

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

NOVEMBER 14, 1996

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

FROM: DIVISION OF COMMUNICATIONS (MUSSELWHITE) *SM WDH/a*
DIVISION OF LEGAL SERVICES (KEATING) *NCK MCB*

RE: DOCKET NO. 961316-TL - - REQUEST FOR APPROVAL OF TARIFF
FILING TO INCREASE RETURNED CHECK SERVICE CHARGE FOR
DISHONORED CHECKS BY NORTHEAST FLORIDA TELEPHONE COMPANY,
INC. (T-96-942 FILED 10/30/96)

AGENDA: NOVEMBER 26, 1996 - REGULAR AGENDA - TARIFF FILING -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 30-DAY SUSPENSION DATE: November 30, 1996

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961316TL.RCM

DISCUSSION OF ISSUES

ISSUE 1: Should Northeast Florida Telephone Company's request to increase its returned check service charge for dishonored checks be approved?

RECOMMENDATION: Yes, Northeast's request should be approved.

STAFF ANALYSIS: On October 30, 1996 Northeast Florida Telephone Company, Inc. filed a tariff, attached hereto as Attachment A, which increases the returned check service charge for dishonored checks. The tariff language was modified to match recent legislative changes to the statutes governing dishonored checks. Chapter 96-239, §1, 1996 Florida Laws 893. A copy of this chapter is attached as Attachment B.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If Issue 1 is approved, this tariff should become effective November 29, 1996. If a protest is filed within 21 days from the issuance date of the Order, the tariff should

DOCUMENT NUMBER-DATE

12108 NOV 14/96

FPSC-RECORDS/REPORTING

DOCKET NO. 961316-TL
DATE: NOVEMBER 14, 1996

remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed.

STAFF ANALYSIS: If the Commission approves Issue 1, this tariff should become effective November 29, 1996. If a protest is filed within 21 days from the issuance date of the Order, the tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed.

GENERAL SUBSCRIBER SERVICE TARIFF

NORTHEAST FLORIDA
TELEPHONE COMPANY, INC.

Fourth Revised Page 33
Cancels Third Revised Page 33

By: Gladys R. Walker
President

Effective: _____

A2. GENERAL REGULATIONS

A2.4 PAYMENT ARRANGEMENTS AND CREDIT ALLOWANCES (Cont'd.)

A2.4.3 Payment for Service (Cont'd.)

B. The subscriber shall pay monthly in advance or on demand all charges for service and equipment and shall pay on demand all charges for long distance service. The subscriber is responsible for payment of all charges for services furnished the subscriber, including charges for services originated or charges accepted at the subscriber's premise.

1. The following charge will apply whenever a check or draft presented for payment for service is not accepted by the institution on which it is written: \$25 if the face value of the check does not exceed \$50; \$30 if the face value is more than \$50 but does not exceed \$300; \$40 if the face value is more than \$300; or 5 percent of the face value of the check (applicable if amount exceeds \$800), whichever is greater.

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C. Should service be suspended for nonpayment of charges, it will be restored only as provided under "Restoration Charge" in Section A4. of this Tariff.

D. When the service has been disconnected for nonpayment, the service agreement is considered to have been terminated. Reestablishment of service may be made only upon the execution of a new service agreement, which is subject to the provisions of this Tariff.

created to read:

lands.—The department

f invasive exotic plants on
they are detrimental to the

in the development and
or the control of invasive

es in the State University
concerning biological con-
trol agents; and develop-
nvasive exotic plants on

t Fund as authorized by
section on public lands.

(2) of section 403.813,

ons.—

chapter 61-691, Laws of
Florida, 1949, shall be
es of projects; however,
m any requirement to
e Board of Trustees of
management district in
plying with applicable
is chapter or other re-

removal of tussocks, the
the associated removal
al material that exists
ry to accomplish such
plants for aquatic plant
f sediment attached to
ed by the department
pply to any mitigation
under chapter 373.

project, any mitigation
y negotiation between
Department of Trans-
e reached, the project
(3), Florida Statutes.

Section 6. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 25, 1996.

Filed in Office Secretary of State May 24, 1996.

CHAPTER 96-239

Senate Bill No. 2296

An act relating to dishonored checks; amending ss. 68.065, 125.0105, 832.07, F.S.; increasing the service charge that the payee of a dishonored check, draft, or order may impose on the payor; amending s. 832.08, F.S.; increasing the amount of the fee that a state attorney may charge the payor of a dishonored check to fund the bad check diversion program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) and (3) of section 68.065, Florida Statutes, are amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.—

(2) The payee may also charge the maker or drawer of the check, draft, or order of payment a service charge not to exceed the service fees authorized under s. 832.08(5) \$20 or 5 percent of the face amount of the instrument, whichever is greater, when making written demand for payment. In the event that a judgment or decree is rendered, interest at the rate and in the manner described in s. 55.03 may be added toward the total amount due. Any bank fees incurred by the payee may be charged to the maker or drawer of the check, draft, or order of payment.

(3) Before recovery under subsection (1) or subsection (2) may be claimed, a written demand shall be delivered by certified or registered mail, evidenced by return receipt, to the maker or drawer of the check, draft, or order of payment. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered _____ in the face amount of \$_____ issued by you on ... (date) ..., drawn upon ... (name of bank) ..., and payable to _____, has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of \$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, \$20 or 5 percent of the face amount of the check, whichever is greater, the total amount due being \$_____ and _____ cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than \$50, in addition to the payment of the check plus any court costs,

reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

Section 2. Section 125.0105, Florida Statutes, is amended to read:

125.0105 Service fee for dishonored check.—The governing body of a county may adopt a service fee not to exceed the service fees authorized under s. 832.08(5) of \$30 or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a county official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from the fee, if imposed, shall be retained by the collector of the fee.

Section 3. Paragraph (a) of subsection (1) of section 832.07, Florida Statutes, is amended to read:

832.07 Prima facie evidence of intent; identity.—

(1) INTENT.—

(a) In any prosecution or action under this chapter, the making, drawing, uttering, or delivery of a check, draft, or order, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud or knowledge of insufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, unless such maker or drawer, or someone for him, shall have paid the holder thereof the amount due thereon, together with a service charge not to exceed the service fees authorized under s. 832.08(5) \$20 or an amount of up to 5 percent of the face amount of the check, whichever is greater, within 7 days after receiving written notice that such check, draft, or order has not been paid to the holder thereof, and bank fees incurred by the holder. In the event of legal action for recovery, the maker or drawer may be additionally liable for court costs and reasonable attorney's fees. Notice mailed by certified or registered mail, evidenced by return receipt, to the address printed on the check or given at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, whether such notice shall be returned undelivered or not. The form of such notice shall be substantially as follows:

"You are hereby notified that a check, numbered _____, in the face amount of \$_____ issued by you on ...(date)..., drawn upon ...(name of bank)..., and payable to _____, has been dishonored. Pursuant to Florida law, you have 7 days from receipt of this notice to tender payment of the full amount of such check plus a service charge of \$25, if the face value does not exceed \$50. \$30, if the face value exceeds \$50 but does not exceed \$300. \$40, if the face value exceeds \$300, \$20 or an amount of up to 5 percent of the face amount of the check, whichever is greater, the total amount due being \$_____ and _____ cents. Unless this amount is paid in full within the time specified above, the holder of such check may turn over the dishonored check and all other available information relating to this incident to the state attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50, together with the amount of the check, a service charge, court costs, reasonable attorney fees, and incurred bank fees, as provided in s. 68.065."