

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

September 4, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (RAYO)

FROM: DIVISION OF COMMUNICATIONS (SIMMONS, NORTON) *SAS non*
DIVISION OF AUDITING & FINANCIAL ANALYSIS (MAILHOT) *PM*
DIVISION OF LEGAL SERVICES (BROWN) *MCB*

RE: DOCKET NO. 960910-TL - RECOMMENDATION TO REQUIRE
APPLICABLE LECs TO REDUCE THEIR SWITCHED ACCESS CHARGES
BY FIVE PERCENT ANNUALLY, PURSUANT TO SECTION 364.163(6),
FLORIDA STATUTES *BRX*

AGENDA: SEPTEMBER 16, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: OTHER CRITICAL DATES: Rate reductions
effective October 1, 1996 per Section
364.163(6), Florida Statutes

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960910TL.RCM

CASE BACKGROUND

As a result of changes to Chapter 364, Florida Statutes, during 1995, certain local exchange companies (LECs) are required to reduce their intrastate switched access rates effective October 1, 1996. Concurrent with these intrastate switched access rate reductions, telecommunications companies are to reduce their "customer long distance rates" to flow through the benefits of the access reductions. At one time, the FPSC required that AT&T flow through any switched access reductions to customer long distance rates; however, no other Florida telecommunications company has previously been subject to a flow-through provision.

The requirements are contained in Subsection 364.163(6), Florida Statutes, which reads as follows:

DOCUMENT NUMBER-DATE

09355 SEP-4 96

FPSC-RECORDS/REPORTING

DOCKET NO. 960910-TL
DATE: September 16, 1996

Any local exchange telecommunications company whose current intrastate switched access rates are higher than its interstate switched access rates in effect on December 31, 1994, shall reduce its intrastate switched access rates by 5 percent annually beginning October 1, 1996. Any such company shall be relieved of this requirement if it reduces such rates by a greater percentage by the relevant date or earlier, taking into account any reduction made pursuant to Florida Public Service Commission Order No. PSC 94-0172-FOF-TL. Upon reaching parity between intrastate and 1994 interstate switched access rates, no further reductions shall be required. Any telecommunications company whose intrastate switched access rate is reduced by this subsection shall decrease its customer long distance rates by the amount necessary to return the benefits of such reduction to its customers.

Order No. PSC 94-0172-FOF-TL resulted from the Commission's approval of the stipulation resolving BellSouth's last earnings review (Docket No. 920260-TL). Finally, Subsection 364.163(7), Florida Statutes, requires that "customer long distance rate reductions shall become effective on October 1 of each relevant year."

The purpose of this recommendation is to implement the provisions of Subsection 364.163(c), Florida Statutes, and to resolve any ambiguities over which LECs must reduce their intrastate switched access rates and which telecommunications companies must flow through these reductions to customer long distance rates.

DOCKET NO. 960910-TL
DATE: September 16, 1996

ISSUE 1: Which LECs are required to reduce intrastate switched access rates per Subsection 364.163(6), Florida Statutes, effective October 1, 1996?

RECOMMENDATION: Each price regulated and rate base/rate-of-return regulated LEC whose current intrastate switched access rates, expressed as a composite rate per minute, are higher than its December 31, 1994 interstate switched access rates, must reduce its intrastate switched access rates per Subsection 364.163(6), Florida Statutes. To verify statutory compliance, each LEC must file, not later than September 24, 1996, calculations of the LEC's current intrastate switched access composite rate per minute and the LEC's December 31, 1994 interstate switched access composite rate per minute. If the calculations show that the LEC's intrastate switched access rates must be reduced, a tariff filing must be made not later than September 24, 1996, and should include: (1) a demonstration that the LEC's intrastate switched access rate reductions satisfy the requirement of Subsection 364.163(6), Florida Statutes, and (2) the names of all IXCs that pay intrastate switched access charges to the LEC.

