction for intrastate accounting purposes, and from setting unbundled rates based on those costs." Thus, the state commissions are permitted not only to impute the revenues, expenses, and investments relating to simple inside wire services above the line, but also to set

rates for simple inside wire services. With respect to complex inside wire services, the FCC permits the states to impute the revenues, expenses, and investments, but precludes states from setting rates.

Inside wire services can be classified into two product groups: complex inside wire services and simple inside wire services. The FCC's definition of inside wiring is:

"Complex wiring, also called intrasystem wiring, includes all cable and wire and its associated components such as connecting blocks, terminal boxes and conduit located on the customer's side of the demarcation point, when this wiring is inside a building (or between a customer's buildings) located on the same or contiguous property not separated by a public thoroughfare, which connect station components to each other or to the common equipment of a PBX or key system. However, wire meeting the other criteria for complex inside wire and crossing a public thoroughfare may be considered intrasystem wiring if approved by an appropriate state or local authority. Simple inside wiring is any inside wiring other than complex wiring." See Second Report and Order released February 24, 1986, para 1; Report and Order released November 2, 1983.

B. PSC Authority

In the absence of federal preemption over the regulation of certain inside wire services, the question remains whether, and to what extent we have jurisdiction over these services. The Florida Legislature, through Chapter 364, Florida Statutes, has conferred to the Commission the power to regulate telecommunications companies. This general grant of power gives the Commission exclusive jurisdiction to regulate services provided by telecommunications companies unless specifically excluded by state or federal law.

Section 364.338, Florida Statutes, titled "Competitive services provided by local exchange telecommunications companies" provides the process the Commission shall follow in determining whether a specific service provided by a LEC is subject to effective competition. The section also sets forth the Commission's choices regarding the treatment of LEC services that have been deemed effectively competitive by the Commission. Subsection (4) states that the Commission may review any decision to impose different regulatory requirements and may require a competitive service to be more fully regulated. Accordingly, we

can, subject to an appropriate determination, establish the appropriate level of regulatory oversight for telecommunication services.

The Commission's investigation into the proper regulatory treatment for inside wire services is directed to a review of the appropriate level of regulatory oversight for these services. Although the services were previously deregulated by the Commission as a result of the FCC's initial preemption decision, the Commission still retained jurisdiction over LEC inside wire services subject to preemption by the FCC. Once the extent of that preemption was defined by the FCC, our jurisdiction was also defined. This investigation is the type of review contemplated by Section 364.338(4), Florida Statutes. Therefore, Chapter 364, including section 364.338, applies to inside wire services and we can regulate those services pursuant to all the provisions of Chapter 364.

IV. COMPETITIVE STATUS OF INSIDE WIRE SERVICES

A. Scope of Examination

In order to investigate the issue of whether or not to reregulate inside wire services it is necessary to examine the different services in some detail. All the parties to this proceeding agree that complex inside wire services and installation of simple inside wire should not be regulated, and we agree. For that reason, our analysis focuses on simple inside wire maintenance and repair services. In making a determination on the ultimate issue here, the appropriate level of regulation, we examined several factors including market definition, penetration rates, types of competitors, LEC pricing practices, competition trends, and financial effects.

B. Evolution of Maintenance and Repair Services

The period prior to 1986 is considered to be the pre-deregulation period for simple inside wire. During that period, a charge for maintenance and repair was typically included in customers' bills for the provision and protection of simple inside wire. A customer could depend on the LEC to repair or replace malfunctioning wiring at no additional charge. There is general consensus among LEC witnesses, as well as the Office of Public Counsel (Public Counsel), that the bundled monthly charge for the provision of these services during this period constituted what we now refer to as the maintenance plan. There is also a general

consensus among the parties that, during this period, the LECs controlled nearly 100 percent of the market for simple inside wire maintenance and repair services.

In 1982, we required all LECs to unbundle the charge for CPE and inside wire maintenance from the access line charge. After this unbundling, customers received inside wire maintenance as part of the basic local service rate unless they indicated that they did not want the LEC to maintain their inside wire. Customers were notified via a "bill stuffer" of the opportunity to choose whether or not to have LEC provided inside wire maintenance service. In cases where the customers opted out, the customers received a credit, the amount of which varied by company, on their respective monthly bills. We later required all LECs to totally unbundle inside wire maintenance from the basic access line rate and to separately tariff inside wire maintenance. We avoided the potential windfall to the LECs by reducing the access line rate by the amount of the maintenance charge/credit.

