

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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|----------------------------------|---|----------------------|
| In re: Modified Minimum Filing |) | DOCKET NO. 910731-TL |
| Requirements report of NORTHEAST |) | ORDER NO. 25723 |
| FLORIDA TELEPHONE COMPANY |) | ISSUED: 02/14/92 |
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER FINALLY SETTTLING 1990 OVEREARNINGS,
PRELIMINARY DISPOSITION OF 1991 OVEREARNINGS,
DENYING SETTLEMENT AGREEMENT,
ADJUSTING THE ROE, AND REDUCING 1992 EARNINGS

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.

I. BACKGROUND

On July 22, 1991, Northeast Florida Telephone Company (Northeast or the Company) filed Modified Minimum Filing Requirements (MMFRs) for the 12 months ending December 31, 1990.

In a letter dated September 26, 1991, Northeast filed a proposal to reduce rates. We addressed Northeast's proposal at the October 22, 1991, agenda conference and deferred the matter to allow staff to provide additional information. Our Staff provided a supplemental recommendation that we considered at the November 5, 1991 agenda conference. At that conference, the Office of Public Counsel (OPC) introduced a proposal in response to Northeast's proposal. Since neither Northeast nor the Commission had time to consider OPC's proposal, we deferred this item again.

The staff audit of the filing was completed and filed on November 21, 1991. Northeast and OPC met and reached an agreement based on their proposals and submitted it to the Commission on

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December 5, 1991. The settlement agreement superseded both of the previous proposals. We addressed the various issues at the January 14, 1992, Agenda Conference.

II. PROPOSED SETTLEMENT AGREEMENT

On December 5, 1991, Northeast filed a proposed Settlement Agreement (the Agreement), which consisted of disposition of 1990 and 1991 overearnings and prospective rate changes designed to prevent future overearnings. The terms of that agreement are summarized as follows:

1. Refund \$278,120 plus interest of \$29,500, as a final settlement of 1990's overearnings.

2. Refund \$550,000, as a preliminary settlement of 1991's overearnings.

3. Prospective Rate Changes for 1992, effective January 1, 1992:

a. Implement a \$0.25 local calling plan between Northeast and Southern Bell's exchanges of Baldwin, Maxville, and Jacksonville.

b. Reduce the intraLATA toll rates and change the time of day periods and discounts as follows:

(1) The night/weekend discounted rates would be effective from 9:00 p.m. to 9:00 a.m. each weekday, and for the entire weekend from 9:00 a.m. Saturday until 9:00 a.m. Monday. The night/weekend discount would be 40%.

(2) MTS rates would be adjusted as follows:

| MILEAGE | RATES | |
|----------|--------------|-------------------|
| | FIRST MINUTE | ADDITIONAL MINUTE |
| 0 - 10 | \$.18 | \$.09 |
| 11 - 22 | \$.18 | \$.12 |
| 23 - 292 | \$.24 | \$.22 |

c. Reduce its Touchtone rates from \$2.00 and \$2.50 to \$1.00 and \$1.25 for residential and business customers, respectively.

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d. Bill all the gross receipts tax as an add-on to the customers' bill and reduce the access line monthly charges by 1.5%.

e. Reduce its interLATA and intraLATA subsidy receipts by the amount of annual earnings that exceed 13.2% ROE beginning January 1, 1992 and refund such overearnings proportionately to the payers of the subsidy funds.

While we commend the Company and OPC's attempts to reach a mutually agreeable settlement, we cannot approve this Agreement for several reasons. Our primary concern is that although the Agreement acknowledges that Northeast is overearning, it does not adequately address elimination or reduction of the interLATA and intraLATA bill and keep subsidies. This is not consistent with our policy regarding subsidies. By Order No. 14452, issued June 10, 1985, we implemented our goal of placing the local exchange companies on a bill and keep basis for interLATA access charges. To mitigate the potential adverse effects of bill and keep, we implemented an industry-wide access charge subsidy mechanism to keep the LECs whole during the transition. However, we also stated that it would not be logical to provide a subsidy to a LEC if it is overearning.

The Agreement refers to "Intrastate High Cost Funds," which is an incorrect description of the interLATA and intraLATA bill and keep subsidies. The basic purpose of going to bill and keep was to eliminate the subsidies inherent in the pooling system. The subsidies were designed to keep LECs whole in the transition from pooling to bill and keep. The subsidies, as originally designed, were not based on cost nor are they now. The interstate high cost fund, the Universal Service Fund, is based on costs. To refer to these subsidies as intrastate high cost funds implies some permanence that was not intended and mischaracterizes the nature of the subsidy as established by Order No. 14452.

