

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Objection to MCI Telecommunications Corporation's Tariff No. T-93-234 by Florida Pay Telephone Association, Inc.)	DOCKET NO. 930544-TI
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In Re: Objection to AT&T Telecommunications of the Southern States, Inc.'s Tariff No. T-93-504 by Florida Pay Telephone Association, Inc.)	DOCKET NO. 930946-TI ORDER NO. PSC-95-1485-FOF-TI ISSUED: November 30, 1995

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 DENYING PETITION FOR RECONSIDERATION

BY THE COMMISSION:

I. Background

On January 14, 1993, we issued Order No. PSC-93-0070-FOF-TP (Dial-Around 1). That Order provided intrastate dial-around compensation for 10XXX, 950, 800, and other access code calls which are dialed by the end user from a pay telephone to access his or her chosen interexchange carrier (IXC) and bypass the pay telephone's presubscribed IXC. We set the dial-around compensation surrogate rate at \$3.00 per compensable pay telephone per month for IXCs that provide operator services and generate \$50 million or more in gross intrastate revenues. Currently, only four companies in Florida meet these criteria: AT&T Communications of the Southern States, Inc. (ATT-C), MCI Telecommunications Corporation (MCI), LDDS Communications, Inc. d/b/a LDDSMetromedia Communications, and Sprint Communications Company Limited Partnership.

On May 6, 1993, MCI filed a tariff for its 1-800-COLLECT service (Tariff No. T-93-234). Under this tariff, the end user dials 1-800-COLLECT to reach an MCI operator to complete the call.

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FPSC-RECORDS/REPORTING

On June 4, 1993, the Florida Pay Telephone Association (FPTA) filed a Petition Objecting to MCI's Tariff No. T-93-234 and Docket No. 930544-TP was opened. In its petition, FPTA argued we did not consider additional dial-around calls generated by the introduction of MCI's 1-800-COLLECT service when we issued Dial-Around 1. The petition requested that MCI be required to compensate non-LEC pay telephone providers \$.50 per call for each call completed to MCI's 1-800-COLLECT service and that MCI and the local exchange companies track the number of calls made through this service. On June 5, 1993, Tariff No. T-93-234 became effective. On June 29, 1993, MCI filed a Motion to Reject And/Or Dismiss FPTA's Petition Objecting To MCI's Tariff T-93-234. FPTA filed a response on July 12, 1993.

On August 31, 1993, ATT-C filed Tariff No. T-93-504. The tariff, similar to MCI's, proposed to offer discounted rates to end users who make collect calls, including end users placing collect calls from pay telephones, by dialing 1-800-OPERATOR to reach an AT&T operator from September 30, 1993 through December 31, 1993. Tariff No. T-93-504 became effective on September 30, 1993. ATT-C has extended this service and made the offering permanent with a new access number, 1-800-CALL ATT.

On September 23, 1993, FPTA filed a Petition Objecting To AT&T's Tariff No. T-93-504 and Docket No. 930946-TI was opened. In its petition, FPTA made essentially the same arguments made in its petition objecting to the MCI tariff. ATT-C filed a Motion to Dismiss FPTA's Petition Objecting to AT&T's Tariff No. T-93-504 on October 18, 1993. FPTA filed a response on November 1, 1993.

By Order No. PSC-95-0881-FOF-TI, issued July 19, 1995, (Dial-Around 2), we granted the motions to dismiss filed by MCI and ATT-C and dismissed both of FPTA's petitions. We stated that the relief requested by FPTA had already been granted and that FPTA's petitions were untimely attempts to seek reconsideration of Dial-Around 1.

On August 3, 1995, FPTA, pursuant to Rule 25-22.060, Florida Administrative Code, filed a petition for reconsideration of Dial-Around 2. ATT-C and MCI have each filed responses to FPTA's petition. FPTA's petition for reconsideration is at issue here.

