

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Approval of IntraLATA  
Toll Dialing Parity Plans.

DOCKET NO. 990546-TP  
ORDER NO. PSC-01-1335-PAA-TP  
ISSUED: June 18, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING INTRALATA TOLL  
DIALING PARITY PLAN AND ORDER GRANTING PSC STAFF AUTHORITY  
TO ADMINISTRATIVELY APPROVE INTRALATA TOLL DIALING PARITY PLANS  
AND ORDER AMENDING ADMINISTRATIVE PROCEDURES MANUAL

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action regarding the approval of the intraLATA toll dialing parity plan is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

In Order No. PSC-95-0203-FOF-TP, Docket No. 930330-TL, issued on February 13, 1995, we found that intraLATA presubscription (ILP) was in the public interest, and directed the large local exchange companies (LECs), BellSouth Telecommunications, Inc., Verizon Florida (formerly known as GTE Florida) (Verizon), and Sprint Florida, Incorporated (Sprint), to implement ILP in Florida by

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year-end 1997. The small LECs were required to implement ILP only upon receipt of a bona fide request (BFR).<sup>1</sup>

Section 251(b)(3) of the Telecommunications Act of 1996 (the Act) directs each local service provider to provide dialing parity to competing providers of telephone exchange and telephone toll service. On August 8, 1996, the Federal Communications Commission (FCC) issued Order FCC 96-333 in CC Docket No. 96-98; this order required that each local service provider implement toll dialing parity no later than February 8, 1999.

On August 22, 1997, the United States Court of Appeals for the Eighth Circuit (Court) concluded that the FCC had exceeded its jurisdiction in promulgating its dialing parity rules. In Docket No. 96-3519, the Court vacated the FCC's dialing parity rules, 47 C.F.R. 51.205-51.515, as they apply to intraLATA telecommunications.

On January 25, 1999, the United States Supreme Court, in *AT&T v. Iowa Utilities Board* reversed in part the rulings of the Eighth Circuit Court that had vacated the dialing parity rules. The Supreme Court held, inter alia, that the FCC has general jurisdiction to implement the 1996 Act's local competition provisions, and reinstated the dialing parity rules.<sup>2</sup>

On March 23, 1999, the FCC issued Order 99-54 in CC Docket No. 96-98. In that order, pursuant to Section 1.3 of the FCC's rules, the FCC extended its deadline for local service providers to file intraLATA toll dialing parity plans to April 22, 1999, and the deadline for state commissions to approve not later than June 22, 1999. FCC 99-54, ¶7.

In the weeks leading up to this deadline, our staff received and reviewed numerous toll dialing parity plans, and prepared a recommendation for the June 1, 1999, Commission Agenda Conference. Our decisions in this proceeding are memorialized in Order No. PSC-99-1255-PAA-TP, issued on June 25, 1999. Our staff brought another recommendation before us on June 29, 1999; our decision is

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<sup>1</sup>Small LECs were not required to entertain a BFR until January 1, 1997.

<sup>2</sup> *AT&T v. Iowa Utilities Board*, 119 S.Ct. at 730.

ORDER NO. PSC-01-1335-PAA-TP  
DOCKET NO. 990546-TP  
PAGE 3

memorialized in Order No. PSC-99-1373-PAA-TP. Since our last decision in this docket, there has been little activity in this docket. On January 9, 2001, Urban Media of Florida, Inc. (Urban Media) filed a dialing parity plan. This dialing parity plan is partly the subject of this Order.

URBAN MEDIA OF FLORIDA, INC.'S INTRALATA DIALING PARITY PLAN

In its Public Notice DA 99-1554 in CC Docket No. 96-98, released on August 5, 1999, the FCC ruled on all outstanding dialing parity plans that had been filed with the Common Carrier Bureau, and stated:

[F]uture filings of dialing parity plans by LECs should be done with the state public utility commission in which the LEC provides exchange service and in the manner required by that state Commission. (Public Notice, page 2)

In the FCC's Orders addressing dialing parity, there are no specific guidelines as to what the state commissions should use as a basis for approval of the local service providers' dialing parity plans. In Order No. PSC-96-1569-FOF-TP, this Commission outlined the basic provisions of a toll dialing parity plan, as had been specified in the intraLATA presubscription proceeding, Docket No. 930330-TP. In reviewing the earlier toll dialing parity plans, our staff relied on this Commission's prior decisions on intraLATA presubscription for guidance, in conjunction with the dialing parity rules promulgated in the FCC's Second Report and Order in CC Docket No. 96-98 (FCC 96-333). With the earlier plans, our staff analyzed each implementation plan to ensure it met the requirements of the FCC's rules, as well as those requirements in our Orders that comport with these FCC rules.

In its orders, the FCC provides that a local service provider's dialing parity plan should include a 2- Presubscribed Interexchange Carrier (PIC) option and the availability of No-PIC status with the capability to dial-around using an access code. FCC 96-333, ¶¶48, 78. These same provisions were determined by this Commission to be necessary provisions of an ILEC's intraLATA presubscription plan in Order No. PSC-96-1569-FOF-TP. In ¶77 of

FCC 96-333, the FCC also requires all LECs to provide consumer notification and carrier selection procedures in their dialing parity plans. Similar requirements were imposed on the ILECs by this Commission, using the customer contact protocols<sup>3</sup> outlined in Order No. PSC-96-1569-FOF-TP. The customer contact protocols required LECs to inform their customers of the availability of intraLATA toll services in a competitively neutral manner.

