BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Investigation into the statewide offering of access to the local network for the purpose of providing information services | ) | DOCKET NO. 880423-TP |
| | ) | ORDER NO. 23183 |
| | ) | ISSUED: 7/13/90 |

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER

ORDER RESOLVING MOTIONS FOR RECONSIDERATION OF ORDER NO. 21815

BY THE COMMISSION:

I. BACKGROUND

This proceeding is a generic investigation by the Commission into various types of services that use the telecommunications system to enhance, modify, or redirect the transmission of information. These services take various forms, including voice mail services, data base retrieval, value-added networks and other services oriented towards the storage, manipulation and transmittal of information, either voice or data. This investigation also addresses the policies and practices of the local exchange companies (LECs) in allowing both affiliated and nonaffiliated business entities access to the local network for the delivery of information services to consumers.

Order No. 21815, issued September 5, 1989 (the Order), sets forth our decision regarding the provision of information services and other related issues. We determined there that the record failed to provide an adequate definition of "information services." We also asserted our jurisdiction over information service providers (ISPs) subject to modification pending the outcome of an appeal pending in the U.S. Court of Appeals for the Ninth Circuit (the Ninth Circuit). Upon concluding that we have jurisdiction over the ISPs, we decided to determine the degree of regulation on a case-by-case basis. The Order also requires the LECs to continue to provide access to ISPs under current LEC tariffs. In addition, we found that

LECs should be required to provide new services requested by ISPs, if technically and economically feasible.

The Order also defined Customer Proprietary Network Information (CPNI) and determined that access to it by LEC-affiliated ISPs must be by the written consent of the customer. Additionally, we defined "intrastate access" for purposes of information services. We did not require that the LECs provide physical collocation, but ruled that the LECs who opted to provide it could charge their affiliated ISPs the Short Jumper rate. Finally, we ordered Southern Bell Telephone and Telegraph Company (Southern Bell) to file tariff revisions to offer the 40 Basic Service Elements (BSEs), complimentary network services, and ancillary services, no later than 30 days following the issuance of this Order.

Various aspects of these holdings as discussed above are the subjects of motions for reconsideration and clarification which were filed by Southern Bell, GTE Florida Incorporated (GTEFL), and United Telephone Company of Florida (United). In addition, Central Telephone Company of Florida (Centel) filed a statement endorsing the motions of Southern Bell and GTEFL. Finally, the Information Services Providers Alliance (ISPA) filed a response to the LECs' motions.

## II. JURISDICTION OVER LEC PROVIDED INFORMATION SERVICES

As mentioned above, the Order held that we have jurisdiction over LEC provided information services. This holding was premised on the language of Sections 364.02(3) and 364.03(1), Florida Statutes. We found that any telephone company information service provided as a direct derivative of telephone switching and transport is subject to Commission jurisdiction. Both Southern Bell and GTEFL seek reconsideration of this jurisdictional determination in light of the Federal Communications Commission's (FCC's) actions in its Computer Inquiry II and III proceedings which preempted state regulation of enhanced services.

To satisfy the standard for reconsideration, a motion must concisely state the grounds supporting the relief requested, see Rule 25-22.060(2), Florida Administrative Code. The allegations must bring to the Commission's attention some matter of law or fact which it failed to consider or overlooked in its prior decision, Diamond Cab Co. of Miami v. King, 146

So. 2d. 889 (Fla. 1962), Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). The motion may not be used as an opportunity to re-argue matters previously considered by the Commission, Diamond Cab, supra.

The arguments concerning the FCC were analyzed at length in the Order. Neither Southern Bell nor GTEFL has raised any issue that we failed to consider or overlooked in reaching our prior decision. Accordingly, we deny Southern Bell's and GTEFL's motions for reconsideration of our finding on jurisdiction.

## III. REGULATION OF LEC PROVIDED INFORMATION SERVICES

Both Southern Bell and United seek reconsideration of our decision to regulate information services. Southern Bell argues that regulation is not needed because the information services market is competitive and that regulation will result in delays, added costs and disincentives for LECs to offer information service. The company also contends that we have incorrectly assumed that nonstructural safeguards would not be properly implemented or effective.

