



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-

DATE: MAY 31, 2001
TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: DIVISION OF APPEALS (CIBULA, BROWN)
DIVISION OF COMPETITIVE SERVICES (MOSES)
DIVISION OF REGULATORY OVERSIGHT (DANIEL)
RE: DOCKET NO. 010774-TP - PETITION OF THE CITIZENS OF THE STATE OF FLORIDA TO INITIATE RULEMAKING WHICH WILL REQUIRE TELEPHONE COMPANIES TO GIVE CUSTOMERS REASONABLE NOTICE BEFORE CUSTOMERS INCUR HIGHER CHARGES OR CHANGE IN SERVICES, AND ALLOW THEM TO EVALUATE OFFERS FOR SERVICE FROM COMPETING ALTERNATIVE PROVIDERS.
AGENDA: 06/12/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: JUNE 21, 2001 - 30-DAY STATUTORY DEADLINE
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\APP\WP\010774.RCM

RECEIVED 11:30
MAY 31 AM 11:01
TELEPHONE

CASE BACKGROUND

On May 22, 2001, the Citizens of the State of Florida, through the Office of Public Counsel (OPC), filed a petition to initiate rulemaking. OPC proposes that the Commission adopt a rule requiring telephone companies to give customers actual notice before implementing any change in rates or other terms and conditions of service. Pursuant to Section 120.54(7), Florida Statutes, the Commission has 30 calendar days following the date of filing of a petition to initiate rulemaking proceedings, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

DOCUMENT NUMBER-DATE
06800 MAY 31 05
FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant OPC's petition to initiate rulemaking?

RECOMMENDATION: Yes. The Commission should grant the petition and initiate rulemaking. (CIBULA, BROWN, MOSES)

STAFF ANALYSIS: OPC requests that the Commission adopt the following rule:

All telecommunications companies furnishing service within this state shall provide notice of any change in rates or other terms and conditions of service directly to each customer that may be affected by the change. If the change may increase the cost of service for a customer, notice shall be provided at least 30 days in advance of any change in rates or terms and conditions of service. Notice of price increase shall be sent via first class mail. Service by mail of the notice of price increase shall be complete upon mailing. No change in tariffs, price lists, or terms and conditions that may increase the cost of service for a customer will be effective unless notice of the change is provided to customers as required by this rule. In the case of a rate decrease, telecommunications companies shall notify each affected customer no later than the first bill following implementation of the rate change. Any notice required by this sub-section shall be printed in a 12-point type or larger, and shall be clear, conspicuous, and legible. The notice shall include, at a minimum, the name and nature of any and all services to be changed, the past rates and the anticipated new rates. Notice of price increase shall include as a heading "NOTICE OF PRICE INCREASE" in uppercase, bold print. The envelope containing the notice of price increase shall contain a notice on the front thereof: "NOTICE OF PRICE INCREASE ENCLOSED" in uppercase, bold print. That telecommunications companies have tariffs or price lists for services on file with the commission is not a defense to any action brought for failure to disclose prices for which disclosure is required under this rule.

(Petition at 4)

DATE: MAY 31, 2001

In its petition, OPC states that "there is no rule in the State of Florida that requires telephone companies to give customers actual notice before implementing any change in rates or other terms and conditions of service." (Petition at 2) OPC argues that tariff filings, posting in telephone company offices, annual itemized billing to customers, and requirements for monthly billing are the only notices that are currently required under the Commission's rules, and these notices are not adequate to inform customers of a price or service change before it occurs.

OPC asserts that it is unreasonable to require customers to wait until they receive a bill, contact the Commission, or visit the telephone company offices on a daily basis to learn of any changes. OPC states that "it is a basic principle of the competitive marketplace that customers should know what services they are receiving and the rates and terms and conditions for those services in advance of purchase of those services." (Petition at 3) If the customers do not have this information, OPC argues, they will incur charges before they have the opportunity to change services, adjust usage or seek competitive providers.

OPC believes that its proposed rule promotes competition because customers will know of available services and the terms and conditions for those services in time to make informed choices. According to OPC, its proposed rule does not prevent telephone companies from changing rates and terms and conditions, but only requires that the companies give reasonable notice of such changes.

OPC states that the Commission has the authority to implement its proposed rule under section 364.0252, Florida Statutes, which provides that the Commission

shall expand its current consumer information program to inform consumers of their rights as customers of competitive telecommunications services and shall assist customers in resolving any billing and service disputes that customers are unable to resolve directly with the company. The [C]ommission may, pursuant to this program, require all telecommunications companies providing local or long distance telecommunications services to develop and provide information to customers. The [C]ommission may specify by rule the types of information to be developed and the manner by which the information will be provided to the customers.

Staff agrees that section 364.0252, Florida Statutes, authorizes the Commission to implement the rule proposed by OPC. Staff believes that section 364.19, Florida Statutes, which states, "The [C]ommission may regulate, by reasonable rules, the terms of telecommunications service contracts between telecommunications companies and their patrons," also provides authority for the proposed rule. Furthermore, the Commission does not currently have a rule which addresses the concerns raised by OPC. Therefore, staff recommends that the Commission grant the petition and initiate rulemaking.

Staff would point out that the Commission's decision to grant OPC's petition just begins the process. Staff will return at a later date with a recommendation on whether or not to propose a rule.

DOCKET NO. 010774-TP
DATE: MAY 31, 2001

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendation in Issue 1, this docket should remain open to proceed with the rulemaking process. (CIBULA, BROWN, MOSES)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should remain open to proceed with the rulemaking process.