

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for relief from )  
prevailing 12-cent message rate )  
for shared tenant services pro- )  
viders by FAIRCHILD COMMUNICATIONS )  
SERVICES COMPANY )

DOCKET NO. 910783-TS  
ORDER NO. 25169  
ISSUED: 10/08/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTION  
ORDER LOWERING MESSAGE RATE CHARGED BY LOCAL EXCHANGE  
COMPANIES TO SHARED TENANT SERVICES PROVIDERS

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In Order No. 17111, issued on January 15, 1987 (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. An STS provider typically furnishes 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. This concept is known as 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

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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 on April 6, 1987, the Commission clarified its initial STS order, noting that where an 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 relief from the \$.12 STS message rate. Fairchild asserts: that the \$.12 STS message rate initially 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; 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 that NPATS 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.

The Company's petition was limited to the issue of the appropriate STS usage rate levels. It did not address the appropriateness of a usage-sensitive rate structure, or any other issues addressed in the STS order. Fundamental to the Company's petition is the 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.

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[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)

In the STS order, the Commission explicitly endorsed the previously adopted NPATS message rate as appropriate for STS. The Commission considered the application of access charges but rejected the concept due to the technical billing limitations of some of the LECs. Instead, since a message rate had been adopted for another resold service---NPATS---that rate was deemed equally applicable to STS. Additionally, since STS involves the resale of a LEC service, usage-sensitive rates were determined to be appropriate.

Similar reasoning had led to the adoption of a usage-sensitive rate for NPATS in Order No. 14132, wherein the Commission stated:

We believe a combination of a flat rate which recovers the LECs cost 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)

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.

In the STS order, the Commission expressly stated that its acceptance of a message rate for STS was consistent with tariffs approved for the resale of local exchange service by NPATS providers. Although the same \$.12 message rate still applies to STS providers, the NPATS usage rates have been reduced on three occasions. The first rate change occurred as a result of Commission approval, in Order No. 17440, issued on April 29, 1987,

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of a stipulation between the LECs and NPATS providers. We note that the minute of use rate structure adopted in Order No. 17440 contained the same Southern Bell-proposed nondiscounted rates referred to in Order No. 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.

According to Fairchild, the average call durations from its 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 an NPATS provider.

Based upon a review of Fairchild's petition and pertinent Commission orders, we find that it is appropriate to require the LECs to assess the same usage rates to both NPATS and STS providers. This conclusion 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 apply identical usage rates to providers of STS and NPATS, this should not be understood as precluding us from restructuring the rates for these services in the future. For example, if meaningful differences between the provisioning of STS and NPATS are identified in a general review of the pricing of exchange access services, the rate levels and structures of these services will not be immune from change. Additionally, having considered the revenue impact on the LECs from the proposed reduction in STS interconnection rates, we find that, with one exception, they are insignificant.

Given the absence of any compelling reasons to support an asymmetrical rate treatment, we thus find that it is inequitable to have differing usage rates and rate structures for NPATS and STS. The NPATS interconnection rates approved by the Commission in Order No. 24101, issued on February 14, 1991, were determined to be compensatory and otherwise reasonable, and subsequently were affirmed on reconsideration at our September 10, 1991, Agenda Conference. We find that those rates shall apply equally to NPATS

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and STS providers. Accordingly, we adopt the following usage rates for STS providers:

On-Peak		
Initial Minute		\$ .030
Additional Minute	\$ .015	
Off-Peak		
Initial Minute		\$ .020
Additional Minute	\$ .010	

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.

Upon review we find that such a change presently is not warranted. The language in the STS order regarding consistency is in the context of usage-sensitive rates which are applied to resold services. There is no such reasoning regarding the nonusage sensitive rate. Additionally, if a LEC's nonusage-sensitive costs of providing access to an STS provider tends to be greater than similar costs associated with providing access to an NPATS provider, any such cost differential should be adequately accounted for by the existing access line rates. Consequently, we find that the current STS access line rate, which is at 60% of the flat PBX trunk rate, shall be retained.

As this resolves the issues before the Commission in this docket, if no timely protest to this proposed agency action is filed, this docket shall be closed.

Based upon the foregoing it is

ORDERED that the Florida Public Service Commission hereby grants Fairchild Communications Services Company's Petition and orders the Local Exchange Companies to amend their STS tariffs to replace the current STS message rate with the NPATS measured rates authorized in Order No. 24101. It is further

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ORDERED that the Local Exchange Companies shall file the aforementioned tariff revisions within 10 days of the effective date of this PAA Order which is set forth below. It is further

ORDERED that the STS measured access line rate shall not be changed at this time. It is further

ORDERED that if no timely protest to this proposed agency action is filed, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 8th  
day of OCTOBER, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

CWM

NOTICE OF FURTHER PROCEEDINGS OR 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.

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

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Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 10/29/91.

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 adversely 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 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 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.

**MEMORANDUM**

October 3, 1991

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (MURPHY)  
RE: DOCKET NO. 910783-TS

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Attached is an NOTICE OF PROPOSED AGENCY ACTION ORDER LOWERING MESSAGE RATE CHARGED BY LOCAL EXCHANGE COMPANIES TO SHARED TENANT SERVICES PROVIDERS in the above-referenced docket, which is ready to be issued.

CWM/mgf  
Attachment  
cc: Division of Communications  
910783a.mgf

*Protest  
due 10/29/91*

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