United alleges that sufficient protection exists at both the federal level and in the Order to protect against cross subsidization or anti-competitive behavior. United also charges that we skewed the competitive balance by regulating the LEC ISPs but not the non-LEC ISPs, and requests equal treatment for both types of ISPs.

ISPA asserts that Commission regulation of information services is not necessary because ratepayers, competitors, and users are best protected from cross subsidization through cost based pricing under tariff of all monopoly services, and by strict enforcement of existing nonstructural safeguards.

The arguments raised here by the LECs were previously addressed in the Order. Our main concerns were with the inherent advantages the LEC ISP holds through its affiliation with the monopoly provider and the incentives to cross subsidize. We also expressed concern with the difficulty of enforcing nonstructural safeguards. We ruled in the Order that the best interests of the ratepayers are served by initially regulating LEC-provided information services. We believe this is still true and therefore deny the motions for reconsideration of that finding. We will address the appropriate level of regulation in the future.

IV. STAY OF THE EFFECT OF JURISDICTION AND REGULATION ISSUES

Although we have determined that the Commission has jurisdiction over LEC-provided information services, we will grant Southern Bell's and GTEFL's request for a stay of the effect of that portion of our jurisdictional and regulatory decisions until the Ninth Circuit has ruled on the issue of the FCC's authority to pre-empt state regulation of enhanced services. We acknowledge that any conflicting state regulation should await the outcome of this appeal.

Granting the stay is also consistent with our actions in Orders Nos. 21447 and 21647, issued June 26, 1989, and August 1, 1989, respectively, in which we asserted jurisdiction over protocol conversion and customer dialed account recording service. In these cases, we determined that, absent FCC preemption, we had jurisdiction over the intrastate portion of those services. We acknowledged the Ninth Circuit's appellate jurisdiction and stayed the effect of the orders until that court made a determination.

V. DEFINITIONS

A. Intrastate Access: Both United and GTEFL requested reconsideration and clarification of our definition of "intrastate access" for information services as contained in the Order. Upon consideration, we find that our definition is appropriate for the information services industry today. Further, this definition is supported by the record. Therefore, we deny the requests of United and GTEFL.

In the Order at page 27, we defined "intrastate access" for information services purposes as:

> Intrastate access is switched or dedicated connectivity which originates from within the state to an information service provider's point of presence (ISP's POP) within the same state.

United is concerned with the impact of implementing this definition. United argues that it could find no evidence measuring the effects of the transfer of costs from the interstate to the intrastate jurisdiction; and because the effects are unknown, we should reconsider this definition.

We are aware of problems with current separations procedures. Currently, the FCC requires that traditional separations procedures be used to allocate the costs of Open Network Architecture (ONA) services. Under these procedures, a large portion of usage, and therefore, costs associated with ONA services fall into the intrastate jurisdiction. This is because the minutes-of-use allocators currently used in separations are based on analog, circuit-switched technology. Many new BSEs are part of services that do not create additional minutes-of-use because the underlying technologies are not analog and circuit-switched but are digital and packet-switched. Also, new services will use a signaling path rather than interoffice trunks, and existing allocators do not capture usage over the common channel signaling paths. Before the true impact of any jurisdictional definition can be measured, these problems must be solved. Furthermore, under a dual jurisdictional tariffing scheme, as advocated by the FCC, if the majority of ISPs subscribe to interstate tariffs for BSAs and BSEs, the majority of revenues will be assigned to the interstate jurisdiction whi1e the majority of costs will remain intrastate. The end result is a mismatch of costs and revenues, to the detriment of the intrastate jurisdiction.

In the FCC's CC Docket No. 89-79, we expressed to that agency our concern regarding this issue and requested that it be examined closely. Further, members of the Federal/State Joint Conference on ONA, established by the FCC in its Order No. 88-381, released December 22, 1988 (hereinafter, the "FCC Order"), recently signed a statement directing the Joint Board established in CC Docket No. 80-286 to investigate separations issues associated with ONA.