STAFF ANALYSIS: A key question in this issue is whether all LECs or only price regulated LECs are subject to Subsection 364.163(6), Florida Statutes. The introductory portion of Section 364.163, Florida Statutes, defines network access services and requires tariffs for these services, but does not specifically identify which LECs are subject to the section. Subsection 364.163(1), Florida Statutes, describes the rate caps applicable to those companies that are subject to this section:

Effective January 1, 1996, the rates for network access services of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and shall remain capped until January 1, 1999. Upon the date of filing its election with the commission, the network access service rates of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped for 3 years.

A possible inference is that the companies subject to Section 364.163, Florida Statutes, are price regulated LECs. However, the requisite reductions described in Subsection 364.163(6), Florida Statutes, are applicable to "any local exchange telecommunications company," which suggests that both price regulated and rate base/rate-of-return regulated LECs are subject to this subsection.

Because those companies that are subject to Section 364.163, Florida Statutes, are never really specified and cannot be clearly inferred, and because the wording is different than all other

DOCKET NO. 960910-TL
DATE: September 16, 1996

subsections of 364.163, staff believes that Subsection 364.163(6), Florida Statutes, should be interpreted on a stand-alone basis. Based on a plain reading of this subsection, staff believes that price regulated and rate base/rate-of-return regulated LECs are subject to the requirement to reduce intrastate switched access rates.

A second area of possible dispute is how to determine which LECs have current intrastate switched access rates that are higher than the interstate switched access rates in effect on December 31, 1994. Since switched access rates are composed of multiple elements, staff believes that a meaningful comparison can only be made by calculating the current intrastate composite rate per minute and the December 31, 1994 interstate composite rate per minute. While comparisons could be made on an element-by-element basis, the current intrastate rates for certain elements may be lower than the December 31, 1994 interstate levels, and the current intrastate rates for other elements may be higher than the December 31, 1994 interstate levels. Through the composite approach, intrastate rate elements that are currently priced lower than December 31, 1994 interstate levels will help offset the need to reduce intrastate rate elements that are currently priced higher than December 31, 1994 interstate levels. Although the composite approach would give LECs the benefit of averaging, staff believes this approach is appropriate in that customers (IXCs) are concerned with the bottom line per minute charge. In addition, an element-by-element approach would have the effect of reducing the overall intrastate rate per minute below December 31, 1994 interstate levels. A composite rate can be readily calculated based on billed revenue and billed minutes.

Eight of the small LECs (all except Frontier) use National Exchange Carrier Association (NECA) rates for all or some interstate switched access elements. The eight LECs all use the NECA carrier common line (CCL) rate which is partially sustained through the Long Term Support program. The support is roughly \$.02 on both the originating end and the terminating end. Stated differently, the December 31, 1994 interstate CCL rates charged by these eight LECs were below self-sustaining levels (i.e., yielded less than the revenue requirement). Similarly, the December 31, 1994 interstate CCL rates charged by the four large LECs were slightly above self-sustaining levels since these companies pay Long Term Support, which necessitates somewhat higher interstate switched access rates than would otherwise be needed. In addition, NECA rates for the traffic-sensitive elements typically generate more than the revenue requirement for most Florida LECs since switching and transport costs in this state are usually less than the national average.

DOCKET NO. 960910-TL
DATE: September 16, 1996

These anomalies, which cause interstate rates to differ from self-sustaining levels, have generated questions in staff discussions with the NECA-based LECs. Namely, what is the appropriate interpretation of "interstate switched access rates in effect on December 31, 1994"? While recasting the December 31, 1994 rates to reflect self-sustaining levels may produce a more realistic benchmark, staff does not believe the statute gives the Commission any latitude to make such an adjustment. The statute describes the benchmark as "its interstate switched access rates in effect on December 31, 1994," which appears to leave no room for Commission discretion. Consequently, staff recommends that "interstate switched access rates in effect on December 31, 1994" be viewed as the rates actually being charged on that date.

