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DATE: MARCH 18, 1999

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

FROM: DIVISION OF COMMUNICATIONS (BARRETT) *MB*
 DIVISION OF LEGAL SERVICES (BROWN) *MB*
 DIVISION OF AUDITING & FINANCE (CATER, HACKNEY) *1999*

RE: DOCKET NO. 990224-TL - NOTICE OF ELECTION OF PRICE
 REGULATION BY ALLTEL FLORIDA, INC.

AGENDA: 3/30/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
 INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990224.RCM

CASE BACKGROUND

Section 364.051, Florida Statutes, provides that local exchange companies may elect price regulation. When a company elects price regulation, certain rates will be capped and the company will be allowed to revise rates only in accordance with the statute.

On March 1, 1999, ALLTEL Florida, Inc. (ALLTEL) filed notification of election to become subject to price regulation effective immediately and subject to the provisions of Section 364.051, Florida Statutes. The notice is attached to this recommendation (Attachment A).

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FPSC-RECORDS/REPORTING

ISSUE 1: With ALLTEL's election of price regulation effective March 1, 1999, as of what date should its rates be capped?

RECOMMENDATION: With ALLTEL's election of price regulation effective March 1, 1999, its basic local telecommunications service rates should be capped effective March 1, 1999, pursuant to Section 364.051(2)(b), Florida Statutes. The rates for protected non-basic services should be capped at the rates in effect on July 1, 1995, pursuant to Section 364.051(6)(a), Florida Statutes. Network access services should be capped effective March 1, 1999, pursuant to Section 364.163(1), Florida Statutes. **(Barrett, Cater, Hackney)**

STAFF ANALYSIS: ALLTEL filed notification on March 1, 1999, of its election of price regulation effective immediately. In doing so, the Company became subject to the provisions of Section 364.051, Florida Statutes. The relevant parts (1), (2), and (6) are noted as follows:

364.051 Price regulation.-

(1) SCHEDULE.-Notwithstanding any other provisions of this chapter, the following local exchange telecommunications companies shall become subject to the price regulation described in this section on the following dates:

(a) For a local exchange telecommunications company with 100,000 or more access lines in service as of July 1, 1995, such company may file with the commission a notice of election to be under price regulation effective January 1, 1996, or when an alternative local exchange telecommunications company is certificated to provide local exchange telecommunications services in its service territory, whichever is later.

(b) Effective on the date of filing its election with the commission, but no sooner than January 1, 1996, any local exchange telecommunications company with fewer than 100,000 access lines in service on July 1, 1995, that elects pursuant to s. 364.052 to become subject to this section.

(c) Each company subject to this section shall be exempt from rate base, rate of return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18

(2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.--Price regulation of basic local telecommunications service shall consist of the following:

(a) Effective January 1, 1996, the rates for basic local telecommunications service of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000. However, the basic local telecommunications service rates of a local exchange telecommunications company with more than 3 million basic local telecommunications service access lines in service on July 1, 1995, shall not be increased prior to January 1, 2001.

(b) Upon the date of filing its election with the commission, the rates for basic local telecommunications service 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 as stated in paragraph (a)

(6) NONBASIC SERVICES.--Price regulation of nonbasic services shall consist of the following:

(a) Each company subject to this section shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 15 days' notice, the rate for each of its nonbasic services, except that a price increase for any nonbasic service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange area at which time the

price for any nonbasic service category may be increased in an amount not to exceed 20 percent within a 12-month period, and the rate shall be presumptively valid. However, for purposes of this subsection, the prices of:

1. A voice-grade, flat-rate, multi-line business local exchange service, including multiple individual lines, centrex lines, private branch exchange trunks, and any associated hunting services, that provides dial tone and local usage necessary to place a call within a local exchange calling area; and
2. Telecommunications services provided under contract service arrangements to the SUNCOM Network, as defined in chapter 282, shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000 . . .

364.163 Network access services.-

For purposes of this section, "network access service" is defined as any service provided by a local exchange telecommunications company to a telecommunications company certificated under this chapter or licensed by the Federal Communications Commission to access the local exchange telecommunications network, excluding the local interconnection arrangements in s. 364.16 and the resale arrangements in s. 364.161. Each local exchange telecommunications company subject to s. 364.051 shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its network access services.

(1) Effective January 1, 1999, the rates for switched network access services of each company subject to this section shall be capped at the rates in effect on January 1, 1999, and shall remain capped until January 1, 2001. Upon the date of filing its election with the commission, the network access service rates of a company that elects to

DOCKET NO. 990224-TL
DATE: March 18, 1999

become subject to this section shall be capped at the rates in effect on that date and shall remain capped for 5 years.

Section 364.052, Florida Statutes, states that after July 1, 1996, a company subject to this section electing to be regulated pursuant to section 364.051, Florida Statutes, will have any overearnings attributable to a period prior to the date on which the company made the election subject to refund or other disposition by the Commission. Staff plans to review the earnings of ALLTEL up through February 28, 1999, to determine the need for disposition of any overearnings.

Staff also notes that in Order No. PSC-95-0370-FOF-TL, Docket No. 950146-TL, issued March 15, 1995, the Commission ordered, beginning January 1, 1995, that ALLTEL place \$1.353 million plus interest in annual revenues subject to further disposition by the Commission for the sole purpose of obtaining a ruling of the Federal Communications Commission (FCC) on the proper use of the 5% limit on change in the interstate allocation rule. The ruling by the FCC is still being appealed in Federal Court by several small LECs adversely affected by this ruling. Staff will file a recommendation on the disposition of the monies being held subject to refund after a final court decision on the FCC ruling is issued.

In light of the statutory requirements, staff recommends that with ALLTEL's election of price regulation effective March 1, 1999, its basic local telecommunications service rates should be capped effective March 1, 1999. The rates for protected non-basic services should be capped at the rates in effect on July 1, 1995. The rates for network access services should be capped at rates in effect on March 1, 1999.

DOCKET NO. 990224-PL
DATE: March 18, 1999

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. With the Commission's approval of staff's recommendation in Issue 1, this docket should be closed if no person whose substantial interests are affected files a protest within 21 days of the issuance of this Order. If no timely protest is filed, this docket should be closed. If, after reviewing the company's prior period earnings, the staff believes ALLTEL experienced overearnings, then staff will open a new docket.
(BROWN)

STAFF ANALYSIS: With the Commission's approval of staff's recommendation in Issue 1, this docket should be closed if no person whose substantial interests are affected files a protest within 21 days of the issuance of this Order. If no timely protest is filed, this docket should be closed. If, after reviewing the company's prior period earnings, the staff believes ALLTEL experienced overearnings, then staff will open a new docket.