We acknowledge that, due to the problems associated with separations procedures, we defined "intrastate access" so that the revenues more closely matched the costs accruing to the intrastate jurisdiction. However, given current conditions, the definition which we have adopted ensures that revenues as well as costs accrue to the intrastate jurisdiction.

United also requests that the Order be clarified to reflect that this definition applies for Commission purposes and not for Florida Department of Revenue purposes. We cannot speak on behalf of the Florida Department of Revenue, which operates under its own governing statutes; therefore, we find clarification to be unnecessary. United further contends that

this definition should be limited to the information services industry and should not be applied to the long distance industry. We stated on page 27 of the Order that this definition is "specifically for information services." Accordingly, clarification is not necessary.

GTEFL also requests clarification of this definition, arguing that the definition implies that virtually all such access is intrastate and exclusively subject to our jurisdiction. We find that there is nothing explicit or implicit about the definition which suggests that all access is intrastate in nature. The definition implies that access will be interstate or intrastate depending upon the location of the ISP's POP.

We hereby affirm our definition of "intrastate access" for information services. As stated in the Order, this definition provides certain advantages. First, it is technically feasible to identify the jurisdictional nature of access and it becomes less complicated to identify those BSAs and BSEs over which we have jurisdiction. Also, if a call accesses a data base in another state, this definition avoids most of the potential jurisdictional contamination problems.

B. Information Services: Southern Bell, United, and GTEFL ask that we reconsider that portion of the Order that declines to adopt a definition of "information services." Upon consideration, we hereby adopt the following definition:

> Information services are those services offered over transmission facilities used in communications, which provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information; but do not include basic telephone transmission communications or adjunct services which facilitate use of the basic network without changing the nature of basic telephone services.

We believe that this definition should be used as an instructive guideline for categorizing services as information or non-information services. In cases where it is unclear whether a service falls under an information or a non-information service category, we will decide on a case-by-case basis.

We distinguish between the two categories of service that are discussed in this docket. The first category is access to the local telephone company for the purpose of providing service to ISPs. This access is not an information service although it is necessary to the provision of information services. The other category is end user information services provided by a LEC or non-LEC ISP. The definition of information services adopted here shall apply only to the latter category.

Finally, United asks us to clarify whether its voice messaging services fall within our jurisdiction. United takes issue with the portions of the Order that state that information services under Commission jurisdiction include, "gateways, enhanced transport type service and, since LEC voice messaging services are generally collocated in the central office processor, all elements of voice messaging." United maintains that the Order states that we base our jurisdiction over voice messaging services on whether the equipment is located in its central office processor. Since United's equipment is not located in its central office processor, the company stated that its voice messaging service does not fall under our jurisdiction.

We find that whether or not the LEC provided service is collocated in the LEC central office is not the determining factor in what constitutes an information service. If a service involves subscriber interaction with stored information and is a telemessaging service, then that service is an information service. Upon consideration, we find that United's voice messaging service is an information service.

## VI. CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI)

Southern Bell and GTEFL request that we reconsider our decision dealing with Customer Proprietary Network Information (CPNI). With respect to ISP access to CPNI, the Order holds that:

1) All information service providers, including a LEC's affiliated ISP, should be required to obtain written authorization from a customer before they can access that customer's CPNI.

2) With respect to aggregate CPNI, a LEC affiliated ISP should obtain access to such information under the same terms and conditions as other nonLEC ISPs.

3) In addition, personnel of a LEC affiliated ISP should not be allowed to access CPNI possessed by the LEC, unless authorized in the manner described above.

Southern Bell and GTEFL argue that our jurisdiction has been pre-empted by the FCC and that we may not impose structural safeguards more stringent than or inconsistent with the FCC non-structural safeguards. They claim that our ruling on CPNI, which requires written authorization from a customer as a prerequisite for a LEC-affiliated ISP to access that customer's CPNI, is inconsistent with, and more stringent than the FCC's CPNI rule. They also point out some inconsistencies between our definition of CPNI and that of the FCC's.

