

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review of ) DOCKET NO. 860723-TP  
rates and charges paid by PATS ) ORDER NO. PSC-92-0374-FOF-TP  
providers to LECs. ) ISSUED: 05/18/92  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING AGREEMENT TO REDUCE NONRECURRING  
CHARGE AND REFUND CERTAIN REVENUES BEING HELD  
SUBJECT TO REFUND, RELEASING OTHER REVENUES BEING  
HELD SUBJECT TO REFUND, AND REQUIRING CONTINUED  
COLLECTION OF NONRECURRING CHARGE

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.

BACKGROUND

On January 9, 1990, we issued Order No. 22385, approving the local exchange companies' (LECs') tariff filings for billing, collecting, and remitting the \$.75 surcharge for 0- and 0+ intraLATA LEC-handled calls placed from nonLEC pay telephones (NPATS). The tariff proposals filed by the LECs were similar in most respects. Each tariff provided for a nonrecurring charge at the time the service was initially established, as well as a recurring charge on a per message basis. The nonrecurring and recurring charges established by the LECs were as follows:

<u>COMPANY</u>	<u>NONRECURRING</u> <u>CHARGE</u>	<u>RECURRING</u> <u>CHARGE</u>
ALLTEL	\$33.00	\$.06
Centel	17.57	.0666
Floralta	30.00	.09
GTEFL	30.00	.09

DOCUMENT NUMBER-DATE

05013 MAY 18 1992

FPC-RECORDS/REPORTING

<u>COMPANY</u>	<u>NONRECURRING CHARGE</u>	<u>RECURRING CHARGE</u>
Gulf	30.00	.09
Indiantown	23.35	.07
Northeast	23.35	.07
Quincy	30.00	.09
St. Joe	30.00	.09
Southern Bell	23.35*	.07**
Southland	30.00	.245
United	12.00	.0837
Vista-United	30.00	.11

\*Subsequently reduced to \$13.50.

\*\*Subsequently reduced to \$.03.

Although we approved the tariff filings, we had some concerns about the variations in nonrecurring charges from LEC to LEC. Rather than suspend or deny the tariff filings and delay implementation of collecting and remitting the surcharge to the NPATS providers, we instead directed that all nonrecurring charges be held subject to refund, pending further investigation into the matter.

We have already addressed the level of the nonrecurring charge for Southern Bell Telephone and Telegraph Company (Southern Bell) and approved a reduction in the nonrecurring charge from \$23.35 to \$13.50 per line. In addition, Southern Bell was ordered to refund \$9.85 per line, with interest, to those NPATS providers who had originally subscribed to the service at the old rate of \$23.35. That action is reflected in Order No. 23428, issued September 5, 1990. This Order addresses the level of the nonrecurring charge for the remaining LECs, as well as the status of the nonrecurring charge in general.

By Order No. 25629, issued January 22, 1992, we proposed requiring that the current tariffed nonrecurring charge remain in effect until the LEC has recovered the cost of modifying its billing system. We further directed that once the cost has been recovered, the LEC must remove the nonrecurring charge from its tariff. Finally, we proposed accepting a certain settlement offer.

On February 12, 1992, the Florida Pay Telephone Association, Inc. (FPTA) filed a Petition for Formal Proceeding on Notice of

Proposed Agency Action (Petition). In its Petition, FPTA stressed that it was seeking clarification of only certain portions of our decision; that it specifically was not challenging the portion of our proposal that would have accepted a settlement offer reached between itself and GTE Florida Incorporated (GTEFL). However, because our rules do not contemplate reconsideration or clarification of a proposed agency action order, FPTA's Petition serves as a protest to Order No. 25629 in its entirety. Even so, we believe that FPTA's concerns have validity and can be adequately addressed through another notice of proposed agency action as set forth below.

#### DISCUSSION

GTEFL informed us that it had reached an agreement with FPTA to reduce its nonrecurring charge to \$20.00 and refund the difference of \$10.00, without interest, to NPATS providers who have subscribed to this service. If we accept this settlement, based upon the 5,942 NPATS access lines subscribed to this service since January, 1989, GTEFL would refund \$59,420 to NPATS providers. While we have some concerns about the cost of this service, we are persuaded to approve this agreement because it was reached freely between these parties and appears to represent a reasonable compromise by parties on both sides of the issue. Accordingly, we find it appropriate to approve GTEFL's tariff revision to implement this agreement. Once GTEFL complies with the terms of this agreement, it will have satisfied its obligation under Order No. 22385, and any remaining monies being held subject to refund pursuant to that order shall be released.

