

FLORIDA PUBLIC SERVICE COMMISSION

**Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850**

MEMORANDUM

September 12, 1991

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [DOWDS] *810*
DIVISION OF LEGAL SERVICES [MURPHY] *Can F*

RE : DOCKET NO. 910783-TS: PETITION FOR RELIEF FROM PREVAILING
12-CENT MESSAGE RATE FOR SHARED TENANT SERVICES PROVIDERS
BY FAIRCHILD COMMUNICATIONS SERVICES COMPANY

AGENDA: SEPTEMBER 24, 1991 - PROPOSED AGENCY ACTION -
CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

CASE BACKGROUND

In Order No. 17111 (issued January 15, 1987; hereafter, the STS order) the Commission determined that, subject to certain restrictions, the provision of Shared Tenant Services (STS) is in the public interest. STS involves providing telecommunications services -- in particular, local service -- to a group of individuals or entities by means of a common switching or billing arrangement. A STS provider typically will furnish local service to end users by use of a PBX in conjunction with LEC-provided PBX trunks; customers of the STS provider do not have separate access lines but instead share local trunks. Although the Commission authorized such sharing or pooling of trunks by STS providers, it retained its prohibition against intercommunication among unaffiliated commercial tenants without accessing the LEC central office (station side partitioning).

Regarding the LEC rates and rate structure that should be applied to STS providers, the Commission concluded that a combination of a flat rate trunk charge in conjunction with usage-sensitive rates was appropriate. The STS trunk rate was set equal to 60% of the flat PBX trunk rate, plus a \$40 per month trunk termination charge, per DID trunk; the usage charge was set at \$.12 per message, the same usage rate assessed at the time for interconnection of private pay telephones (NPATS) to the local network. In Order No. 17369 (issued April 6, 1987) the Commission

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clarified its initial STS order, noting that where a STS provider is served from central offices incapable of message measurement, a rate equal to 175% of the flat PBX trunk rate would be assessed in lieu of the out-dial trunk charge and message rate charges.

On July 22, 1991, Fairchild Communications Services Company (Fairchild, or the Company), a provider of shared tenant services at five locations in Florida, filed a Petition requesting rate relief from the \$.12 STS message rate. (It should be noted that the Company's petition is limited solely to the issue of the appropriate STS usage rate levels; it does not address the appropriateness of a usage-sensitive rate structure, or any other issues dealt with in the 1987 STS proceeding.) Fairchild asserts that the \$.12 message rate was set equal to the then-current NPATS usage rate; that the Commission applied the same usage-sensitive rate to NPATS and STS providers, on the basis that both resell local exchange service; and that the STS message rate has remained unchanged since its inception, while the NPATS rates have been converted to a measured, time-of-day minute of use basis and their rate levels have been reduced several times. By way of relief, Fairchild requests that the Commission make STS providers subject to the same usage rates as NPATS providers, by requiring the LECs to amend their STS tariffs to incorporate the NPATS usage rates adopted in Order No. 24101, as may be modified by the Commission on reconsideration.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Fairchild's request and order the LECs to amend their shared tenant services's tariffs to replace the current STS message rate with the NPATS measured rates authorized in Order No. 24101, subject to any modifications to that order made on reconsideration?

RECOMMENDATION: Yes. The Commission should grant Fairchild's request and order the LECs to amend their STS tariffs to replace the current STS message rate with the NPATS measured rates authorized in Order No. 24101, subject to any modifications to that order made on reconsideration.

STAFF ANALYSIS: Fundamental to the Company's petition for relief from the \$.12 message rate is its assertion that "STS providers were made subject to rate treatment in accordance with that to which PATS providers are subject...." The following passages from the Commission's STS order lend support for Fairchild's position:

We are persuaded that usage-sensitive rates are appropriate as a part of the overall STS rate structure for resold services. In fact, we have already adopted a message charge of twelve cents (\$.12) per message in Order No. 14132 - our order approving interconnection of private pay telephones (PATS) to the local switched network. Although we considered the concept of billing STS based upon access charges, as proposed by the Staff witness, the testimony suggests some LECs do not have the capability of billing for access charges at this time. Furthermore, as we noted above, we have already adopted a message charge for PATS providers. We believe this rate is appropriate for the STS environment as well.