First, Southern Bell argues that our requirement that a LEC-affiliated ISP obtain written approval from the LEC customers to access their CPNI would lead to absurd results and cause customer confusion and irritation. Southern Bell also contends that such a requirement would preclude a LEC from effectively offering information services to the mass market. The company says that a customer calling the LEC business office to order network services and to inquire about information services would be precluded from being told about information services until that customer gives written authorization to the LEC to inspect the records of the network services the customer just ordered. Southern Bell concluded that a customer could not simultaneously order network services and information services from the LEC.

In our view, the CPNI requirement contained in the Order does not prevent a customer from simultaneously ordering network services and information services. If a LEC is first contacted by a customer who requests both services, there is nothing in the Order which prevents the LEC from processing both orders. The intent of the CPNI requirement as contained in the order is to prevent the LEC from using customers' CPNI information as a marketing tool to benefit its own ISP operations regardless of whether the LEC's ISP is integrated or structurally separate. We determined that such a concession would give the LEC's ISP affiliate an unfair competitive

advantage. Thus, we concluded that a LEC which is allowed to provide information services on an integrated basis should have the same requirements imposed on it as are imposed on its competitors. Upon consideration, we find that our intent concerning CPNI is clearly expressed in the order; therefore, Southern Bell's request for clarification is hereby denied.

GTEFL requests that we modify our definition to be consistent with that of the FCC by excluding customer name, address, telephone number, and customer premises communication equipment. GTEFL's argument is that such information is not about the use of network services. We agree that such information may not be directly related to network uses. However, in the Order we ruled that such information should be a part of the CPNI definition; if it is not, the LEC ISP will have easy access to names and addresses of potential customers. In this event, the information would be useful in initiating contact with potential ISP customers. The LEC ISP competitors would not have this benefit and therefore could be at a competitive disadvantage.

Finally, GTEFL requests that we allow the LEC-affiliated ISP to use credit information in the manner permitted by the FCC. In support of this request, the company cites page 215 of the FCC Order, which states:

> Moreover even assuming a BOC derives some utility for its enhanced service marketing from its basic services credit information, we do not think this constitutes an "unfair" or anti-competitive advantage. All firms use their own credit experiences with customers in determining future credit relationship. This is legitimate business practice, which we do not think should be prohibited ....

We disagree with the FCC's finding. The LEC-affiliated ISP would have access to this information only as a result of its integrated structure, not because of any management efficiency or expertise of the LEC ISP. This is not a privilege that the LEC ISP's competitors would have. Contrary to the FCC's opinion, we believe that if the LEC-affiliated ISP is allowed access to credit history information, it will receive an unfair competitive advantage. Our decision that credit history information should not be

United argues that our actions artificially lower the barriers to entry to the information services industry and that the effects of imposing usage rates now will be less than doing so later. United asks that we either reconsider this issue or immediately open a new docket to establish measured rates.

Centel endorses the positions of Southern Bell and United. However, ISPA states that we correctly determined that two-way measured service would not serve the public interest and claims that record evidence shows that Southern Bell did not submit data to support its rate structure proposal. ISPA further argues that Southern Bell did not adequately support its claim that the general body of ratepayers is subsidizing ISPs.

In the Order, we expressed our concerns with Southern Bell's two-way measured service tariff and neither rejected nor accepted it. We also stated that the ISPs were on notice that our decision to allow them to continue under existing tariffs was a preliminary finding. Finally, we stated that more information was needed to make a final decision on whether usage sensitive pricing is appropriate. We find that nothing in either Southern Bell's or United's petitions on this issue supply us with sufficient information to make a final decision on an appropriate rate structure. Accordingly, we deny Southern Bell's and United's petitions for reconsideration.

GTEFL supports our ruling that usage sensitive tariffs may ultimately be determined to be appropriate. However, the company asks that we "affirm that usage sensitive tariffs are the most appropriate rate structure to be adopted statewide under the Stipulation." We approved the Stipulation which provides that rate structures should be statewide, terms and conditions should be statewide to the extent possible, and rate levels may be company-specific. The Stipulation did not address any particular rate structure, so there was no agreement in the Stipulation regarding usage sensitive rates. We find that GTEFL's request for affirmation goes beyond the scope of the Stipulation and is denied. We also reiterate that our ruling allowing ISPs to continue taking service under existing tariffs is a preliminary finding.

disclosed to any party including the LEC-affiliated ISP is appropriate.