As for the remaining LECs, although the cost information is limited, we believe that the current tariffed rates are appropriate and that no reduction or refunds should be ordered. Accordingly, none of the other LECs will be required to reduce the amount of their nonrecurring charge. Each of these LECs shall be relieved of any further obligation under Order No. 22385, and any revenues being held subject to refund pursuant to that Order shall be released.

On February 14, 1991, we issued Order No. 24101, which established new rate caps for NPATS providers for 0- and 0+ local and intraLATA toll calls. We eliminated the \$.75 surcharge and substituted a \$.25 set use charge to be applied to local and intraLATA 0- and 0+ toll calls placed from NPATS pay telephones.

In addition, we directed the LECs to remit the entire \$.25 too the NPATS provider, without applying a recurring per message billing and collection charge. However, the nonrecurring charge associated with the PATS surcharge was not addressed in Order No. 24101.

Based on the cost information originally filed when we approved the tariff filings in Order No. 22385, it appears that many LECs have not recovered the programming costs of modifying their systems for billing and collection of the \$.75 surcharge. For Southern Bell and GTEFL, their nonrecurring charges were designed to recover these costs over a five year period. We believe it is appropriate that the nonrecurring charge should remain in place as currently approved in the LECs' tariffs. In so doing, we wish to remove any confusion that may have resulted from our decision to remove the recurring message charge in Order No. 24101. We believed it was appropriate to eliminate the recurring charge since the LECs were already billing and collecting the call. It should also be recognized that our decision in Order No. 24101 requires all NPATS to subscribe to the set use charge. This will require those NPATS providers that did not originally want the surcharge added to their 0+ and 0- intraLATA calls to pay the nonrecurring charge. However, we find this consistent with our intent in Order No. 24101 that the set use charge be mandatory.

However, we also find it appropriate that the nonrecurring charge remain in effect only until the LECs have recovered the nonrecurring cost associated with the modifications to their billing systems for implementation of the \$.75 surcharge. We shall require those LECs that have already recovered the nonrecurring cost associated with the \$.75 surcharge to file revisions to their tariffs removing this charge by May 15, 1992. For those LECs that have not recovered the nonrecurring costs, the LECs shall be required to identify the remaining cost to be recovered and the number of NPATS providers currently subscribed to the surcharge. Those LECs shall file this information by May 15, 1992. We note that Southern Bell, United Telephone Company of Florida (United), and Central Telephone Company of Florida (Centel) have already filed approved tariffs which removed the nonrecurring charge. By this action, it is our intention that the nonrecurring charge shall not be used to recover the additional costs associated with converting to the \$.25 set use charge.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that GTE Florida Incorporated shall reduce its nonrecurring charge and make associated refunds in accordance with the terms and conditions set forth herein. It is further

ORDERED that GTE Florida Incorporated, having complied with the directives specified in the body of this Order, shall have satisfied its obligation pursuant to Order No. 22385, with regard to revenues being held subject to refund. It is further

ORDERED that each of the other local exchange companies (except Southern Bell Telephone and Telegraph Company which was already released by Order No. 23428), shall be deemed to have satisfied any obligation under Order No. 22385, with regard to revenues being held subject to refund. It is further

ORDERED that the nonrecurring charge discussed herein shall be continued for the reasons and under the terms and conditions set forth herein. It is further

ORDERED that those local exchange companies that have already recovered the nonrecurring cost associated with the \$.75 surcharge shall file tariff revisions by May 15, 1992, to remove this charge, if they have not already done so. These tariffs may be administratively approved. It is further

ORDERED that those local exchange companies that have not recovered the nonrecurring cost associated with the \$.75 surcharge shall file reports with our staff as directed herein by May 15, 1992. It is further

ORDERED that our proposed actions described herein shall become final and effective on the first working day following the date set forth below, if no timely protest is filed in accordance with the requirements set forth below. It is further

ORDERED that this docket shall remain open.

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By ORDER of the Florida Public Service Commission, this 18th  
day of May, 1992.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ABG

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 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 June 8, 1992.



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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.