

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Flow-through of 1998 LEC
Switched Access Reductions by
IXCs, pursuant to Section
364.163(6), F.S.

DOCKET NO. 980459-TP
ORDER NO. PSC-99-0666-SC-TP
ISSUED: April 6, 1999

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE
AND DISPOSING OF MOTIONS FOR EXTENSION OF TIME

BY THE COMMISSION:

During the 1998 Legislative Session, the House and the Senate passed revisions to Section 364.163(6), Florida Statutes, including one that modifies existing requirements for switched access rate reductions and the flow-through of those reductions to customers. By PAA Order No. PSC-98-0795-FOF-TP, issued June 8, 1998, the Commission ordered the access rate reductions and flow-throughs consistent with the revisions to Section 364.163, Florida Statutes. No protests to the order were filed. Thereafter, GTE and Sprint-Florida reduced their intrastate switched access rates by a total of approximately \$18 million, annualized, effective July 1, 1998. Their intrastate switched access rate reductions effective October 1, 1998, totaled approximately \$34 million on an annualized basis. The total annualized effect of the 1998 intrastate switched access reduction was approximately \$52 million.

DOCUMENT NUMBER-DATE

04404 APR-68

FPSC-RECORDS/REPORTING

REQUESTS FOR EXTENSION OF TIME

A. On September 28, 1998, MCI Telecommunications Corporation and SouthernNet, Inc. d/b/a Telecom*USA and d/b/a Teleconnect (collectively, Petitioners) filed a Request for Extension of Time to File Flow-through Reduction Tariffs. As grounds for their request, Petitioners alleged that they could not meet the deadline because of the short time frame between the filing of the Local Exchange Carriers' filing information and the due date for Petitioners' filing of tariffs. Petitioners requested an extension of time to October 21, 1998, and stated that they would insure that Florida consumers will receive the full benefit of the reduction through a retroactive credit effective back to October 1, 1998. Petitioners filed the flow-through reduction tariffs on November 9, 1998.

Although the tariffs were filed later than required by Order No. PSC-98-0795-FOF-TP, and two weeks later than the requested extension, the actual flow-through reduction has been accomplished and all customers of Petitioners have received credits for the full rate reduction amount by the end of December, 1998. Thus, the purpose of the statute has been fully realized, as though accomplished on October 1, 1998. Therefore, we find it appropriate to grant Petitioners' Request for Extension of Time. The flow-through reduction tariffs shall have an effective date of October 1, 1998.

B. Utilicore Corporation (Utilicore) has not yet complied with the flow-through order. After nearly six months of calls and requests, Utilicore sent a letter dated January 12, 1999, requesting an extension of sixty days in order to comply with the September 30, 1998 deadline. Granting this extension would equate to giving this company an extension in excess of six months. We believe that this is an unreasonable request and that it would be unfair to the other carriers to grant it. Further, until the company provides us with the appropriate information, we do not know if Utilicore's customers have been entitled to a rate reduction since October 1, 1998. Accordingly, Utilicore's request for an extension of time should be denied. Utilicore shall comply with the flow-through provisions within ten days of our decision on this issue.

SHOW CAUSE AGAINST UTILICORE

By Order No. PSC-98-0795-FOF-TP, issued June 8, 1998, and by operation of Section 364.163(6), Florida Statutes, as amended in 1998, any IXC whose intrastate switched access rate is reduced as a result of the rate decreases made by a local exchange company in accordance with Section 364.163, Florida Statutes, is required to decrease its intrastate long distance rates by the amount necessary to flow through the benefits of the reduction to its customers. The statutes required a July 1, 1998 reduction as well as an October 1, 1998 reduction. Utilicore has failed to respond concerning the October 1, 1998 reduction.

Utilicore was advised by letter dated September 2, 1998, of the October 1, 1998 switched access rate reduction and flow-through requirements. Follow-up calls were made. Key regulatory personnel left the company. On December 17, 1998, when Utilicore told our staff that it would need an extension of time, Utilicore was informed that a written request for an extension should be filed as soon as possible. None was received. By certified letter dated December 30, 1998 (also faxed), Utilicore was informed that it was out of compliance and that a written response should be sent by January 14, 1999. The certified receipt was never returned. On January 12, 1999, Utilicore sent a letter requesting an extension of sixty days and stating that the company believes that the reduction in switched access fees effective October, 1998, is less than \$100.00, but could not certify that fact at that time. Attempts were made to contact Utilicore to inform the company that sixty days was too long a period of time given the time already lapsed. The sixty days expired on March 14, 1999. However, our staff was unable to reach anyone at Utilicore to impart this information.

In this docket, compliance has been accomplished by all but three of the two hundred and twenty interexchange carriers required to comply with the flow-through provisions. For the companies other than Utilicore, some degree of compliance has been accomplished and we are awaiting documentation. Only Utilicore remains totally out of compliance. We believe Utilicore's inability to determine what flow-throughs may be required, its indifference to calls and letters from the Commission, and its failure to request an extension of the September 30, 1998 deadline until January 12, 1999, are sufficient basis to order Utilicore to show cause in writing within 21 days from the issuance of this Order why it should not be fined \$1,000 for failure to comply with

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Order No. PSC-98-0795-FOF-TP and the provisions of Section 364.163(6), Florida Statutes. If Utilicore timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If Utilicore fails to respond to the Order to Show Cause, the fine shall be deemed assessed. If the fine is not received within five business days after the expiration of the show cause response period, it should be forwarded to the Office of the Comptroller for collection.

Based on the foregoing, it is

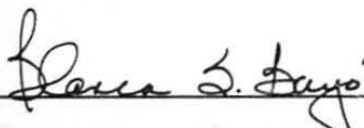
ORDERED by the Florida Public Service Commission that the Motion for Extension of Time filed by MCI Telecommunications Corporation and SouthernNet, Inc. d/b/a Telecom*USA and d/b/a Teleconnect is hereby granted. It is further

ORDERED that the request for an extension of time filed by Utilicore Corporation is denied. It is further

ORDERED that Utilicore Corporation shall have ten days from the date of our decision to comply with the flow-through provisions. It is further

ORDERED that Utilicore Corporation shall show cause in writing within 21 days why it should not be fined \$1,000 for failure to comply with Order No. PSC-98-0795-FOF-TP and Section 364.163(6), Florida Statutes. If Utilicore fails to respond to the Order to Show Cause, the fine shall be deemed assessed. If the fine is not received within five business days after the expiration of the show cause response period, it should be forwarded to the Office of the Comptroller for collection.

By ORDER of the Florida Public Service Commission this 6th day of April, 1999.



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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the show cause portion of this order may file a response within 21 days of issuance of the show cause order as set forth herein. This response 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 April 27, 1999.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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.