



ORIGINAL

RECEIVED-FPSC

98 SEP -1 PM 3:56

September 1, 1998

RECORDS AND REPORTING

Blanca S. Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 970281-TL

Dear Ms. Bayó:

Enclosed for filing in the above-styled docket are the original and 15 copies of the Florida Public Telecommunications Association, Inc.'s Petition on Proposed Agency Action.

An extra copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties as shown on the attached Certificate of Service.

Thank you for your assistance with this filing.

Sincerely,

Angela B. Green  
General Counsel

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU Shelley All Parties of Record
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG 2
- LIN 5
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC 1
- WAS \_\_\_\_\_
- OTH Greg Boud

DOCUMENT NUMBER-DATE

09551 SEP-1 98

FPSC RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of intra- )  
state implementation requirements )  
governing federally mandated )  
deregulation of local exchange )  
company payphones. )  
\_\_\_\_\_ )

DOCKET NO. 970281-TL  
FILED: September 1, 1998

PETITION ON PROPOSED AGENCY ACTION

Pursuant to Order No. PSC-98-1088-FOF-TL, issued August 11, 1998, and the rules of the Florida Public Service Commission ("FPSC" or "the Commission"), the Florida Public Telecommunications Association, Inc. ("FPTA") hereby files its petition on proposed agency action to protest certain proposed findings of fact and conclusions of law contained within the above-referenced order and to request a hearing, if needed, to resolve the disputed issues. In support of this petition, FPTA states as follows:

1. The complete name and address of the petitioner is:

Florida Public Telecommunications Association, Inc.  
125 South Gadsden Street  
Suite 200  
Tallahassee, Florida 32301

2. All notices, pleadings, orders, and other documents should be directed to:

Angela B. Green  
Florida Public Telecommunications Association, Inc.  
125 South Gadsden Street  
Suite 200  
Tallahassee, Florida 32301

3. FPTA is a domestic, not-for-profit corporation organized pursuant to Chapter 617, Florida Statutes. FPTA's membership includes payphone service providers ("PSPs") certificated by the Commission to provide pay telephone service to the public throughout Florida. FPTA's PSP members have a direct and substantial interest in how the Commission implements the deregulation of local exchange company ("LEC") pay telephones because these members purchase necessary services for their businesses under the terms and conditions of the tariffs being approved by Order No. PSC-98-1088-FOF-TL.

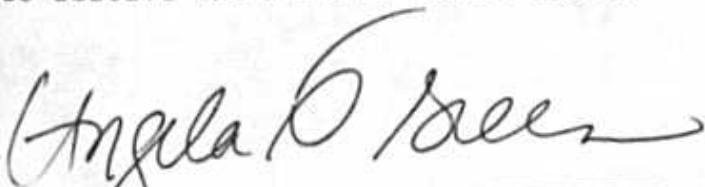
4. FPTA protests the Commission's proposed findings of fact and conclusions of law "that when viewed in the aggregate the existing rates for payphone services are appropriate" and that the "LECs' current tariffed rates for intrastate payphone services are cost-based and thus meet the 'new services' test." Order No. PSC-98-1088-FOF-TL at Page 4. FPTA also disagrees with the Commission's proposed finding that "in most cases the existing tariffs are the result of one or more of our payphone-related proceedings in which costs were considered." Order No. PSC-98-1088-FOF-TL at Page 5 (emphasis added).

5. FPTA believes that the LECs' existing tariffed rates for pay telephone services are priced well above cost and, therefore, do not comply with the Federal Communications Commission's ("FCC's") "new services" test. The Commission has made no specific findings of fact regarding the percentage of

overhead markup contained in the LECs' pay telephone tariffs. Without such findings, the Commission cannot fairly conclude that these tariffs are cost-based, meet the "new services" test, or include only a reasonable allocation of overhead. The "new services" test clearly places the burden on the incumbent LECs to demonstrate that their payphone tariffs are cost-based and do not recover more than a reasonable portion of the LEC's overhead costs. FPTA believes that the Commission should be guided in this respect by the overhead allocations it has previously authorized in its proceedings related to pricing of unbundled network elements. A comparison between this docket and those proceedings reveals a sharp disparity in the percentage of markup being authorized.

Wherefore, for the reasons set forth above, FPTA enters its protest to Order No. PSC-98-1088-FOF-TL and requests that a hearing be held, if needed, to resolve the matters stated above.

Respectfully submitted,

  
\_\_\_\_\_  
ANGELA B. GREEN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of the foregoing has been furnished by U.S. Mail this 1st day of September, 1998, to the following parties of record:

Richard D. Melson, Esquire  
Hopping Firm  
P.O. Box 6526  
Tallahassee, FL 32314

Tracy Hatch, Esquire  
AT&T Communications  
101 N. Monroe St., Suite 700  
Tallahassee, FL 32301

Nancy White, Esquire  
BellSouth Telecommunications, Inc.  
150 S. Monroe St., Suite 400  
Tallahassee, FL 32301-1556

Anthony Gillman, Esquire  
GTE Florida Incorporated  
106 East College Avenue, Suite 1440  
Tallahassee, FL 32301-7704

Charles Rehwinkel, Esquire  
Sprint-Florida, Inc.  
P.O. Box 2214, M.C. 2565  
Tallahassee, FL 32316-2214

David Erwin, Esquire  
Young Firm  
P.O. Box 1833  
Tallahassee, FL 32302

J. Jeffry Wahlen, Esquire  
Ausley Firm  
P.O. Box 391  
Tallahassee, FL 32302

Ms. Harriet Eudy  
ALLTEL Florida, Inc.  
P.O. Box 550  
Live Oak, FL 32060-3343

Ms. Laurie A. Maffett  
Frontier Communications of the South, Inc.  
180 S. Clinton Ave.  
Rochester, NY 14646-0400

Mr. Robert M. Post, Jr.  
Indiantown Telephone System, Inc.  
P.O. Box 277  
Indiantown, FL 34956-0277

Ms. Lynne G. Brewer  
Northeast Florida Telephone Company, Inc.  
P.O. 485  
Macclenny, FL 32063-0485

Mr. Thomas M. McCabe  
Quincy Telephone Company  
P.O. Box 189  
Quincy, FL 32353-0189

Mr. Bill Thomas  
The Florala Telephone Company, Inc.  
Gulf Telephone Company  
GTC, Inc.  
St. Joseph T&T Company  
P.O. Box 1007  
Port St. Joe, FL 32457-1007

Ms. Lynn B. Hall  
Vista-United Telecommunications  
P.O. Box 10180  
Lake Buena Vista, FL 32830-0180

Mark K. Logan, Esquire  
Bryant, Miller & Olive, P.A.  
201 S. Monroe St., Suite 500  
Tallahassee, FL 32301

Will Cox, Esquire  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard oak Boulevard  
Tallahassee, FL 32399-0850

BY:   
ANGELA B. GREEN