

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of) DOCKET NO. 930574-TL
Rule 25-4.067(3), F.A.C.,) ORDER NO. PSC-95-0689-FOF-TL
relating to extension of) ISSUED: June 6, 1995
facilities by CENTRAL TELEPHONE)
COMPANY OF FLORIDA.)
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Central Telephone Company of Florida (Centel or the Company) filed a Petition requesting an exemption from Rule 25-4.067(3) Florida Administrative Code, which addresses extension of facilities and assessment of contributions in aid of construction. The Company states that in 1987 it eliminated certain exchange base rate area boundary lines and associated zone charges as per Order No. 17783, issued June 30, 1987, in Docket No. 861361-TL. This is reflected within the Company's tariff on its exchange area maps where particular base rate area boundary lines have been removed. The Company fears that not having base rate areas in some exchanges will create a problem if the need arises for assessing contributions in aid of construction (CIAC). Specifically, Rule 25-4.067(3), Florida Administrative Code states:

If the cost which the serving utility must bear under (2) above (or as provided in its tariff) equals or exceeds the estimated cost of the proposed extension, the utility shall construct it without cost to the subscribers initially served. If the estimated cost of the proposed extension exceeds the amount which the utility is

DOCUMENT NUMBER-DATE
05288 JUN-6 82
FPSC-RECORDS/REPORTING

required to bear, the excess cost may be distributed equitably among all subscribers initially served by the extension; provided, however, that no portion of the construction shall be assessed to the applicant(s) for the provision of new plant (a) within the exchange base rate area or (b) outside the base rate area for the minimum grade of line offered where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is to be used to serve subscribers in general except in those instances where the applicant(s) requests that facilities be constructed by other than the normal serving method. The utility's tariffs shall provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of (5) years or such lesser period as the subscriber and utility may mutually agree upon. (emphasis added)

Centel believes that the above rule refers to base rate areas as being the boundary line for levying CIAC. It asserts that based on the rule, it can be argued that the Company is not authorized to assess CIAC in exchanges where there is no longer a base rate area boundary line. Hence, Centel concludes a rule exemption is needed.

As a remedy, Centel first proposed that it be allowed to substitute currently approved language appearing in Section 5.2 of its General Customer Service Tariff which addresses CIAC for Rule 25.4-067(3), Florida Administrative Code. We did not believe the language was sufficient to act as a proxy for the rule because it failed to address the section of the rule which states that no customer shall be charged special construction rates ". . . for the minimum grade of line offered where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is used to serve subscribers in general. . ."

Centel has since revised its tariff dealing with special construction to incorporate the above language. However, we do not believe the tariff should act as a substitute for the rule, nor do we believe it is good policy to grant a partial rule exemption. Special construction tariffs are designed to work in conjunction with the rule. Therefore, since Centel's territory is a mix of exchanges with and without base rate areas, those exchanges that do not have base rate areas shall be governed by the Company's special construction tariff; those exchanges that do have base rate areas shall be governed by Rule 25.4-067(3), Florida Administrative Code. Accordingly, Centel's Petition requesting an exemption from Rule 25.4-067(3), Florida Administrative Code is denied.


ORDER NO. PSC-95-0689-FOF-TL
DOCKET NO. 930574-TL
PAGE 3

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Central Telephone Company of Florida's Petition requesting an exemption from Rule 25-4.067(3) Florida Administrative Code is hereby denied. It is further

ORDERED that unless a person, whose interests are substantially affected by the action proposed herein, files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this Order shall become final.

By ORDER of the Florida Public Service Commission, this 6th day of June, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 27, 1995.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially 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.