

FLORIDA PUBLIC SERVICE COMMISSION

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

M E M O R A N D U M

May 5, 1994

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [SHELPER] *AKS qb id*
DIVISION OF LEGAL SERVICES [CANZANO] *E H*

RE : DOCKET NO. 910529-TL - REQUEST BY PASCO COUNTY BOARD OF
COUNTY COMMISSIONERS FOR EXTENDED AREA SERVICE BETWEEN
ALL PASCO COUNTY EXCHANGES

AGENDA: MAY 17, 1994 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\910529.RCM

CASE BACKGROUND

- By Order No. PSC-92-0158-FOF-TL, issued on April 4, 1992, in Docket No. 920159-TL (Pasco County), the Commission required BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's (Southern Bell), GTE Florida Incorporated (GTEFL), and United Telephone Company of Florida (United) to implement the \$.25 plan on specific routes. Three of these routes are interLATA: Dade City/Tampa-North, Hudson/Brooksville and San Antonio/Tampa-North.
- On May 18, 1993, the United States District Court for the District of Columbia rejected Southern Bell's request for a waiver of the Modified Final Judgement (MFJ) to the extent necessary to implement the \$.25 plan on specific interLATA routes, including Docket No. 910529-TL (Pasco County - 1 Southern Bell route). Other denied routes in the Court's order included: Docket Nos. 870248-TL (Holmes County - 2 routes), 870790-TL (Gilchrist County - 3 routes), 900039-TL (Orange County - 1 route), 910022-TL (Bradford County - 3 routes), and 910029-TL (Volusia County - 1 route).
- By Order No. PSC-93-1175-FOF-TL, issued August 10, 1993, the Commission granted Southern Bell's Motion for Partial Modification of Order No. PSC-92-0158-FOF-TL providing relief

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from implementing the \$.25 plan for these specific interLATA (local access transport area) routes. Because other local exchange companies (LECs), including GTEFL, United, Central Telephone of Florida (Centel) and ALLTEL Florida, Inc. (ALLTEL), provide service for one end of several of the denied Southern Bell interLATA routes, relief was also granted to them from implementing the \$.25 plan on these specific interLATA routes.

- In addition, by Order No. PSC-93-1175-FOF-TL, the Commission required the involved LECs to send bill inserts to affected customers explaining the Court's decision. These bill inserts were reviewed and approved by the Commission.
- On December 22, 1993, the United States District Court for the District of Columbia **rejected** GTEFL's request for a waiver of its federal consent decree to implement the \$.25 plan on its interLATA routes (Dade City/Tampa-North, Hudson/Brooksville and San Antonio/Tampa-North) as required by Order No. PSC-92-0158-FOF-TL (Pasco County).
- On April 8, 1994, GTEFL filed a Motion for Partial Modification of Order No. PSC-92-0158-FOF-TL.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant GTEFL's Motion for Partial Modification of Order No. PSC-92-0158-FOF-TL?

RECOMMENDATION: Yes, the Commission should grant GTEFL's Motion for Partial Modification of Order No. PSC-92-0158-FOF-TL, and GTEFL and United should be required to send bill inserts to the affected customers explaining the Court's decision. The bill inserts should be filed with staff for review within ten days of the issuance date of this Order. (Southern Bell and GTEFL have already provided notice to its Brooksville/Hudson customers as a result of the court's earlier decision to deny the \$.25 plan on Southern Bell interLATA routes; therefore, no further notice is required on this route.) In addition, staff also recommends that the Dade City/Tampa-North, Hudson/Brooksville and San Antonio/Tampa-North interLATA routes be reevaluated at the conclusion of the Commission staff's review of EAS problems, including alternative toll plans in Docket No. 930220-TL (EAS Rulemaking).

STAFF ANALYSIS: By Order No. PSC-92-0158-FOF-TL, issued on April 4, 1992, the Commission required GTEFL to implement the \$.25 plan on specific routes. Three of these routes are interLATA: Dade City/Tampa-North, Hudson/Brooksville and San Antonio/Tampa-North. On May 12, 1992, GTEFL requested a waiver of its federal consent decree to carry interLATA traffic rated at \$.25 per call. The consent decree forbids GTEFL from providing service across a LATA boundary.