For these reasons, we deny Southern Bell's and GTEFL's motions that we modify and clarify our CPNI rule. Neither party presented any points on reconsideration that we failed to consider or which we overlooked when we made our CPNI decision. However, we find it necessary to clarify that the Order was directed toward mass marketing of CPNI and not individual customer initiated contacts.

## VII. COLLOCATION

United requests that we reconsider the language on page 43 of the Order which states: "In addition, physical collocation shall be provided pursuant to tariffs filed and approved by this Commission." United offered its definition of physical collocation as the leasing of floor space in a central office or toll switch building, and it is the only party to interpret the Order to require the tariffing of floor space leases.

We find no direct reference in the Order that requires floor space leases to be tariffed. The Order only requires that interconnection rates be tariffed. Accordingly, we find that reconsideration of the language is not necessary. However, we will clarify the statement by deleting from page 43 of the Order the words "in addition" so that the statement is more closely associated with the previous reference to items in the tariff. Also, we will add as the next sentence the following: "Floor space leasing is not to be tariffed, only the service interconnection rates must be tariffed and filed with this Commission."

## VIII. USAGE SENSITIVE RATE STRUCTURE

Both Southern Bell and United ask us to reconsider our decision not to adopt a usage sensitive rate structure for access to the network by ISPs. Southern Bell argues that we ignored evidence in the docket showing that ISPs' usage exceeds average usage, and that failure to adopt a usage sensitive rate structure would increase the subsidy currently flowing to ISPs from the general ratepayer. The company requests that we either approve its two-way measured service proposal or, alternatively, recommend a usage sensitive rate structure.

## IX. ASSOCIATION OF SPECIFIC BSES WITH 2-WAY MEASURED ACCESS LINE

Southern Bell asks for reconsideration of the Order's requirement prohibiting all LECs from associating specific BSEs with the two-way measured access line. The company believes that this part of our decision was based on a misunderstanding that resulted from ambiguities and inaccuracies in the record regarding Southern Bell's proposal. The company states that it proposed to associate only a few new and newly unbundled BSEs with the usage sensitive tariff, rather than the 40 BSEs incorrectly referenced in the Order. The nine features to be bundled are: automatic number identification; answer supervision line side; call detail information; custom service area; uniform access number; faster signaling on DID; BCLID; SMDI; and queuing. Southern Bell contends in its motion that, under its proposal, services like touchtone, call waiting, and call forwarding that are associated with the access line of the end user would not be tied with two-way access lines. ISPA did not specifically address whether BSEs should be associated with the two-way measured line, but its reply comments indicate it is in general disagreement with a mandatory two-way usage line.

We were fully aware of the company's concern and took it into account when we made our decision. We do not believe Southern Bell has presented any additional information that we failed to consider; thus, we deny the company's motion for reconsideration.

Further, Southern Bell implies that since its current proposal ties only a few BSEs to the two-way line, we should be satisfied that local telephone companies will not modify their proposals in subsequent tariff filings and attempt to tie additional BSEs to the two-way line. We do not accept this inference and hereby reaffirm our decision that the LECs have no option to mandatorily tie any BSEs with the two-way access line.

## X. TARIFF PROPOSALS REQUIRING COMMISSION AGENDA CONFERENCE

We find it necessary to define the appropriate criteria for determining when a tariff proposal for a LEC provided information service must be brought to us for consideration.

Chapter 2.08 of our Administrative Procedures Manual sets out guidelines for determining whether a tariff can be approved administratively or must be brought to the Commission for consideration in an agenda conference. Chapter 2.08 allows that new services can be approved administratively as long as the tariff proposal does not contain new pricing concepts and does not limit service or affect rates to existing customers. However, even these proposals falling in the above categories would require Commission consideration if our Staff finds them controversial or unique in nature.