It was never envisioned that the access subsidy would be permanent. It was intended to last only until we were presented with an opportunity to address each company's particular circumstances in a rate case or other proceeding. Accordingly, by Order No. 21678, issued August 3, 1989, we eliminated a subsidy to Gulf Telephone Company; and by Order No. 21954, issued September 27, 1989, we removed Indiantown Telephone System's subsidy. Both companies were in an overearnings position.

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The intraLATA MTS bill and keep subsidy pool was established on January 1, 1988. As in the interLATA subsidy pool, LECs have been removed due to overearnings.

The Agreement recommends a phase out of the interLATA and intraLATA bill and keep subsidies based on Northeast's future earnings. Under this proposal, if stimulation is not there and Northeast's earnings do not continue to increase, the subsidies may never be eliminated and the rate payers of Southern Bell Telephone and Telegraph Company (Southern Bell) and GTE Florida Incorporated (GTEFL) would finance the rate reductions that would benefit Northeast's customers. This approach does not provide for additional rate relief if stimulation from the rate reductions is significant and does not address rate relief after the subsidies are phased out.

The Agreement recommends that all overearnings for 1990 and 1991 be refunded to the Northeast customers. While we are not opposed to refunds, in this case most of the overearnings were provided by the interLATA and intraLATA subsidies essentially furnished by the ratepayers of Southern Bell and, to a lesser extent, GTEFL. It is not consistent with past Commission decisions on the disposition of subsidy amounts, to allow the subsidy amounts to benefit only the customers of the recipient.

Additionally, the Agreement proposes changes in Northeast's intraLATA toll rates and in the discounts and time of day periods for its intraLATA toll calls. Since 70% of Northeast's intraLATA traffic is calling to Jacksonville, we believe that the \$0.25 calling plan already addresses most Northeast's MTS rate reduction needs. We believe that simplification and earlier night/weekend discounts could be beneficial to the customers, but we will not approve such discounts until the subsidies have been eliminated.

The Agreement proposes reducing Northeast's Touchtone rates. We have previously expressed the desire to reduce or eliminate Touchtone charges. The proposed reduction would result in a \$47,868 reduction in revenues annually. Although we believe this reduction would be beneficial, we cannot approve its implementation until the subsidies are eliminated.

Although we believe that the terms of the Agreement were beneficial to Northeast's ratepayers, we conclude that the elimination of Northeast's subsidies is of primary importance in this proceeding, given the Company's overearnings posture. Also,

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recurring rate reductions proposed in the settlement fail to significantly reduce the subsidy amounts. For these reasons, we must reject the Agreement.

III. RETURN ON EQUITY

By Order No. 22273, issued December 7, 1989, we established a Return on Equity (ROE) for Northeast of $12.9\% \pm 1.5\%$ or 150 basis points. Thus, the authorized range has been 11.4% to 14.4%. Through a leverage formula similar to one used for the water and wastewater industry, we believe that the appropriate ROE is $13.3\% \pm 1.0\%$ or 100 basis points, for a range of 12.3% to 14.3%.

The cost of equity for a utility is inversely related to its equity ratio. We developed a leverage formula developed for the small telephone companies by applying generally accepted financial models to the index of Regional Bell Holding Companies (RHBCs) and the Moody's Natural Gas Distribution index. As with the water and wastewater formula, we adjusted the results of these models to reflect the difference between the AA rating for the indices and the BBB rating assumed for the small telephone companies.

As of June 30, 1991, Northeast's equity ratio was 28.55%. We believe that this equity ratio is too low, and have used 40% as the ratio for the leverage formula. We consider 40% to be the appropriate minimum acceptable equity ratio for use with the leverage formula. Standard & Poor's current equity benchmark for "low risk" BBB rated telephone companies is 35% to 45%. To encourage prudent financial risk, equity ratios of less than 40% should not be used with the leverage formula. While we used a 40% equity ratio to determine the appropriate cost of equity, the Company's actual ratio of 28.55% was used to determine the revenue requirements.

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IV. 1990 EARNINGS

By Order No. 22273, we accepted Northeast's proposal to establish an authorized ROE of $12.9\% \pm 1.5\%$ for all future purposes and cap its ROE at 13.9% for 1990. Our Staff completed the Company's audit on October 18, 1991, and the report submitted on November 19, 1991. Based on the MMFRs and the audit, Northeast's ROE for 1990 is 25.88% , which represents \$278,306 of revenue in excess of the 13.9% rate cap. The Company and OPC both agree with the amount.

