

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of
Rule 25-4.110(4), F.A.C., by
Quincy Telephone Company d/b/a
TDS Telecom/Quincy Telephone.

DOCKET NO. 980272-TL
ORDER NO. PSC-98-0701-FOF-TL
ISSUED: May 20, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING WAIVER

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.

I. BACKGROUND

On February 23, 1998, Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone (Quincy or the Company) filed a petition with this Commission requesting a waiver of Rule 25-4.110(4), Florida Administrative Code. In its petition, Quincy indicates that Rule 25-4.110(4), Florida Administrative Code, requires Quincy as a local exchange company to include a bill insert advising each subscriber of the directory closing date and the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. Quincy proposes to inform its customers of the requirements of Rule 25-4.110(4), Florida Administrative Code, by means of a bill message instead of a bill insert.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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Notice of Quincy's petition for waiver was submitted to the Secretary of State on March 4, 1998, for publication in the Florida Administrative Weekly on March 13, 1998. No comments were submitted during the comment period, which ended March 27, 1998.

II. RULE WAIVER

The rule requires Quincy as a local exchange carrier to notify its customers by bill insert of the directory closing date and the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date.

Rule 25-4.110(4), Florida Administrative Code, Customer Billing for Local Exchange Telecommunications Companies, provides that:

(4) Each telephone company shall include a bill insert advising each subscriber of the directory closing date and the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. Such notice shall be included in the billing cycle closest to 60 days preceding the directory closing date.

Quincy states that it operates local exchange telephone companies in many states. In an effort to keep costs as low as possible, Quincy has attempted to standardize procedures. In other states where the company operates, the company is permitted to inform its customers of the information (or similar information) contained in Rule 25-4.110(4), Florida Administrative Code, through the use of a bill message. Alabama and Florida are the only states where Quincy operates that require the use of bill inserts.

With the amendments made to the Administrative Procedures Act by the 1996 Legislature, agencies are required to consider requests for variances or waivers from their rules according to the requirements set forth in Section 120.542, Florida Statutes. For purposes of meeting the requirements of Section 120.542, Florida

Statutes, the underlying statute in this case is Section 364.03, Florida Statutes. Section 364.03, Florida Statutes, is applicable to Quincy as a rate-of-return regulated local exchange carrier. Section 364.03, Florida Statutes, provides that:

(1) All rates, tolls, contracts, and charges of, and all rules and regulations of, telecommunications companies for messages, conversations, services rendered, and equipment and facilities supplied, whether such message, conversation, or service is to be performed over one company or line or over or by two or more companies or lines, shall be fair, just, reasonable, and sufficient, and the service rendered to any person by any telecommunications company shall be rendered and performed in a prompt, expeditious, and efficient manner. The telecommunications facilities furnished by a telecommunications company shall be safe and kept in good condition and repair; and its service shall be modern, adequate, sufficient, and efficient.

We believe that waiving Rule 25-4.110(4), Florida Administrative Code, in this instance, would not disserve the purpose of the underlying statute, Section 364.03, Florida Statutes. That purpose is to assure that each company's service shall be modern, adequate, sufficient, and efficient. Granting the requested waiver would allow the use of modern technology in that the information contained in Rule 25-4.110(4), Florida Administrative Code, would be in the form of a bill message. Further, the use of a bill message in this case would save the Company approximately \$400.00. The essence of Section 364.03, Florida Statutes, is that service shall be modern and efficient. Use of a bill message in lieu of a bill insert will accomplish both.

Quincy contends that to deny the requested waiver would create a "substantial hardship." We find that providing the information contained in Rule 25-4.110(4), Florida Administrative Code, by way of a bill message would be in the best interest of the customers served by Quincy and fulfill the intent of Section 364.03, Florida Statutes, because it would be "modern, adequate, sufficient, and efficient."

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Further, we believe that use of bill inserts could potentially be problematic for some customers. The customer must review each page of a bill and then each bill insert to determine whether the bill insert is an advertisement or a message related to the customer's existing service.

Upon consideration, we hereby grant Quincy's petition to waive Rule 25-4.110(4), Florida Administrative Code, allowing Quincy to inform its customers of Rule 25-4.110(4), Florida Administrative Code, by means of a bill message instead of a bill insert.

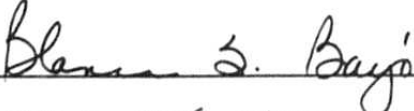
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone's petition for waiver of Rule 25-4.110(4), Florida Administrative Code, is granted as specified in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of May, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 10, 1998.

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.