Based on Order No. PSC-0172-FOF-TL and the composite rate comparisons provided to staff, staff believes the following LECs should reduce their intrastate Florida switched access rates as follows, effective October 1, 1996:

<u>*** Informational Only ***</u>	
BellSouth	16.2%
GTEFL	5.0
Sprint/United	5.0
Sprint/Centel	5.0
Vista-United	5.0
Frontier	5.0
ALLTEL	5.0
Floral	5.0
Quincy	4.0-5.0

Percentage reductions may vary by switched access element, but must yield the overall reduction required by Subsection 364.163(6), Florida Statutes. Since the switched access rate reductions are presumed valid per Subsection 364.163(7), Florida Statutes, the seven day notice period cited in Subsection 364.163(5), Florida Statutes, is applicable to price regulated and rate base/rate-of-return regulated LECs.

In summary, each price regulated and rate base/rate-of-return regulated LEC whose current intrastate switched access rates, expressed as a composite rate per minute, are higher than its December 31, 1994 interstate switched access rates, must reduce its intrastate switched access rates per Subsection 364.163(6), Florida Statutes. To verify statutory compliance, each LEC must file, not later than September 24, 1996, calculations of the LEC's current intrastate switched access composite rate per minute and the LEC's December 31, 1994 interstate switched access composite rate per minute. If the calculations show that the LEC's intrastate switched access rates must be reduced, a tariff filing must be made

DOCKET NO. 960910-TL
DATE: September 16, 1996

not later than September 24, 1996, and should include: (1) a demonstration that the LEC's intrastate switched access rate reductions satisfy the requirement of Subsection 364.163(6), Florida Statutes, and (2) the names of all IXCs that pay intrastate switched access charges to the LEC.

DOCKET NO. 960910-TL
DATE: September 16, 1996

ISSUE 2: Which telecommunications companies are required to reduce customer long distance rates per Subsection 364.163(6), Florida Statutes, effective October 1, 1996?

RECOMMENDATION: Those interexchange carriers that pay intrastate switched access charges to the LECs, which are bound to reduce these rates in Issue 1, are required to reduce customer long distance rates per Subsection 364.163(6), Florida Statutes, effective October 1, 1996. The required filings must be made not later than September 30, 1996 and should include (1) a calculation of the estimated dollar benefit associated with the LECs' intrastate switched access rate reductions, and (2) a demonstration that customer long distance rates have been reduced by the estimated dollar benefit. Percentage reductions may vary by long distance service, but must yield the required overall reduction.

In addition, each IXC that is required to reduce customer long distance rates effective October 1, 1996, should be required to file its calculation of the realized dollar benefit associated with the LECs' intrastate switched access rate reductions by October 31, 1996. If an IXC's realized dollar benefit exceeds its estimated dollar benefit by more than 5%, the IXC must file revisions to its customer long distance rates by October 31, 1996 to reflect the realized dollar benefit.

STAFF ANALYSIS: This issue focuses on the last sentence of Subsection 364.163(6), Florida Statutes, which states the following:

Any telecommunications company whose intrastate switched access rate is reduced by this subsection shall decrease its customer long distance rates by the amount necessary to return the benefits of such reduction to its customers.

This sentence clearly requires facilities-based interexchange carriers (IXCs) to reduce customer long distance rates, since these types of telecommunications companies pay switched access charges and will benefit from the required reductions. Resale-based IXCs may indirectly benefit from the switched access rate reductions to the extent that their underlying carriers reduce the rates for the service(s) used by the resellers. Thus, there could be a question as to whether resellers are required to reduce their customer long distance rates. Also, there may be an issue as to whether LECs are required to reduce their own customer long distance rates, commensurate with the switched access rate reductions.

Regarding the applicability of Subsection 364.163(6), Florida Statutes, to resellers, staff supports the position that the pass-

DOCKET NO. 960910-TL
DATE: September 16, 1996

through requirement is only a one-stage process, from the LECs to the IXC's that directly pay access charges. Since resellers do not pay access charges, they cannot fall under "any telecommunications company whose intrastate switched access rate is reduced by the subsection." In addition, market forces will likely cause resellers to reduce their customer long distance rates, making regulatory intervention unnecessary. Finally, while a LEC can constitute "any telecommunications company whose intrastate switched access rate is reduced by this subsection," a LEC does not receive any benefit from this reduction, and hence, has no benefit to return. Accordingly, a LEC should not be subject to the last sentence of Subsection 364.163(6), Florida Statutes.

