

State of Florida



# Public Service Commission

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RECORDS AND REPORTING

**DATE:** MARCH 18, 1999

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

**FROM:** DIVISION OF LEGAL SERVICES (FORDHAM) *edf. ncb*  
DIVISION OF COMMUNICATIONS (BIEGALSKI) *ICB* *RD*

**RE:** DOCKET NO. 990342-TP - DETERMINATION OF APPROPRIATE METHOD OF COLLECTING AND REMITTING 911 FEES TO THE APPROPRIATE COUNTIES AND PROVIDING ACCURATE CUSTOMER RECORD INFORMATION TO THE 911 COORDINATORS

**AGENDA:** 03/30/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\990342.RCM

### CASE BACKGROUND

On March 12, 1999, staff met with 911 personnel from the Department of Management Services (DMS) to discuss the problems that have arisen due to the competitive local telephone environment as it pertains to the collection of 911 fees and the updating of the 911 database with customer account information. The goal of the 911 coordinators is to provide the most efficient 911 services as possible to all consumers in the State of Florida. Staff's discussion with the 911 coordinators indicate that this goal cannot be attained without the cooperation of the local telephone providers.

Currently in the State of Florida the incumbent local exchange companies (LECs) are billing, collecting and remitting to the

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appropriate county authorities their fees related to the 911 system. GTE recently notified the 911 coordinator in Hillsborough County, however, that it has ceased collecting the fees for the lines subscribed to an alternative local exchange provider (ALEC) in its territory and will no longer provide ALEC customer account information to the 911 coordinator. Staff is concerned that other LECs may follow.

The integrity of the 911 database relies on accurate customer information in order to dispatch the correct emergency operations. This database allows for customer specific information, such as a telephone number and address, to be displayed when a customer dials "911". Based on the customer address shown in the database, the 911 operator can locate the appropriate emergency personnel who would respond to the customer's emergency. If the information in the database is incorrect, the processing of the call is delayed because the 911 operator has to determine the correct emergency personnel to contact once the error is discovered. Therefore, it is crucial that the database be maintained with the most accurate customer account information, and without the LEC's and ALEC's cooperation, public safety is at risk.

In addition, the 911 system relies on the funds collected from local telephone subscribers in order to operate and maintain the 911 system. Some Florida counties are unable to collect the appropriate 911 fees from the ALECs because they cannot determine who they are. Therefore, due to the fact that the fees are calculated based on a per access line basis, without information from the ALEC regarding how many access lines they have in a particular county, the 911 fund is in jeopardy.

Although a letter was sent to the certificated alternative local exchange companies on January 26, 1999, informing them of their responsibilities in the provision of emergency services, the issue remains unresolved. Therefore, staff believes the Commission should intervene. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order all certificated alternative local exchange companies to collect and remit the 911 fee to the appropriate county authority pursuant to Section 365.171(13), Florida Statutes?

RECOMMENDATION: Yes. The Commission should order all certificated alternative local exchange companies to collect and remit the 911 fee, including all past due fees, to the appropriate county authority pursuant to Section 365.171(13). (Biegalski)

STAFF ANALYSIS: Section 365.171(13), Florida Statutes, states in pertinent part:

(a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners, a county may impose a "911" fee to be paid by the local exchange subscribers within its boundaries served by the "911" service.

(1) At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered).

Section 364.02, Florida Statutes, states in pertinent part:

(1) "Alternative local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications services in this state on or after July 1, 1995.

(12) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility.

It is staff's opinion that "telephone company" as stated in Section 365.171, Florida Statutes, refers to a company that is providing local service to end users. Considering the definition of

alternative local exchange telecommunications company in Section 364.02, Florida Statutes, staff believes that an ALEC is clearly a telephone company for purposes of Section 365.171, Florida Statutes. Therefore, the ALEC should be responsible for collecting and remitting the 911 fee on its direct access lines to the appropriate county authority.