In addition to those adjustments included by Northeast in its MMFRs, we found it necessary to include five additional adjustments drawn from the audit findings. Net Operating Income (NOI) for 1990 shall be increased by \$173,317 as specified below:

- (a) \$167,962 to remove the deferred credit as booked;
- (b) \$341 to correct the directory advertising adjustment calculation;
- (c) \$536 to remove non-regulated expenses;
- (d) \$1,323 to remove public relations and image building costs;
- (e) \$1,887 to reclassify plant additions and \$1,268 to show interest synchronization.

Adjustment (a) removes the deferred credit booked by Northeast in anticipation of disposal in accordance with Order No. 22273. This adjustment shows Northeast's actual level of earnings for 1990. NOI is increased by \$167,962 and rate base is increased by \$4,713.

Adjustment (b) involves the correction of an error discovered by our auditor when evaluating the directory advertising adjustment calculation for 1990. The amount of regulated directory advertising revenue was understated by \$547. Correct calculation of the adjustment increases intrastate revenue by \$547 and intrastate NOI by \$341.

Adjustment (c) removes \$1,088 from total company expense and \$861 from intrastate expense to show common costs that should be allocated to non-regulated operations. Northeast has removed capital costs, revenues and direct expenses relating to non-regulated operations properly. This adjustment increases NOI by \$536.

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Adjustment (d) removes public relations and image building costs from regulated expense. This adjustment increases NOI \$1,323.

Adjustment (e) corrects a misclassification of plant additions recorded as expense after verification with operations management by the staff auditor. This adjustment increases NOI by \$1,887 and rate base by \$1,089. Interest synchronization of \$1,268 is recognized due to the rate base adjustments.

Additionally, in reviewing Northeast's long term debt, we discovered an understatement of the cost of long term debt by two basis points. The earnings calculations for 1990 reflect the recalculation of the cost of long term debt at 6.57%

We find that Northeast shall hold the \$278,306 plus \$29,375 in interest accrued through December 31, 1991, a total of \$307,681, subject to Commission disposition, as set forth below.

V. 1991 EXCESS EARNINGS

As a result of our investigation, we estimate that Northeast will earn \$550,000 in excess of the maximum allowed ROE of 14.4% for 1991. We are placing the 1990 excess revenues, which amount to \$307,681, and the 1991 excess revenues of \$416,000 plus \$11,878 interest, in a deferred credit account, and amortizing the deferred credit to revenue at the rate of 34%, 27%, 20%, 13%, and 6% for 1992 through 1996, respectively. Northeast will treat the deferred credit as a reduction to intrastate rate base from January 1, 1992 forward. We believe that amortizing the deferred credit in a declining manner will allow adequate time for the company to absorb this annual decrease in revenue. The remaining excess revenue will be refunded to Northeast's customers.

There were no overearnings exceeding the subsidy amount in 1990, but there is an estimated excess of \$134,000 in 1991 which exceeds the subsidy amount. With the addition of \$4,991 in interest calculated through February 1992, the 1991 refund is \$138,991. Therefore, the refund shall be made to customers of record during the February 1992 billing cycle.

The 1990 excess earnings of \$307,681, including interest, and the remaining 1991 excess earnings of \$427,878, including interest, totaling \$735,559 will be placed in a deferred credit account.

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VI. REDUCE 1992 EARNINGS

Based on our disposition of 1990 and 1991 overearnings and our estimate of 1992 overearnings, Northeast's earnings for 1992 should be reduced by \$1,001,346 to target earnings at the midpoint of the ROE of 13.3% that we are approving. That amount is derived from the following:

| | | |
|----|--|----------------|
| 1. | Future earnings in excess of 14.4% based on 1991 estimated earnings | \$ 550,000 |
| 2. | Future earnings in excess of 13.3% refund point | 26,388 |
| 3. | Increased Universal Service Fund | 147,000 |
| 4. | Separate Billing of the Gross Receipts Tax | 27,912 |
| 5. | Reversal of deferred revenue credit | <u>250,046</u> |
| | TOTAL | \$1,001,346 |

First, the \$550,000 that Northeast estimates it will earn in excess of its authorized maximum ROE of 14.4% for 1991 is brought forward to represent overearnings for 1992.

We are setting a 13.3% refund point, or earnings cap, for purposes of reducing the subsidy. Generally, earnings caps are placed at the top of the ROE range; however, we believe the existence of a toll subsidy warrants some modification of that policy. We believe that it is inappropriate for a Company to receive a subsidy while earning above a reasonable ROE. We believe that a reasonable ROE is the midpoint of the Company's earning range, 13.3% in this case. Thus, we find that the Company's earnings shall be capped at 13.3% for purposes of reducing the subsidy, and at 14.3% for remaining earnings once the subsidy is eliminated. The \$26,388 represents the amount of future earnings in excess of 13.3%.

