

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into the) DOCKET NO. 940235-TL
rates for interconnection of) ORDER NO. PSC-95-0916-FOF-TL
mobile service providers with) ISSUED: July 28, 1995
facilities of local exchange)
companies.)
_____)

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

ORDER REQUIRING PARTIES TO FILE BRIEFS

BY THE COMMISSION:

This docket was opened to investigate the rates, terms and conditions of interconnection between mobile service providers and local exchange companies. After the hearing was held and briefs were filed, substantial additions, revisions and amendments to Chapter 364, Florida Statutes, were approved by the Florida legislature. These changes became law on June 17, 1995, effective July 1, 1995. Several provisions of the law, depending upon the interpretation, construction and application deemed appropriate, could significantly impact the decisions made by the Commission concerning the issues identified for resolution in this docket.

To assure that the Commission's decisions fully consider the appropriate application of the changes to Chapter 364, Florida Statutes, we believe that the parties should, before a vote is taken on the substantive issues, address the following issues in briefs:

1. What are the potential effects of the recently enacted section 364.163 (1), Florida Statutes, capping the rates for network access service "...at the rates in effect on July 1, 1995" effective January 1, 1996, on the resolution of the issues identified for decision in this docket?

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2. What is the effect of the recently enacted section 364.163 (3), Florida Statutes, prohibiting any "...revisions in the rates, terms, and conditions for commercial mobile radio service access, which revisions are inconsistent with the requirements or methodologies of the Federal Communications Commission" on the resolution of the issues identified for decision in this docket?

3. What, if any, are the effects of the various amendments to section 364.385, Florida Statutes (savings clauses), on the resolution of the issues identified for decision in this docket?

4. Is there any other provision of the recently enacted changes to Chapter 364, Florida Statutes, which would limit, require or prohibit any action proposed by any party to resolve the issues identified for decision in this docket?

While this procedure is rare in Commission practice, it is warranted in a situation such as this one, where the governing law has been amended after post-hearing briefs were filed.

Filing briefs will, of course, delay the Commission's decision on the substantive issues. However, any failure by the Commission to properly consider a provision of the revised law could form the basis for a Motion for Reconsideration or Appeal to the Florida Supreme Court, thus potentially delaying the implementation of any decision the Commission made. On balance, we believe the opportunity for the Commission to have the benefit of the parties' positions on these issues is greater than the detriment caused by the delay in reaching a decision.

Therefore, we find that the parties shall file briefs addressing the impact of the revisions to Chapter 364, Florida Statutes, on the potential resolution of the issues identified for decision in this docket. The briefs shall address the four issues enumerated in this order no later than August 14, 1995. Any party wishing to respond to the brief of any other party may file an answer brief no later than August 24, 1995. It is not appropriate for the parties to include in this special brief, any analysis or comment on the substance of staff's recommendations on the substantive issues identified for resolution in this docket.

Any party wishing to respond to the brief of any other party may file an answer brief no later than August 24, 1995.

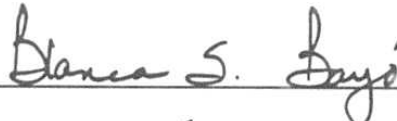
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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the parties shall file briefs addressing the four issues enumerated in this order no later than August 14, 1995. It is further

ORDERED that any party wishing to respond to the brief of any other party may file an answer brief no later than August 24, 1995.

By ORDER of the Florida Public Service Commission, this 28th day of July, 1995.



BLANCA S. BAYÓ, 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 hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial

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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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.