Accordingly, it is staff's belief that in the new competitive environment for local telephone service, the ALEC is responsible for ultimate payment of the 911 fee on its direct access lines, and should be ordered to collect and remit the fees to the appropriate county authority, including any past due fees.

**ISSUE 2:** Should the Commission order all certificated local exchange providers (LECs and ALECs) to provide the 911 coordinator in each county in which they serve with their customer account records and all updated information as needed, pursuant to Section 365.171, Florida Statutes?

**RECOMMENDATION:** Yes. The Commission should order all certificated local exchange providers (LECs and ALECs) to provide the 911 coordinator in the respective county with its customer account records on a schedule no less frequent than requested by county. Any conflicts between the company and the county as to the frequency of the account updates should be brought before the Commission for resolution. **(Biegalski)**

**STAFF ANALYSIS:** Section 365.171, Florida Statutes, states in pertinent part:

(13)(a)(6) ...For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer.

Staff believes that in order to maintain accurate customer information in the 911 database so that the proper personnel may be notified to protect public safety in an emergency, the LECs and ALECs should be ordered to provide the 911 county administrator with their customer information and periodically provide updates as needed and determined appropriate by the county in which they serve.

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Section 364.24, Florida Statutes, states in pertinent part:

(2) Any officer or person in the employ of any telecommunications company shall not intentionally disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other process of court, or as otherwise allowed by law.

Although this section does limit the customer information that a telecommunications company may divulge, staff believes that the LECs and ALECs can lawfully release this information to the 911 coordinators to ensure that the 911 database is accurate and can protect the public welfare.

In this regard, staff believes the LECs and ALECs should be ordered to provide the 911 coordinator in each county in which they serve with their customer account records and all updated information as needed, pursuant to Section 365.171, Florida Statutes?

**ISSUE 3:** Should the Commission order all certificated local exchange companies to provide a list of all alternative local exchange providers that are present in their counties to the county 911 coordinators ?

**RECOMMENDATION:** Yes. The Commission should order all certificated LECs to provide a list of all ALECs that are operating in their counties to the county 911 coordinators. This list should be provided 911 county coordinators upon request. **(Biegalski)**

**STAFF ANALYSIS:** In a letter dated March 11, 1999 GTE informed the Hillsborough County 911 Emergency Telephone Operations that it could not identify the counties in which particular ALECs are reselling GTE's services. GTE states that Florida law prohibits GTE from disclosing this information. GTE states that it considers information about specific ALEC's service activity in a specific county to be confidential customer account information covered under Section 364.24, Florida Statutes. This section states in pertinent part:

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(2) Any officer or person in the employ of any telecommunications company shall not intentionally disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other process of court, or as otherwise allowed by law.

GTE also states that by providing this information to the county 911 coordinators, GTE would presumably be making this information available to the public. It is staff's opinion that a LECs narrow interpretation of Section 364.24, Florida Statutes, could adversely affect the counties' ability to collect 911 fees. Although staff recognizes the potential for abuse that could result from the improper disclosure of a customer's account record, we believe that in this instance, the LECs can provide this information to the counties to ensure that the 911 fee, which is permitted by statute, is billed, collected, and paid. Staff believes that the phrase "..., as necessary for billing purposes,..." is not only applicable to a telephone company's billing purposes or activities, but also relevant to the collection of 911 fees. A narrow interpretation of this section by the LECs will impair the counties' ability to collect and audit their 911 fee collection.

Therefore, staff believes the Commission should order all LECs to provide the county 911 coordinators with a list of ALECs operating in their counties so that the counties may accurately and adequately collect 911 fees from the ALECs operating in their county.

**ISSUE 4:** Should this docket be closed?

**RECOMMENDATION:** No. If staff's recommendation in Issues 1, 2 and 3 are approved, this docket should remain open pending the processing of any protest that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest is filed, the Order will become final, and this docket should be closed administratively. **(Fordham)**

**STAFF ANALYSIS:** If staff's recommendation in Issues 1, 2 and 3 are approved, this docket should remain open pending the processing of

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any protest that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest is filed, the Order will become final, and this docket should be closed administratively.