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VII. DISPOSITION OF OVERTURNINGS

We find that the \$1,001,346 in future overearnings shall be eliminated as follows:

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|---|----------------------|
| 1. Reduce the InterLATA Subsidy | (\$ 67,000) |
| 2. Eliminate the IntraLATA Subsidy | (282,000) |
| 3. Non-optional Extended Local Measured Service to Jacksonville, Baldwin and Maxville (\$0.25 Plan) | (642,215) |
| 4. Remove the Florida Gross Receipts Tax from Local Rates | <u>(10,114)</u> |
| Net effect | <u>(\$1,001,329)</u> |
| Excess earnings after disposition | \$ 17 |
| Estimated Return on Equity | 13.3% |

We recognize that the proposed reductions may result in stimulation; therefore, we will monitor the results of the disposition for three to six months. Data collected during that period will provide a more accurate assessment of the impact of these reductions and we will be prepared to take further action if necessary.

A. REDUCING INTERLATA SUBSIDY AND ELIMINATING INTRALATA SUBSIDY

Consistent with our prior decisions, reducing or eliminating a company's subsidy due to overearnings or earnings sufficient to absorb the reduction, we are eliminating the intraLATA subsidy of \$282,000, and reducing the interLATA subsidy by \$67,000, for a total revenue reduction of \$349,000.

The reduction of the interLATA subsidy and the elimination of the intraLATA subsidy shall be effective March 1, 1992. The reduction and any refund of 1992 subsidy payments by Southern Bell to Northeast should be held with the funds set aside for EAS implementation in Docket No. 880069-TL.

B. EXTENDED LOCAL CALLING PLAN

In Docket No. 870992-TL the Commission addressed toll free dialing between the Macclenny and Sanderson exchanges and all

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exchanges in Duval County at the request of the residents of these exchanges. Traffic studies of these routes indicated that the routes to Jacksonville were the only which qualified under Rule 25-4.060 having 10.83 messages per main station per month (M/M/M) and 7.52 M/M/M respectively. 74.06% and 59.04% of the subscribers in the Macclenny and Sanderson exchanges make two or more calls on the routes per month. These calling rates indicated a strong community of interest, sufficient to warrant the proposal of toll free dialing between the Macclenny and Sanderson exchanges and the Jacksonville exchange. This proposal failed when put to a vote of the customers, probably due to the additional cost of \$10.85, and was not implemented. The high rate proposal was necessary because of the substantial revenue impact that toll free dialing to Jacksonville would have had on Northeast. However, by Order No. 21395, issued June 16, 1989, we directed the Company to implement an optional discounted toll plan. Because of the present overearnings situation Northeast now has revenue available to implement a massive toll reduction on these routes.

The plan we are approving requires no additional cost to the customer on these popular routes. The Baldwin and Maxville exchanges are included in the current plan as intermediate exchanges between the main end points. The non-optional Extended Local Calling plan will significantly reduce the cost paid by the majority of Northeast's customers. The rates represent a 75% decrease in the rate for calls to the Jacksonville exchange. Specifically, the plan is as follows:

- a. The plan will incorporate a message rate of \$0.25 per message, regardless of message duration;
- b. If customers make repeated calls that are unreasonably long in duration, Northeast can apply for appropriate relief;
- c. All calls from the Macclenny and Sanderson exchanges to the Baldwin, Jacksonville, and Maxville exchanges will be considered local traffic and shall be provided on a seven digit dialed basis.
- d. This plan shall be implemented as soon as possible, following the expiration of the protest period of this Order.

This plan will result in an annual revenue loss to Northeast of \$642,215.

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Appropriate tariff revisions reflecting the implementation of the EAS measured plan, should be filed with the staff by January 31, 1992 to become effective March 1, 1992.

C. GROSS RECEIPTS TAX

Section 203.10, Florida Statutes, provides that utilities may separately state all the Gross Receipts Tax (GRT) on the customers' bills. We believe it is appropriate for Northeast to state the entire GRT as a separate amount on the customer bills, and grant the Company's request for authorization to state the GRT separately. Rule 25-4.110(8), Florida Administrative Code, requires that when a company chooses to add the GRT onto the customer's bill as a separately stated component, the company must first remove from the tariffed rates any embedded provisions for the GRT. 1.5% of the GRT is embedded in numerous rates and it is impractical to remove the embedded amount from each of these rates. This will result in additional revenue of \$27,912 annually. To offset this additional revenue, we believe that it is appropriate to decrease local rates by reducing Northeast's access line monthly charges by approximately 1.5% effective at the same time the gross receipts tax is separated on the bills. Access line rates charged will be rounded to the nearest \$0.05. This computation method will reduce a residential customer's bill by \$0.10 per month and a business or key system customer's bill by \$0.35 per month per access line.