Before the deregulation period and as early as 1982-1983, a market was developing for maintenance and repair of simple inside wire on a time and materials basis. By Order No. 12221, issued July 13, 1983, we ordered BellSouth Telecommunications Inc., d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell) to implement, a monthly credit of \$.55 to customers who did not want Southern Bell inter alia, to maintain their inside wire. While options were emerging, customers may not have always read their bill stuffers, and, hence, may not have known to request the \$.55 credit.

The period after 1986 is identified as the deregulated period. The FCC required that recurring charges for the maintenance and repair of simple inside wiring would be unbundled from the customer's basic local service billing, and ownership of simple inside wire would be transferred to the customer.

Public Counsel asserts that the FCC's actions made the installation market competitive by allowing the sale of inside wire and by eliminating the monthly charge for the investment. Public Counsel further states that transferring ownership of the wire to the customer enabled competition to develop. However, Southern Bell notes that the transfer and amortization of embedded inside wire did not affect the profitability of simple inside wire maintenance and repair services. According to Southern Bell, there is no connection between the company's recovery of the money it spent to install inside wire to the revenues and expenses associated with repairing inside wire.

While Southern Bell offered what could be construed as a maintenance plan by offering the \$.55 credit before deregulation, various permutations of the maintenance plan concept did not emerge until after deregulation. At first, some companies offered separate plans for inside wire maintenance and trouble isolation. Others offered an inside wire maintenance plan and an all-inclusive plan that covered both trouble isolation and inside wire maintenance. Still others went directly to the all-inclusive plan, which is now the standard for the industry. Finally, St. Joseph Telephone, Gulf Telephone and Florida Telephone chose not to offer any maintenance and repair service.

C. Inside Wire Market Definition and Classification

The key to analyzing the markets for inside wire services lies in determining the proper market definition. From this record it appears that simple inside wire services should be divided into two markets: one is installation, and the other is maintenance and repair. There is a consensus among the parties that installation of simple inside wiring has become effectively competitive. Indeed, the majority of new installations are performed by non-LECs or self-provided. As Public Counsel states, "this is a competitive market; the Commission has the power to regulate the activities of the LECs in this market, but there is no real compelling need to do so." We agree.

Public Counsel and the LECs agree that consumers today have the advantage of either selecting a maintenance plan, choosing to have the LEC perform repairs on a time and materials basis, hiring a non-LEC repair service, or providing maintenance and repairs for themselves. However, the LECs and the Office of Public Council disagree on the appropriate market definition for simple inside wiring maintenance and repair services. The arguments center on whether maintenance plans constitute a separate and distinct market from that for time and materials. The LECs all argue that maintenance plans and time and materials are substitutes for one another, and therefore are part of the same market. While Public Counsel agrees that the maintenance plan and time and materials repair are substitutes for one another, it does not agree that customer choice within a market is the same as the availability of substitute services, available at competitive rates, terms and conditions.

Public Counsel contends that since no companies other than the LECs offer maintenance plans, maintenance plans cannot be considered competitive. From this we infer that Public Counsel's witness Poucher treats maintenance plans as a single distinct market.

Upon consideration, we find that the appropriate market definition includes time and materials repairs, maintenance plans and self provided repairs. Initially, we note that Public Counsel's contention that maintenance plans form a separate market is counter to the economic principles of market definition which stress that substitute products and services must be included in the same market. Following those principles, we believe that monthly maintenance plans and time and materials repairs are direct substitutes for one another and must be considered as one market.

Monthly maintenance contracts, time and materials repairs, and self provision of repairs all accomplish the same task, in the same place, using the same materials. In many cases, the only differences in the services are in the way the services are paid for. These services are clearly substitutes in the strictest sense. The LEC witnesses offer substantial and compelling testimony as to the existence of alternative sources for these services and their substitutability. Even Public Counsel witness Poucher concedes that there are many other competitive entities that provide time and materials maintenance and repair service.

For those who desire to self-provide, hardware stores, and electronic outlets carry the materials and equipment necessary to repair and install inside wire. The prevalence of wholesale and retail suppliers suggests that there are commercial providers and self providers serving the simple inside wire maintenance and repair market.

The evidence indicates that effective alternate providers exist in the maintenance and repair market. St. Joseph Telephone, Gulf Telephone, and Florida Telephone do not market maintenance and repair services or monthly maintenance agreements in their service territories. These markets are serviced 100% by providers other than the LEC. Inside wire needs are being served and market forces seem to be acting to ensure that the efficient providers offer the services that people want and need. Public Counsel suggests that maintenance and repair services in these areas are substandard. However, we note that Public Counsel has neither studied these service territories with respect to consumer complaints, nor checked the records of Consumer Affairs at the Commission to confirm his statement. We are not persuaded that the service provided by alternative suppliers is substandard.

