

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of) DOCKET NO. 961362-TL
transfer of Local Exchange) ORDER NO. PSC-96-1543-FOF-TL
Telecommunications Certificate) ISSUED: December 17, 1996
No. 33 from Central Telephone)
Company of Florida to United)
Telephone Company of Florida,)
for approval of merger of)
Certificate No. 33 into United)
Telephone's Certificate No. 22,)
and for change in name on)
Certificate No. 22 to Sprint-)
Florida, Incorporated.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING MERGER AND TRANSFER
OF CERTIFICATES AND GRANTING REQUESTS
FOR WAIVER OF RULES

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On November 14, 1996, a petition was filed by United Telephone Company of Florida and Central Telephone Company of Florida (collectively, "the companies") for approval of transfer and merger of Centel's Certificate of Public Convenience and Necessity No. 33 into United's Certificate of Public Convenience and Necessity No. 22 and for a change in name on Certificate No. 22 to Sprint-Florida, Incorporated. The proposed merger will not cause outside

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perimeter boundary changes, and it will appear to the company's customers as a name change only. No rates or terms and conditions of service will be affected.

With their petition, the companies filed a Request for Partial Variance and Waiver of Rules 25-4.005(1)(b) and (c), Florida Administrative Code. Section 120.542(2), Florida Statutes, provides that a waiver shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means and when the application of a rule would create a substantial hardship.

Rule 25-4.005(1)(b) requires that the companies provide notice of the transfer by legal advertisement in a newspaper of general circulation in the areas affected and published on two separate occasions at least two weeks prior to the filing of the joint petition on the proposed transfer. The companies provided notice through legal advertisements, but did so after the time provided by the rule. The companies therefore seek a waiver of the requirement that legal advertisements be published 2 weeks prior to filing a petition for transfer and merger.

Although the advertisements were not timely completed, waiver of the rule's time requirements would not unduly prejudice the companies or consumers. We find that the purpose of the underlying rule has been achieved through the notice provided by the companies. We find that the requirements of Section 120.542(2), Florida Statutes, have been satisfied, and we therefore approve the companies' request for waiver of the time requirements of Rule 25-4.005(1)(b).

Rule 25-4.005(1)(c) provides, inter alia, that the companies shall provide a list of all affected customers to the Commission. A list of all affected customers would comprise approximately 1.7 million names, telephone numbers, addresses, and classes of telephone service. The companies seek a waiver of this requirement of the rule.

The companies' transfer and merger will not affect services or rates and conditions of services currently provided to customers. Customers will notice only the name change of the telephone company serving them. The companies widely advertised these changes in newspapers, sent written notices to customers, and, in some cases, used telephone calls to inform customers of the changes.

We find that application of the rule would cause the companies a substantial hardship due to the expenditure of resources that would be required to produce a list of the enormous number of

customers affected. We find that the requirements of Section 120.542(2), Florida Statutes, have been satisfied. Therefore, we approve the companies' request for waiver of that part of Rule 25-4.005(1)(c) which requires the companies to submit a list of affected customers to the Commission.

On December 13, 1996, notice of the companies' request for waiver was published in the Florida Administrative Weekly. The notice provided for a 14-day comment period.

Upon consideration, we find that the common management of the companies will result in greater efficiencies and economies and, therefore, the proposed transfer and merger are in the public interest. We therefore approve the companies' Petition for transfer and merger, pending completion of the 14-day period for public comment on the companies' requests for partial variance and waiver of rules, as discussed above.

Rule 25-22.029(2), Florida Administrative Code, allows us, upon a showing of good cause, to provide that the time for requesting a hearing shall be 14 days from issuance of the notice of proposed agency action. The provision of a 14-day protest period will improve the possibility of this order becoming final by December 31, 1996, the date of the proposed merger.

We note that the companies provided notice of the transfer and merger by written notice to customers and by publication of legal advertisements on November 16 and 30, 1996. These notices stated that the effective date of the transfer and merger would be December 31, 1996, pending Commission approval. We find that good cause exists for us to provide a 14-day protest period to this order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition of United Telephone Company of Florida and Central Telephone Company of Florida for approval of transfer and merger of Centel's Certificate of Public Convenience and Necessity No. 33 into United's Certificate of Public Convenience and Necessity No. 22 is hereby approved, pending completion of the 14-day period for public comment on the companies' requests for partial variance and waiver of rules. It is further

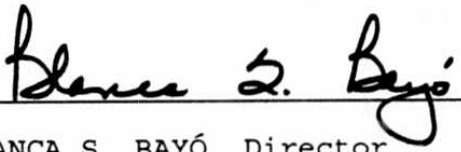
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ORDERED that United Telephone Company of Florida and Central Telephone Company of Florida's Request for Partial Variance and Waiver of Rules 25-4.005(1)(b) and (c), Florida Administrative Code, is hereby granted, pending completion of the 14-day public comment period described above. It is further

ORDERED that the provisions of this order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 17th day of December, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 31, 1996.

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 substantially 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.