VIII. SOUTHERN BELL TO IMPLEMENT EXTENDED LOCAL CALLING PLAN

Southern Bell Telephone and Telegraph Company shall institute an extended local calling plan to complement Northeast's plan between the Baldwin, Maxville and Jacksonville exchanges and the Northeast exchanges of Macclenny and Sanderson on a 7 digit dialing basis at the same rates and conditions as shown in Section VII B. for the Northeast plan. Specifically, each call will be rated at \$.25 regardless of the duration of the call. Because this is local calling, no access charges apply. Southern Bell will be allowed bulk billing on this plan.

Southern Bell's toll revenue on the affected routes is approximately \$640,000 annually. Based upon the number of messages on these routes staff estimates annual revenue impact of this proposal to be a loss of between \$350,000 and \$400,000 before stimulation. This assumes that any loss in terminating access

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charge revenue from Northeast (for calls to Jacksonville) will be offset by the gain from no longer paying terminating access charges to Northeast (for calls from Jacksonville). Any negative revenue impact to Southern Bell from this plan should be taken into account in Southern Bell's EAS pool.

IX. THIS MMFR PROCEEDING TO BE TREATED AS MOST RECENT RATE CASE

Section 364.035(3), Florida Statutes, provides that:

It is the legislative intent in requiring the mandatory filing of the minimum filing requirements that the Public Counsel and other substantially affected persons be assured of periodically obtaining the necessary information to reasonably ascertain whether the rates and charges of a local exchange telecommunications company are just, reasonable, not unjustly discriminatory, not in violation of law, and not yielding excessive compensation for the service rendered.

We find that the intent of the statute was not only for the Commission to gather information but also to allow the Commission to perform a periodic in-depth review of a company's financial and earnings status. Companies submit periodic Earnings Surveillance Reports, however, such reports do not provide sufficient information to be a solid basis for a Commission-initiated rate review proceeding. Furthermore, a rate proceeding is often lengthy and expensive. Section 364.035(3) provides for a less burdensome proceeding than a full rate case and yet produces enough information for us to conduct an in-depth review to ascertain whether the rates of a company are just and reasonable.

The statute mandates local exchange companies with less than 100,000 access lines to file MMFRs every five years. This applies to nine of the 13 local exchange companies. In the past, most of the small local exchange companies had a formal rate proceeding on an average of every ten years. The new Statute provides all parties an opportunity to address accounting adjustments and an appropriate return on equity on a regularly scheduled basis. Because these periodic reviews offer an opportunity for a full review, we find that this MMFR proceeding shall be treated as the most recent rate case proceeding.

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X. IDENTIFICATION OF EARNINGS THAT MAY BE HELD SUBJECT TO REFUND

As discussed in Section III herein, we are setting the ROE to 13.3% on a prospective basis. However, pursuant to our interim ratemaking authority as set forth in Section 364.055, Florida Statutes, in the event that this Order is protested, all earnings over the 14.4% previously approved maximum ROE, will be held subject to refund pending the outcome of the protest. At this time, that amount is \$697,000.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each finding set forth herein is approved in every respect. It is further

ORDERED that the Settlement Agreement proposed by Northeast Florida Telephone Company, Inc. and the Office of Public Counsel is denied for the reasons set forth herein. It is further

ORDERED that on a prospective basis, the appropriate return on equity is 13.3% plus or minus 1%. It is further

ORDERED that Northeast Florida Telephone Company, Inc.'s excess 1990 earnings shall be disposed of as set forth herein. It is further

ORDERED that Northeast Florida Telephone Company, Inc.'s excess 1991 earnings shall be disposed of as set forth herein. It is further

ORDERED that Northeast Florida Telephone Company, Inc.'s earnings for 1992 shall be reduced as set forth herein. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall implement an extended calling plan to complement Northeast Florida Telephone Company Inc.'s plan as set forth herein. It is further

ORDERED that this MMFR docket shall be treated as the most recent rate case for all purposes. It is further

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ORDERED that this docket shall be closed at the expiration of the Proposed Agency Action period if no protest is timely filed. It is further

ORDERED that in the event that this Order is protested, \$697,000, or all earnings in excess of the 14.4% maximum allowed rate of return, shall be held subject to refund pending the outcome of the protest.

By ORDER of the Florida Public Service Commission, this 14th day of FEBRUARY, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

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 3/6/92.

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 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.