



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-

RECEIVED-FPSC
99 JAN -7 AM 11:43
RECORDS AND REPORTING

DATE: JANUARY 7, 1999

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

FROM: DIVISION OF COMMUNICATIONS (AUDU, SHELFER, KING)
DIVISION OF LEGAL SERVICES (COX) *WCMCB*

RE: DOCKET NO. **970281-TL** - ESTABLISHMENT OF INTRASTATE IMPLEMENTATION REQUIREMENTS GOVERNING FEDERALLY MANDATED DEREGULATION OF LOCAL EXCHANGE COMPANY PAYPHONES.

AGENDA: 01/19/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\970281w.RCM

CASE BACKGROUND

To date the FCC has issued several orders in CC Docket No. 96-128, Implementation of the Pay Telephone Reclassification and Compensation Provisions of Section 276 of the Telecommunications Act of 1996. The Payphone Order (FCC 96-388) released September 20, 1996, and the Order on Reconsideration (FCC 96-439) released November 8, 1996, each adopted new rules and policies governing the payphone industry.

Paragraph 162 of the Order on Reconsideration states:

. . . as required in the Report and Order, LECs must provide tariffed, nondiscriminatory basic payphone services that enable independent providers to offer payphone services using either instrument-implemented "smart payphones" or "dumb" payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECS. LECs must file those tariffs with

DOCUMENT NUMBER-DATE

00246 JAN-7 99

FPSC-RECORDS/REPORTING

the state. In addition, as required by the Report and Order, any basic network services or unbundled features used by a LEC's operations to provide payphone services must be similarly available to independent payphone providers on a nondiscriminatory, tariffed basis.

The FCC determined that tariffs for a LEC's payphone service offerings must be 1) cost-based, 2) consistent with the requirements of §276 of the Act, and 3) nondiscriminatory (§163, FCC 96-439). In addition, states are to apply the Computer III guidelines¹ for tariffing such intrastate services. Where LECs have already filed intrastate tariffs for these services, states may, after considering the requirements of the Payphone Reclassification Proceedings and §276, conclude: 1) that existing tariffs are consistent with the requirements noted above and 2) that in such case no further filings are required. All intrastate tariffs were to be effective no later than April 15, 1997. LECs must comply with the above requirements, as well as others discussed in the Payphone Reclassification Proceedings, before the LECs' payphone operations are eligible to receive compensation for completed intrastate and interstate calls originated by its payphones.

In previous proceedings, the Florida Public Service Commission (FPSO) required the tariffing of basic phone lines ("smart" and "dumb") and various payphone blocking and screening options (such as billed number screening and operator screening) to prevent fraud. However, small LECs were not required to tariff the "smart" line until they received a bona fide request from a payphone provider. Once the FCC's Orders were issued, it was clear that the small LECs were required to tariff the "smart" line regardless of whether a request had been made.

After several efforts by staff and parties to reach agreement on the appropriateness of current LEC payphone tariffs and the application of the FCC's new services test, no consensus was achieved. On July 9, 1998, staff filed a recommendation addressing

¹ This requires application of the FCC's "new services test". The "new services test" requires that "Each tariff submitted by a local exchange carrier specified in §61.41(a) (2) or (3) of the Code of Federal Regulations that introduces a new service or a restructured unbundled basic service element (BSE) that is or will later be included in a basket must be accompanied by cost data sufficient to establish that the new service or unbundled BSE will not recover more than a reasonable portion of the carrier's overhead costs."
(Title 47 of the Code of Federal Regulations, Section 61.49(g)(2))

DOCKET NO. 970281-TL
DATE: JANUARY 7, 1999

whether the LECs' current tariffs for the basic payphone services and any basic network services and unbundled features satisfy the FCC's requirements, and whether further filings are required. At the July 21, 1998, Agenda Conference, the Commission determined that "[e]xisting incumbent local exchange company tariffs for smart and dumb line payphones services are cost-based, consistent with Section 276 of the Telecommunications Act of 1996, and nondiscriminatory." (Order No. PSC-98-1088-FOF-TL at 6)

On September 1, 1998, Florida Public Telecommunications Association (FPTA) filed a petition protesting Order No. PSC-98-1088-FOF-TL, requesting that the matter be set for hearing. However, on December 31, 1998, FPTA filed a notice of withdrawal of its September 1, 1998 petition.

This recommendation addresses whether this docket should be closed in light of FPTA's notice of withdrawal.

DOCKET NO. 970281-TL
DATE: JANUARY 7, 1999

DISCUSSION OF ISSUES

ISSUE 1: Should this docket be closed?

RECOMMENDATION: Yes, in light of FPTA's December 31, 1998, notice of withdrawal of its petition, this docket should be closed, and PAA Order No. PSC-98-1088-FOF-TL should be reinstated as a final order effective September 1, 1998. (COX, AUDU)

STAFF ANALYSIS: In light of FPTA's December 31, 1998, notice of withdrawal of its petition, there is nothing for the Commission to address in this docket. Hence, staff recommends that this docket be closed, thereby making Order No. PSC-98-1088-FOF-TL final, effective September 1, 1998.