D. LEC Market Penetration Rate Trends

Penetration rates of the LECs are potentially useful indicators of the level of competition in a market.

Based on the information provided, the composite penetration rate for Southern Bell, ALLTEL, and United/Centel shows that the subscription rate has fallen from essentially 100% prior to deregulation to a rate of 67.96% by year end 1993. Based on projected company data, the aggregate rate could fall as low as 55.60% by year end 1998. Public Counsel argues that the decline is due to Southern Bell's and Centel's revelation of their respective settlements with the Attorney General regarding simple inside wire maintenance plan sales practices. We agree that, to some degree, these events had a negative impact on market share for Centel and Southern Bell. However, this does not explain the decline in penetration rates both prior to and subsequent to the Attorney General's investigation using only Public Counsel's rationale. GTEFL argues that the only logical conclusion is that customers have turned elsewhere for inside wire maintenance.

Most LECs show current and projected declines in penetration for inside wire maintenance plan subscriptions. We are not persuaded by Public Counsel's claim that only Centel and Southern Bell showed a decline in market share during this period. Our review of the record indicates that LEC penetration rates and trends shows a steady 32% decline in aggregate penetration since the time of deregulation.

E. Potential Competitors For Simple Inside Wire Maintenance and Repair Services

The strongest and most plausible potential competitors for inside wire maintenance plans, as well as the time and materials repair, are the cable television companies. Southern Bell states that cable television providers currently offer services for their own wiring and are readily equipped to provide such services for telecommunications wiring. The record shows that Cable companies have many marketing, installation, and maintenance characteristics in common with the LECs: both share and have access to a similar customer base; both bill for service on a monthly basis; both have common billing systems with marketing features built in; the actual physical installation of cable is very similar to telephone wire; both have service technician fleets. However, Public Counsel contends that the cable industry won't compete for inside wire services unless and until regulatory restrictions on the provision of local exchange service are eliminated.

Recently, United has begun to market products and services including voice mail, telephone sets and subscriptions to directory services in Southern Bell's service territory. United's witness also stated that the company is looking at marketing inside wire services in other LEC's service territories. Southern Bell points

out that, in some cases, LECs in adjacent LATAs price simple inside wire maintenance plans lower than Southern Bell and that the service is not particularly profitable. This indicates that competitive threats, in the form of lower-cost providers in adjacent service territories, may help keep rates for simple inside wire maintenance and repair services in check.

F. LEC Simple Inside Wire Maintenance Plan Pricing Practices

The record shows that average annual price increases for inside wire maintenance plans for the five largest LECs are as follows: Southern Bell - 3.3%, United - 11.7%, GTEFL - 0%, Centel - 6.3%, and Alltel - 3.9%. In absolute terms the price increase changes are as follows: Southern Bell - \$.50, United \$1.00, GTEFL - 0, Centel - \$.35, Alltel - \$.40. Public Counsel's witness Poucher testified: "In the deregulated monopoly market of inside wire maintenance, the companies have been free to engage in predatory pricing and customer abuse in the absence of market control that is characteristic of a free market." Initially, witness Poucher characterizes predatory pricing by stating that some of the companies have increased the price of inside wire maintenance significantly over the past few years by doubling or tripling the rate. In rebuttal, witness Poucher re-defines his interpretation of predatory pricing to mean, "underpricing a service to monopolize the market, and then secondly, having captured the entire market, then you have to go for profitability." When asked how he felt about the price he is charged for the simple inside wire maintenance plan he, personally, subscribes to, witness Poucher replied, "I would be happy to pay three times as much." And when asked whether Southern Bell's monthly charge of \$2.50 for inside wire maintenance was reasonable, witness Poucher responded, "I believe that's a fair price. . . well, only if the profitability of the service goes to help keep basic rates as low as they can possibly be."

We find Public Counsel's testimony in this area confusing. Initially, we note that "Predatory pricing" is a standard term in economics referring to firms pricing products or services below marginal or incremental cost to drive competition from the market. There is no indication that any LEC in this proceeding is predatorily pricing inside wire maintenance plans as contemplated by the economic definition of the term. Moreover, we believe that the absolute price levels and the average annual percent change in price do not support Public Counsel's argument that the LECs have engaged in price gouging or undue price escalation. In addition, one small LEC serving a rural area, Northeast Florida Telephone Company, has the highest maintenance plan price in the state. That company has also experienced an 11.8% drop in penetration rate and

a 7.3% decrease in absolute subscribership since the company's last price increases. This indicates to us that market forces are at work to keep prices low.