...[w]e believe it is appropriate to classify utility customers based upon the nature of the service they receive. For example, distinctions may be drawn based upon the time and manner of use. STS providers' use of trunks, through sharing, represents a distinct difference from individual service. We have recognized this usage by approving a message rate. This rate is consistent with existing tariffs now in place for resale of local exchange service by PATS providers. (Order No. 17111, pp.15-16)

Several observations are warranted. First, it appears clear from the STS order that the Commission explicitly endorsed the previously adopted NPATS message rate as appropriate for STS. The Order indicates that application of access charges was considered but rejected due to technical billing limitations of some of the LECs; instead, since a message rate had been adopted for another

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resold service, NPATS, it was deemed equally applicable to STS. Second, since STS involves the resale of a LEC service, usage-sensitive rates were determined to be appropriate. Staff would note that similar reasoning led to adoption of a usage-sensitive rate for NPATS; in Order No. 14132 the Commission stated:

We believe a combination of a flat rate which recovers the LECs costs of providing access and a usage charge is more appropriate than a flat rate....We have in the past expressed a preference for usage sensitive rates where the service will be resold, e.g., resale of WATS and MTS, and Dial-It service. (Order No. 14132, p. 13)

Further, the Commission expressly noted that its acceptance of a message rate for STS was consistent with tariffs approved for the resale of local exchange service by NPATS providers.

The \$.12 NPATS message rate was adopted by the Commission in Order No. 14132 (issued February 27, 1985). The parties to that proceeding had advocated three distinct rate structures: a single flat monthly rate; a flat monthly rate with a per minute of use charge; and a flat monthly rate with a per message charge. As indicated above, the first option was dismissed because of the Commission's preference for usage-sensitive rates for resold local services. The second option, a flat rate plus a per minute charge, was rejected because NPATS providers' rates for local calls were being capped. Since the NPATS provider was prohibited from charging for calls based on duration, it was decided to be inappropriate to allow a LEC to charge the NPATS provider based on the length of calls.

Two lines of reasoning were employed to arrive at the specific \$.12 NPATS message rate. First, the Commission noted that \$.12 was the then-current message rate where message rates were permitted for local calls. Second, evidence provided by Southern Bell, General, United and Centel indicated that the average duration of a NPATS call in Florida was 3.37 minutes. Applying the Southern Bell proposed nondiscounted minutes of use rates of \$.06 and \$.02 for initial minutes and additional minutes, respectively, to the average NPATS call duration yielded \$.12.

Although the same \$.12 message rate still applies to STS providers, the NPATS usage rates have been reduced on three occasions. As shown on Attachment A, the first rate change occurred as a result of Commission approval of a stipulation between the LECs and NPATS providers (in Order No. 17440, issued on April 29, 1987). It is interesting to note that the minute of use rate structure adopted in Order No. 17440 contains the same Southern Bell proposed nondiscounted rates referred to in Order No.

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14132 that were used to derive the \$.12 message rate. Under the terms of the stipulation a maximum average charge of \$.12 per message also was approved, to ensure that NPATS providers would not pay more under the new measured rates than under the message rate structure. This rate cap expired after one year, and no similar cap has been adopted in any of the subsequent NPATS rate structures.

The lower portion of Attachment A contains a comparison of the charges that would be assessed NPATS and STS providers for a three-minute call. (According to Fairchild, the average call durations from their Florida STS locations range from 2 to 3 minutes, well below the 3.37 minute duration assumed in deriving the \$.12 message rate.) The differential in the charges between NPATS and STS has increased to where, using the February 1991 NPATS usage rates, a LEC would charge a STS provider for a three-minute on-peak call twice what it would charge a NPATS provider.

Based on its review of Fairchild's petition and pertinent Commission orders, staff believes that it would be appropriate to require the LECs to assess the same usage rates to both NPATS and STS providers. This recommendation is based on our view that the Commission's policy for resold services has been to endorse usage-sensitive rates, and that the intent in adopting the \$.12 message rate in the STS order was to establish consistency in the usage rates between these two resold local services. While we recommend here that identical usage rates be applied to providers of STS and NPATS, staff would emphasize that this action should not preclude the Commission from restructuring the rates for these services in the future. For example, if meaningful differences between the provision of STS and NPATS were identified in a general review of the pricing of exchange access services, the rate levels and structures of these services should not be immune from change.

Staff presently is unable to quantify the specific revenue impacts on the LECs that will result from applying the NPATS usage rates to STS providers. (Staff has data requests pending and expects to be able to provide this information by the time of the agenda.) However, based upon the relatively small number of certificated STS providers in Florida we do not anticipate that these revenue effects will be significant.

In the absence of any compelling reasons to support an asymmetrical rate treatment, we believe it is inequitable to have differing usage rates and rate structures for NPATS and STS. The NPATS usage rates approved by the Commission in Order No. 24101 (issued on February 14, 1991) were determined to be compensatory and otherwise reasonable; on reconsideration these rates were affirmed by the Commission at its September 10, 1991 agenda, and

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ISSUE 2: Should the STS measured access line rate be changed at this time?

RECOMMENDATION: No, the STS measured access line rate should not be changed at this time.

STAFF ANALYSIS: In addition to the \$.12 message rate for usage, when NPATS rates first were authorized in Order No. 14132, an access line charge equal to 60% of the flat rate business access line rate was established. For STS providers, Order No. 17111 authorized, in addition to the message rate, an access line charge equal to 60% of the flat PBX trunk rate. Since the NPATS access line rate has been increased from 60% to 80% of the flat business rate, the issue arises whether or not consistency requires an analogous increase in the STS access line rate.