We find that all new services that appear to meet the end user information service guidelines set forth earlier in this order are controversial and unique in nature. Accordingly, we direct our Staff to bring all such tariffs before us for consideration.

XI. ONA OFFERING REQUIREMENTS

United requests that we clarify what constitutes a request for an ONA offering. United asks that the ISP be required to provide the request in writing, specifically describe the service and its utility to the ISP, and give the projected demand for the service.

ISPA, in its response, generally supports United's request on this issue. However, ISPA noted that projected demand is a function of a feature's cost, and that describing the utility of a feature is unnecessary and could require disclosure of proprietary information.

We note that the Stipulation regarding uniform statewide terms and conditions for services, which United signed, states that the request for the service must be in writing. The Stipulation specifically addresses the situation in which a request is made for a service element that has been previously made available by any LEC elsewhere in Florida. To the extent that United deems this insufficient, we find it reasonable to clarify our position that all requests for new ONA offerings shall be in writing and shall describe the service desired. However, there is no record to support the necessity of an ISP's providing the utility, or projected demand of a service to the LEC when requesting a service.

XII. TARIFFING OF ONA REQUESTS

United requests that we reconsider the portion of the Order that requires tariffing of all ONA requests. We do not require that every request be tariffed. If a LEC cannot economically provide a service, it must simply provide an explanation in its quarterly reports. In addition, as stated in the Order, we will handle filings on a case-by-case basis. Therefore, if a LEC encounters a request for a service that is highly unusual, and if the LEC is willing to offer it, the LEC may propose to the Commission that it be handled differently from other filings.

However, we do believe that the language on page 22 of the Order should be modified to better express our intent with respect to LEC responses to ONA requests. Thus, the phrase "by filing appropriate tariffs" shall be deleted from the last sentence in the paragraph at the top of page 22. The sentence will read:

> With respect to ISP requests for new offerings, every affected LEC should respond to such request as soon as practicable, but in any event no later than when similar responses are provided at the interstate level.

XIII. REPORTING REQUIREMENTS

GTEFL requests that we modify the Order's reporting requirements. In order to monitor the effects of our decisions, we require the LECs to file quarterly reports containing the following information: (1) identification of all requests for a particular service by ISPs and the dates of such requests; (2) the number of ISPs or others requesting each item; (3) LEC's planned response date for each request; (4) LEC's planned tariff filing and implementation dates for each request; (5) explanation/description of the item requested; and (6) if unable or unwilling to provide an item, a full explanation of the reason.

GTEFL contends that the reporting requirement is unnecessary and burdensome. First, GTEFL states that the lack of a definition, of "information services" left it with no basis for determining which customers are ISPs. We establish herein a definition of "information services" which will

facilitate implementation of our rulings.

Second, because the LECs are required to provide the number of ISPs or "others" that request each item, GTEFL requests a definition of the word "others." We find that the term "or others" obviates the need for the LEC to have to determine if a customer is an ISP. Thus, the word "others" requires no further definition.

Third, GTEFL states that, since the record reflects no abuse by the company with respect to ISP service requests, a less burdensome way to monitor development of the ISP market would be to require only a list of the types and number of ONA services that GTEFL provides. We disagree and emphasize that it is equally important to learn what the company does not or cannot provide, and why.

Fourth, GTEFL states that the information in the report implies that data will be compiled by ISPs and other customers, thereby making public record data on individual ISPs that may be proprietary. We find it necessary to clarify that the Order requires no customer-specific or proprietary data to be filed in the reports. Thus, we deny GTEFL's request for reconsideration of the reporting requirement.

XIV. COST METHODOLOGIES

Southern Bell, GTEFL, and United requests reconsideration or clarification of the Order's reference that similar cost methodologies are a part of the stipulated settlement providing for uniform terms, conditions, and rate structures for BSAs and BSEs. Cost methodologies were not a part of the stipulated agreement. In addition, all cost methodologies submitted for ONA offerings will be subject to the same case-by-case scrutiny as other tariff filings. Therefore, we find that the sentence stating, "Pursuant to the stipulation, similar costing methodologies are to be used by the companies when setting prices for services," shall be deleted from paragraph 2 on page 9 of the Order.