G. Trends In Policy

The telecommunications industry is in a state of transition in that more competition is emerging over time, and policy decisions are playing an instrumental role in shaping this transition. The LEC witnesses discussed these trends and emphasized the need for consistent policy direction. United/Centel states that there is no question that the telecommunications industry is moving from a regulated quasi-monopoly environment to an increasingly competitive environment. United/Centel further argues that it is illogical at this point to reverse direction and re-regulate services that have been previously deregulated. GTE states that regulation directly contravenes the nationwide trend toward opening markets and removing constraints on particular industry participants, and that in this case, re-regulation would tell the LECs that any time an unregulated service is deemed profitable, revenues will be re-regulated.

We agree that this Commission's policy direction has been to encourage competition where appropriate. Further, while in itself determinative, consistency in policy is important in order to provide proper signals to the market participants.

H. Financial Effects of Regulation of Inside Wire

In examining the financial effects of reregulation we must consider the financial performance of maintenance and repair service and the potential forms the reregulation will take. We note that no party has argued for any form other than imputation.

From the information before us it appears that with the exception of 1993, imputation of the maintenance plan revenues and expenses into the regulated intrastate operations would have increased ROE performance for each of the five largest LECs during the past three years. In 1993, four of the five would have had increased ROE performance as a result of imputation. Only one company in 1991 and 1992 would have met or exceeded the cap on authorized ROE if the maintenance plans had been added to its actual achieved ROE. Two companies would have gone over their caps in 1993, Southern Bell and ALLTEL, and Southern Bell would have only exceeded the cap marginally.

Imputation of all simple inside wire services into regulated intrastate operations would have also increased ROE performance in all of the five largest LECs during 1991-1992. However, ROE performance would have deteriorated in 3 of the 5 largest LECs during 1993. In 1993, one of the five LECs would have met or exceeded the cap on its authorized ROE when all simple inside wire services were added to the actual achieved ROE. ALLTEL was the only company that would have exceeded the cap on its authorized ROE in this situation.

It should be noted that a risk of imputing revenues and expenses is that if inside wire services' profitability falls, there could result an imputation of a loss to a LEC's regulated ROE. The data here indicates that a fluctuation of greater than 15% in decreased revenue or increased expenses could result in such a loss.

In addressing what could cause expenses to rise, Southern Bell suggested that the company's method for allocating joint and common costs among the three simple inside wire services has created distortions. In fact, the company asserts that a cost study would reveal a more cost-causative approach than the way expenses have been allocated up to now. Using this approach, more costs would shift to the maintenance plan such as: costs for service representative time, costs for billing services, and costs for testing. We agree with Southern Bell's assessment. Based on our experience, joint and common costs usually comprise 40-50% of total product/service cost after direct expenses are removed. Using a cost causative approach, 15-20% of these joint and common costs could shift between the three simple inside wire services and flow to the maintenance plan.

Our analysis of market trends indicates that maintenance performed on a time and material basis is more competitive today than it has been in the past. There are numerous providers for this service, and LEC revenues do not cover expense due to the requisite fully distributed cost methods. It is possible that as demand for this service, as well as simple inside wire installation, continues to decrease, common and joint costs associated with the provision of these services will transfer to the maintenance plan, or back to the regulated base.

Revenue loss could occur as a direct result of declining market share and market penetration. It is reasonable to expect that building and electrical contractors will continue to install simple inside wire. Furthermore, it's not hard to imagine that as consumers become more comfortable with the availability of options for maintenance and repair services, they too will employ one of

the many competitive resources. It appears to us that the consumer will turn away from the LEC for provision of inside wire installation and maintenance and repair on a time and materials basis unless two things happen: 1) the services are reregulated and the LEC is required to price at or slightly above its marginal cost, or 2) the fully distributed cost methodology imposed on the LEC through the FCC's Cost Allocation Manual (CAM) is changed so as not to overburden the provision of these services with overstated costs.