On December 22, 1993, the United States District Court for the District of Columbia **rejected** GTEFL's request for a waiver of its federal consent decree. The Court stated:

[r]egardless of whether the proposed waiver seeks flat-rate EAS, measured-rate EAS or any combination between, if the requisite community of interest between the exchange is lacking, the court can not, under the decree, permit such LATA boundary expansions.

The Court further stated:

[s]uch arrangements were merely discounted toll rates, and thus, anticompetitive. Because of the plan's anti-competitive affect and because the FPSC found an insufficient community of interest for all subscribers to pay for extended area service at a flat rate, the decree prohibits the arrangement and the Court will not permit

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such LATA boundary expansions.

GTEFL is now seeking relief from Order No. PSC-92-0158-FOF-TL, which requires it to implement the \$.25 plan on the Dade City/Tampa-North, Hudson/Brooksville and San Antonio/Tampa-North interLATA routes. The Commission granted Southern Bell relief on its portion of the Hudson/Brooksville route in Order No. PSC-93-1175-FOF-TL, issued August 10, 1993.

Staff recommends that GTEFL's Motion be granted, and the LEC be required to send bill inserts to the affected customers explaining the court's decision. In addition, since United provides service on one end of some of these interLATA routes, it should also be required to send bill stuffers to its affected customers. These bill inserts should reflect the same language that was required in Order No. PSC-93-1175-FOF-TL (Attachment A), and should be filed with staff for review within ten days of the issuance date of this Order. Southern Bell and GTEFL have already provided notice to its Brooksville/Hudson customers as a result of the court's earlier decision to deny the \$.25 plan on Southern Bell interLATA routes; therefore, no further notice is required on this route. Staff also recommends that the Dade City/Tampa-North, Hudson/Brooksville and San Antonio/Tampa-North interLATA routes be reevaluated after the conclusion of the Commission staff's review of EAS problems, including alternative toll plans in Docket No. 930220-TL (EAS Rulemaking).

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open until after the Commission staff's review of EAS problems in Docket No. 930220-TL.

STAFF ANALYSIS: This docket should remain open until after the Commission staff's review of EAS problems in Docket No. 930220-TL. At that time, the interLATA routes that were denied by the United States District Court for the District of Columbia will be reevaluated.

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IMPORTANT - PLEASE READ

Dear Customer:

On May 18 of this year, U.S. Judge Harold H. Greene, the judge who is overseeing the break up of AT&T and the Bell System, denied a request from Southern Bell that would allow the implementation of the "25-cents per call plan" between the following communities:

LIST COMMUNITIES HERE

The "25-Cents Plan" converts toll traffic to local traffic and uses local or 7-digit dialing (the customer no longer must dial 1 plus the telephone number). With the "25-Cents Plan," consumers pay 25 cents per call instead of toll charges per minute. The "25-Cents Plan" usually results in a significant reduction in the charges for calls placed between the affected exchanges.

Between May 1991 and June 1992, Florida's Public Service Commission (PSC) ordered Southern Bell to implement the "25-Cents Plan" on the above routes and to ask the U.S. District Court for waivers of the Modified Final Judgment (MFJ) to implement the "25-Cents Plan." Under the terms of the MFJ, the Bell companies (i.e. Southern Bell) cannot provide telephone service across local access and transport area (LATA) boundaries. Each of the above routes crosses a LATA boundary and requires the Court's approval for implementation. As a result of Judge Greene's recent decision, Southern Bell will not be able to offer the "25-Cents Plan," already approved by the PSC, on the routes listed above.

Following the Court's ruling to deny the "25-Cents Plan," the PSC modified its previous orders since Southern Bell cannot lawfully implement the "25-Cents Plan" on these routes after the Court's decision. However, the PSC is continuing to seek solutions for the affected routes. On July 29, the PSC met with Department of Justice (DOJ) officials in Washington, D.C. The DOJ makes recommendations to the Court regarding Southern Bell's MFJ waiver requests. The purpose of the July 29 meeting was to establish a dialogue between the DOJ and PSC staff. DOJ officials were open

to considering other calling plans for the affected routes and the PSC will continue to work with the DOJ to find a toll relief plan that will satisfy the Court's concerns.

Until then, standard long distance charges will still apply to all calls made between the communities listed above. If you have any comments, please write to:

**Ann Shelfer, Division of Communications
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850**

You may also send your comments to the U.S. Department of Justice at the following address:

**Communications and Finance Section
Antitrust Division
555 4th Street, N. W.
Washington, D.C. 20001**