Staff believes such a change presently is not warranted. First, as noted above, the language in the STS order regarding consistency occurs in the context of the Commission indicating its view that usage-sensitive rates are appropriate for resold services. No similar reference occurs in the discussion of the flat (nonusage-sensitive) rate. Second, to the extent that a LEC's nonusage-sensitive costs of providing access to a typical STS provider may be somewhat greater than to a NPATS provider, it would appear that any such differential is adequately accounted for by the existing access line rates. Attachment B presents a comparison between the current STS and NPATS access charges, for Southern Bell, GTE, United, and Centel. As shown, Southern Bell's rates for STS access are approximately 70% higher than their rates for NPATS access, while the differential is 50% for the other three LECs. Consequently, staff has concluded that the current STS access line rate -- at 60% of the flat PBX trunk rate -- should be retained.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes; if no timely protest is received within the prescribed timeframe, this docket should be closed.

STAFF ANALYSIS: With the approval of staff's recommendations in Issues 1 and 2 and the receipt of no timely protest, it is recommended that this docket be closed.

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CHANGES IN PATS USAGE RATES

Order No. Date of Order -----	14132 2/27/85 -----	17440 4/20/87 -----	20129 10/6/88 -----	24101 2/14/91 -----
Per Message Rate	\$0.12	---	---	---
Per Minute Rate				
On-Peak				
Initial		\$0.060	\$0.040	\$0.040
Add'l.		\$0.020	\$0.020	\$0.020
Off-Peak				
Initial		\$0.030	\$0.020 (a)	\$0.030 (b)
Add'l.		\$0.010	\$0.010 (a)	\$0.010 (b)

(a) Southern Bell

(b) Centel, GTE, and United

Usage Charges For A 3 Minute Call

	14132	17440	20129	24101
On-Peak				
STS	\$0.12	\$0.12	\$0.12	\$0.12
PATS	\$0.12	\$0.10	\$0.08	\$0.08
Difference:				
Amount	\$0.00	\$0.02	\$0.04	\$0.04
Percent	0.00%	20.00%	50.00%	50.00%
Off-Peak				
STS	\$0.12	\$0.12	\$0.12	\$0.12
PATS	\$0.12	\$0.05	\$0.04	\$0.05
Difference:				
Amount	\$0.00	\$0.07	\$0.08	\$0.07
Percent	0.00%	140.00%	200.00%	140.00%

**MEASURED ACCESS LINE RATES:
STS V. PATS**

Southern Bell

Rate Group	STS	PATS	Difference	
			Amount	Percent
1	\$26.86	\$15.84	\$11.02	70%
2	\$28.18	\$16.64	\$11.54	69%
3	\$29.63	\$17.52	\$12.11	69%
4	\$30.95	\$18.32	\$12.63	69%
5	\$32.21	\$19.08	\$13.13	69%
6	\$33.59	\$19.92	\$13.67	69%
7	\$34.72	\$20.60	\$14.12	69%
8	\$35.84	\$21.28	\$14.56	68%
9	\$36.89	\$21.92	\$14.97	68%
10	\$37.69	\$22.40	\$15.29	68%
11	\$38.49	\$22.88	\$15.61	68%
12	\$39.14	\$23.28	\$15.86	68%

GTE Florida

Rate Group	STS	PATS	Difference	
			Amount	Percent
1	\$27.14	\$18.10	\$9.04	50%
2	\$28.52	\$19.02	\$9.50	50%
3	\$29.90	\$19.94	\$9.96	50%
4	\$31.28	\$20.86	\$10.42	50%
5	\$32.72	\$21.82	\$10.90	50%
6	\$34.22	\$22.82	\$11.40	50%
7	\$35.66	\$23.78	\$11.88	50%

United Telephone of Florida

Rate Group	STS	PATS	Difference	
			Amount	Percent
1	\$18.20	\$12.10	\$6.10	50%
2	\$20.30	\$13.50	\$6.80	50%
3	\$22.40	\$14.90	\$7.50	50%
4	\$24.50	\$16.30	\$8.20	50%
5	\$26.65	\$17.75	\$8.90	50%
6	\$28.75	\$19.15	\$9.60	50%

Central Telephone Company of Florida

Rate Group	STS	PATS	Difference	
			Amount	Percent
1	\$18.65	\$12.40	\$6.25	50%
2	\$19.70	\$13.15	\$6.55	50%
3	\$20.80	\$13.85	\$6.95	50%
4	\$21.90	\$14.60	\$7.30	50%
5	\$23.10	\$15.40	\$7.70	50%
6	\$24.30	\$16.20	\$8.10	50%