XV. TARIFF FILING TIME EXTENSION

Southern Bell requests that we refrain from requiring LECs to file tariffs for BSEs and BSAs until after a second phase of hearings is completed. Alternatively, Southern Bell seeks

additional time to file tariffs. Upon consideration, it appears that Southern Bell's request to delay filing tariffs until after a second round of hearings is simply a second reconsideration request to adopt usage sensitive rates. Accordingly, we hereby deny that request.

In addition, we also deny Southern Bell's request for additional time to file tariffs. Southern Bell has been aware of the requirements to file tariffs since the July 2, 1989, Special Agenda Conference. The Order was issued on September 5, 1989. Upon issuance of this Order, Southern Bell will have had ample time to make preparations to file tariffs for services which it stated it could provide.

XVI. STIPULATIONS

In Order No. 21815 we approved a stipulation of the parties providing for uniform terms, conditions and rate structures for BSAs and BSEs. We inadvertantly failed to attach a copy of that stipulation to the Order. A copy of the Stipulation is attached to this Order as Appendix I.

At the beginning of the hearing in this proceeding, the Florida Cable Television Association (FCTA) proposed that video programming would not be included in the scope of the proceeding. The parties stipulated to FCTA's proposal. We approved this stipulation at the beginning of the hearing. However, we inadvertantly failed to note this stipulation in Order No. 21815. Accordingly, Section III of Order No. 21815 is amended to note the parties agreement to the FCTA's proposal and our approval of that stipulation.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every one of the specific findings set forth herein are approved in every respect. It is further

ORDERED that the Motions for Reconsideration and Clarification of Order No. 21815 filed by Southern Bell Telephone and Telegraph Company, GTE Florida Incorporated, and United Telephone Company of Florida are hereby granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that we reaffirm our previous finding that the Commission has jurisdiction over information services provided by local exchange companies as set forth in the body of this Order. It is further

ORDERED that we grant a stay of the effect of that portion of Order No. 21815 asserting jurisdiction over and providing for regulation of information services provided by local exchange companies as set forth in the body of this Order. It is further

ORDERED that the definition of "intrastate access" for information services set forth in Order No. 21815 shall remain in effect. It is further

ORDERED that the definition for "information services" shall be as set forth in the body of this Order. It is further

ORDERED that our decisions regarding customer proprietary network information shall not be reconsidered for the reasons set forth in the body of this Order. It is further

ORDERED that the language of Order No. 21815 is clarified to affirm that central office or toll switch building floor space leases shall not be tariffed. It is further

ORDERED that we affirm our decision in Order No. 21815 not to adopt a usage sensitive rate structure for access to the local network by information services providers. It is further

ORDERED that new services that meet the end user information service guideline as set forth in the body of this Order shall be brought before this Commission for a vote. It is further

ORDERED that a request for an Open Network Architecture offering must be in writing and specifically describe the service requested. It is further

ORDERED that the language of Order No. 21815 regarding LEC responses to information services providers' requests for new offerings shall be clarified as set forth in the body of this Order. It is further

ORDERED that the reporting requirements set forth in Order No. 21815 shall remain in effect. It is further

ORDERED that the language in our decision in Order No. 21815 regarding similar cost methodologies shall be modified as set forth in the body of this Order. It is further

ORDERED that the request of Southern Bell Telephone and Telegraph Company for the Florida Public Service Commission to refrain from requiring local exchange companies to file tariffs for basic service arrangements and basic service elements until a second phase of hearings to determine the rate structure is completed is hereby denied. It is further

ORDERED that Southern Bell Telephone and Telegraph Company's request for additional time to file tariffs is hereby denied. It is further

ORDERED that Order No. 21815 is amended to include our approval of the Florida Cable Television Association's and the parties' stipulation that video programming shall not be included in the scope of this proceeding.

ORDERED that this docket will remain open.

By ORDER of the Florida Public Service Commission, this 13th day of July, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

( S E A L )

PAK/TH

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 sewer 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 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.