In the future, it appears that the most likely long run scenario for LEC simple inside wire services is continued loss in market share, reduced revenues, and a gradual shifting of joint and common costs over to the maintenance plan. Again, market conditions make it very difficult to assess the future profitability of simple inside wire services, particularly those servicing the maintenance and repair market. Furthermore, the possible entry of the cable television industry into these markets could be significant enough to further deteriorate the LEC's profitability in the provision of simple inside wire services.

V. CONCLUSION

After weighing the financial, economic and other public interest considerations in this docket, we find that no inside wire services provided by LECs shall be reregulated in any form, including imputation of revenues, expenses, and investments.

Public Counsel argues that simple inside wire maintenance plans are not competitive and that the LECs are guilty of predatory pricing and price gouging. However, we are not persuaded that this is so. There is no indication that the ratepayer does not already receive reasonable benefits from inside wire services or that further regulation of these services will yield any additional benefit in terms of price, quality, and availability of these services. Finally, there is considerable risk associated with reregulating any inside wire services in that there is a distinct possibility that a loss might be imputed to regulated operations.

It is clear to us that the simple inside wire maintenance and repair market is at least marginally competitive today, and that this market may become more competitive in the future. In light of this market assessment, we believe no change in regulation is warranted. We must make clear as well that we will continue to monitor the inside wire market and financial information and, if necessary, may address the issue of reregulation again at a later date.

VI. CUSTOMER EDUCATION

While we have determined that inside wire services should not be reregulated for the reasons set forth above, we believe that it would be appropriate to better equip consumers to cope with the competitive environment.

All of the LECs have embraced an Standard Network Interface (SNI) installation and retrofit program with the exception of Centel. SNIs provide customers the opportunity to self-diagnose their out-of-service problems by plugging their CPE in at the point of demarcation. This enables the customer to be more self-reliant, which may lead to increased use of alternatives to the LEC's maintenance and repair services. Accordingly, we find it appropriate that each LEC submit an SNI installation/retrofit plan to this Commission for review by April 1, 1995. The plan should include the approximate number of SNIs to be retrofitted on existing customer lines by year over the next 5 years and its anticipated financial impact. We will review these plans to determine whether we should require SNIs to be installed according to a more appropriate schedule.

To encourage competition in the simple inside wire maintenance and repair market, it is important that consumers receive more education. Troubleshooting instructions for self-provision of inside wire repair exist within the current telephone directory. However, their references are widely disbursed and non-uniform in discussion and location. We believe that if troubleshooting information could be easily referenced and more easily comprehended it would be an added advantage in developing self-provision in the maintenance and repair market. Accordingly, we find that the information shall be consolidated in a central location in the directory and referenced from the LEC repair and maintenance service number in the front of the directory. To accomplish the insertion of the information in the directory will require an amendment to our rules. Specific language, location, and references will be determined in a rule-making proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and all of the specific findings of fact and conclusions of law set forth herein be and the same are approved in every respect. It is further

ORDERED that the Commission has the jurisdiction to determine the appropriate level of regulation for specific inside wire services. It is further

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ORDERED that complex inside wire services are competitive and no regulation by the Commission over those services is appropriate at this time. It is further

ORDERED that simple inside wire installation is competitive and no regulation by the Commission over that service is appropriate at this time. It is further

ORDERED that simple inside wire time and materials repairs, self provided repairs, and local exchange company provided maintenance plans comprise a single market that is competitive and that no regulation by the Commission over those services is appropriate at this time. It is further

ORDERED that each local exchange company shall submit an SNI installation/retrofit plan to the Commission for review by April 1, 1995. It is further

ORDERED that the Commission will initiate a rule-making proceeding to develop rules which require local exchange companies to provide information to customers concerning self-provision of inside wire repairs.

ORDERED that this Docket be closed.

By ORDER of the Florida Public Service Commission, this 9th day of January, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

WEW

**Commissioner Deason dissented from the majority on the issue of reregulation of maintenance plans as follows:

I dissent from the majority's definition of the relevant market for inside wire maintenance plans. The majority considers the relevant market to be comprised of both maintenance plans and installation and maintenance which is offered on a time and materials basis. I disagree with this definition because I believe that maintenance plans comprise a separate and distinct market. The maintenance plans, which are akin to insurance policies, offer customers peace of mind in knowing that if problems develop they will be quickly corrected at no additional charge. This peace of mind is very valuable to certain customers and they are unlikely to substitute their maintenance plans in favor of hiring a contractor to repair the wire after it fails.

The record is very clear that there is little or no competition for the LEC maintenance plans. Therefore, I am not convinced that there is adequate competition for maintenance plans to warrant the current lack of regulation.

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.

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 and/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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.