We have reviewed Urban Media's filing to ensure it satisfies all previous FPSC intraLATA dialing parity requirements including a 2-PIC option, No-PIC status with dial-around capability, and consumer notification and carrier selection procedures. Urban Media's implementation plan has met all of these requirements.

Based on our review of the plan submitted by Urban Media of Florida, Inc., the plan comports with the applicable rules and orders.

ADMINISTRATIVE APPROVAL OF INTRALATA TOLL DIALING PARITY PLANS AND AMENDMENT TO ADMINISTRATIVE PROCEDURES MANUAL

Since April 22, 1999, this is the third recommendation that our staff has brought before us on the subject of intraLATA toll dialing parity.

In Order No. PSC-99-1255-PAA-TP, this Commission determined that all implementation plans that provided for the 2-PIC option, the No-PIC status with dial-around capability, and consumer notification and carrier selection procedures comported with FCC Orders and prior Commission decisions. Based upon these findings, we approved those dialing parity plans.

We are unsure how many more dialing parity plans may be filed in the future; however, as alternative local exchange carriers (ALECs) decide to provide local service and intraLATA toll service, they will need to implement a dialing parity plan. Thus, there will always be some activity in this regard. As a result, we believe that it would be most efficient to administratively approve future toll dialing parity plans consistent with prior Commission's

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<sup>3</sup> All ILECs have been relieved of all restrictions on contact protocols except those pertaining to new customers.

decisions. Specifically, we believe that all future toll dialing parity plans that provide for the 2-PIC option, the No-PIC status with dial-around capability, and consumer notification and carrier selection procedures, consistent with FCC Orders and prior Commission decisions, should be administratively approved by our staff.

In the past, this Commission has granted staff authority to administratively dispose of cases which are typically non-controversial and routine in nature under the provisions of Section 2.07, Administrative Procedures Manual. We believe that the process of approving intraLATA toll dialing parity plans is typically non-controversial and routine. Further, we believe that granting administrative authority to staff to process all future toll dialing parity plans will streamline the process for local service providers and allow staff to process these filings within shorter time frames.

Thus, we direct Commission staff to administratively approve all future intraLATA toll dialing parity plans filed with the Commission that are consistent with the Commission's decision in Order No. PSC-99-1255-PAA-TP. Further, we approve the proposed amendment to the Administrative Procedures Manual shown in Attachment 1.

#### CONCLUSION

Upon review, we find that Urban Media's intraLATA toll dialing parity comports with the applicable rules and orders and is hereby approved. We are unsure how many more dialing parity plans may be filed in the future. As a result, we believe that it would be most efficient to administratively approve future toll dialing parity plans consistent with prior Commission's decisions. Accordingly, we grant Commission staff the authority the administratively approve intraLATA toll dialing plans that are consistent with Order No. PSC-99-1255-PAA-TP. We also approve the proposed amendment to the Administrative Procedures Manual as set forth in Attachment 1 to this Order. This docket may be closed upon issuance of a Consummating Order if no person whose substantial interests are affected files a protest to approval of Urban Media's intraLATA toll dialing parity plan within 21 days of the issuance date of

ORDER NO. PSC-01-1335-PAA-TP  
DOCKET NO. 990546-TP  
PAGE 6

this Order. If a timely protest is filed, the docket should remain open pending the outcome of further proceedings.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Urban Media of Florida, Inc.'s intraLATA toll dialing parity plan is hereby approved. It is further

ORDERED that the proposed amendment to the Administrative Manual as set forth in Attachment 1 is incorporated by reference into this Order and hereby approved. It is further

ORDERED that Florida Public Service Commission staff shall administratively approve intraLATA toll dialing parity plans that meet the requirements as set forth in Section 2.07C.19, Administrative Procedures Manual, in Attachment 1, which is incorporated by reference into this Order. It is further

ORDERED that the provision of this Order regarding approval of intraLATA toll dialing parity plan is issued as proposed agency action and shall become final and effective upon the receipt of the timely filing of the report on the refund and issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event the Proposed Agency Action portion of the Order becomes final, this docket shall be closed.

ORDER NO. PSC-01-1335-PAA-TP  
DOCKET NO. 990546-TP  
PAGE 7

By ORDER of the Florida Public Service Commission this 18th  
day of June, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

FRB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action regarding the approval of the intraLATA toll dialing parity plan is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 9, 2001. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's

ORDER NO. PSC-01-1335-PAA-TP  
DOCKET NO. 990546-TP  
PAGE 8

right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



**ATTACHMENT 1**

The proposed change to the Administrative Procedures Manual is as follows:

2.07C.19 The Divisions of Competitive Services and Legal Services may approve intraLATA toll dialing parity plans that are consistent with the provisions of Order No. PSC-99-1255-PAA-TP. The intraLATA toll dialing parity plans must include the following:

- a) the 2-PIC option,
- b) the No-PIC status with dial-around capability, and
- c) consumer notification and carrier selection procedures.

The Docket shall be closed upon issuance of the administrative order.