The intrastate switched access rate reductions and customer long distance rate reductions are to be effective on the same day, October 1, 1996. Since a LEC has discretion as to which intrastate switched access rate elements are reduced, the IXC will not be able to calculate ahead of time the precise dollar benefit to the IXC. However, using the assumption that an IXC's benefit will approximate the required overall percentage reduction in intrastate switched access rates for each LEC, an IXC can calculate the estimated savings to its Florida intrastate operations, and thus the extent to which its intrastate long distance rates must be reduced effective October 1, 1996. Once the LEC tariff filings are made, an IXC can determine its realized dollar benefit and adjust its intrastate long distance rates accordingly. Any "true-up" would need to be on a going forward basis since rerating the traffic and issuing adjustments would be onerous, and is made even more difficult by the IXC's use of the LECs' billing services.

The specifics of a "true-up" process are complicated by the fact that an IXC could calculate its realized dollar benefit using different vintages of billing units than those used for the estimate. Staff is reluctant to specify the vintage of the billing units as this may unduly complicate the process for the IXC's. Consequently, staff recommends that a 5% tolerance level be used when determining if the realized dollar benefit is sufficiently greater than the estimate to warrant an adjustment to the IXC's customer long distance rates.

When an IXC makes the required tariff filings to reduce its intrastate long distance rates effective October 1, 1996, each company's filing will need to include a calculation of the dollar benefit associated with the LECs' intrastate switched access rate reductions. In addition, each company's filing will need to include a demonstration that its intrastate long distance rates have been reduced by the amount of the dollar benefit. In keeping with encouraging a market driven approach, percentage reductions may vary by long distance service, but must yield the required

DOCKET NO. 960910-TL
DATE: September 16, 1996

overall reduction. Per the one day notice period allowed by Rule 25-24.485(2)(b), Florida Administrative Code, the requisite IXC tariff filings must be made not later than September 30, 1996.

In summary, those interexchange carriers that pay intrastate switched access charges to the LECs, which are bound to reduce these rates in Issue 1, are required to reduce customer long distance rates per Subsection 364.163(6), Florida Statutes, effective October 1, 1996. The required filings must be made not later than September 30, 1996 and should include (1) a calculation of the estimated dollar benefit associated with the LECs' intrastate switched access rate reductions, and (2) a demonstration that customer long distance rates have been reduced by the estimated dollar benefit. To confirm which interexchange carriers pay intrastate switched access charges to the LECs bound by the vote in Issue 1, staff has recommended in Issue 1 that the applicable LECs be required to supply the names of all such IXCs.

In addition, each IXC that is required to reduce customer long distance rates effective October 1, 1996, should be required to file its calculation of the realized dollar benefit associated with the LECs' intrastate switched access rate reductions by October 31, 1996. If an IXC's realized dollar benefit exceeds its estimated dollar benefit by more than 5%, the IXC must file revisions to its customer long distance rates by October 31, 1996 to reflect the realized dollar benefit.

DOCKET NO. 960910-TL
DATE: September 16, 1996

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to handle any protests filed in response to the order from this recommendation and any subsequent tariff filings necessary to ensure compliance with Subsection 364.163(6), Florida Statutes, for the year 1996. If a protest is filed within 21 days from the issuance of the order from this recommendation, the tariffs filed in response to Subsection 364.163(6), Florida Statutes, which are effective October 1, 1996, should remain in effect pending the resolution of the protest.

STAFF ANALYSIS: This docket should remain open to handle any protests filed in response to the order from this recommendation and any subsequent tariff filings necessary to ensure compliance with Subsection 364.163(6), Florida Statutes, for the year 1996. If a protest is filed within 21 days from the issuance of the order from this recommendation, the tariffs filed in response to Subsection 364.163(6), Florida Statutes, which are effective October 1, 1996, should remain in effect pending the resolution of the protest.