II. Reconsideration

The purpose of a motion for reconsideration is to bring to the Commission's attention some matter which it overlooked or failed to consider when it reached its decision. Diamond Cab Co. v. King,

146 So. 2d 889, 891 (Fla. 1962); Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). We considered and rejected all the arguments put forth in FPTA's original petitions. Therefore, as explained further below, we deny FPTA's petition for reconsideration.

In its reconsideration petition, FPTA argues that circumstances have changed that justify the Commission revisiting its dial-around policy. First, the Federal Communications Commission (FCC) has granted requests by Sprint and AT&T to implement per-call compensation on an interstate basis. AT&T filed its request with the FCC in 1994. Sprint's request was filed in 1995. Second, Sprint petitioned this Commission, in June, 1995, to implement intrastate per-call compensation in Florida.

We believe FPTA, in its reconsideration petition, is attempting to show specific changed circumstances to warrant revisiting the dial-around compensation issue. However, FPTA did not cite these changed circumstances in its original petitions. FPTA, even in its reconsideration petition, does not allege that these circumstances were present when the original petitions were filed. FPTA never amended its original petitions to incorporate or cite the changed circumstances for our consideration. FPTA is, under the guise of a petition for reconsideration, attempting to amend its pleading after the order dismissing it has been entered. Rule 25-22.036(7)(a), Florida Administrative Code, requires a petition to contain information the petitioner contends is material. We are not required to consider information not placed before us. If FPTA determined other information was relevant to our decision, it should have amended its pleading to include any material information. Despite its failure to properly plead the matter, FPTA still argued the changed circumstances at the June 27, 1995 Agenda Conference when the petitions were considered. We were not persuaded and issued Dial-Around 2.

Once these petitions were dismissed, FPTA filed a new petition alleging changed circumstances. See Docket No. 950769-TP. By Order No. PSC-95-1369-FOF-TP, issued November 3, 1995, we approved, in part, the FPTA petition to implement per-call compensation. In that respect, some of the relief FPTA requested in its original petitions has now been granted.

FPTA further argues that MCI and ATT-C have deployed new services (1-800-COLLECT and 1-800-CALL ATT) that were not considered during the 1992 dial-around proceeding. This argument was considered, and specifically rejected, in Dial-Around 2. See Order No. PSC-95-0881-FOF-TI at 3. FPTA's argument on this point is merely another attempt to seek reconsideration of Dial-Around 1.

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In Dial-Around 1, we specifically contemplated that 1-800 access codes would be used to complete dial-around calls. The definition of dial-around calls includes 800 calls made by an end user to reach his or her IXC of choice. Order No. PSC-93-0070-FOF-TP at 4. We stated that we expected the volume of dial-around traffic would increase. Id. at 6. 1-800-COLLECT and 1-800-CALL-ATT are not new services; they are different ways of marketing the same service contemplated by Dial-Around 1. Once again, we reject FPTA's argument and decline to reconsider Dial-Around 1.

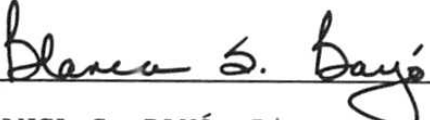
We have ruled that FPTA's original petitions were untimely attempts to seek reconsideration of Dial-Around 1. The petition at issue here is another attempt to seek reconsideration of Dial-Around 1. The FPTA's petition for reconsideration presents no evidence that the we overlooked or failed to consider any matter when we reached our decision to dismiss FPTA's petitions and issue Dial-Around 2. Therefore, FPTA's Petition for Reconsideration is denied.

It is, therefore,

ORDERED by the Florida Public Service Commission the Florida Public Telecommunications Association's Petition for Reconsideration of Order No. PSC-95-0881-FOF-TI is denied. It is further

ORDERED that these dockets are hereby closed.

By ORDER of the Florida Public Service Commission, this 30th day of November, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF 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 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.