

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation  
of Florida Telephone Services,  
LLC for apparent violation of  
Rule 25-4.110(16), F.A.C.,  
Customer Billing for Local  
Exchange Telecommunications  
Companies.

DOCKET NO. 020460-TX  
ORDER NO. PSC-02-0925-PAA-TX  
ISSUED: July 10, 2002

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING SETTLEMENT OFFER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the action discussed herein 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

On October 8, 1997, Florida Telephone Services, LLC (FTS)  
obtained Florida Public Service Commission alternative local  
exchange company (ALEC) Certificate No. 5235.

On August 24, 2000, Consumer Affairs Tracking System (CATS)  
Case No. 332262T was opened, based upon a complaint from a  
competitive carrier that FTS places freezes on customers' local  
service without the customers' authorization. Our staff discussed

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the local service freeze issue in a telephone conversation with the Finance Director of FTS and, also, followed up with a certified letter mailed to Mr. Paul B. Joachim, FTS' liaison listed in the Master Commission Directory.

On September 1, 2000, we received a letter from FTS dated August 30, 2000, in which the company stated that it had ceased adding local service freezes on customers' lines, and requesting our approval of FTS' revised Customer Service Order.

Our staff mailed correspondence to FTS on September 19, 2000, recommending changes to its Customer Service Order. In followup conversations with the company, our staff understood that FTS had modified its Customer Service Order such that the customer was given full autonomy regarding selection of the local service freeze option. Accordingly, on October 11, 2000, we closed CATS Case No. 332262T.

However, from January 10 through May 14, 2002, we received 21 complaints against FTS alleging the company placed local service freezes on their lines, was unwilling to remove local service freezes, and would disconnect local service, resulting in the customers' inability to retain the same phone number. On April 8, 2002, our staff telephoned FTS regarding the significant number of customer complaints directed at FTS about local service freezes. FTS faxed us a copy of its current Customer Service Order, along with an explanation that the Customer Service Order was recently modified and it believed that an older version of its Customer Service Order may have been inadvertently used to generate the current version of the document.

On April 12, 2002, our General Counsel faxed a letter to the company advising that a local service freeze cannot be required as a condition for providing local service and that unauthorized local service freezes should be removed and customers notified that a freeze is available should they desire it. FTS responded by facsimile on April 29, 2002, assuring us that, as of March 15, 2002, the company does not place a freeze on an active line unless the customer requests it. FTS also alleged that it modified its activation form to make the option of having a freeze on a line more clear to the customer.

On May 20, 2002, we requested by e-mail a copy of the modified activation form from FTS, and questioned whether the local service freezes had been removed from current customers' accounts, and if not, when that would be accomplished. The following day, our staff called FTS requesting a response to the May 20, 2002, e-mail. As a result of that call, FTS provided the requested form by facsimile. Also, FTS explained that the company did not remove all the freezes due to lack of staff to conduct the research on affected accounts, and costs associated with placing change orders to remove the freezes. We advised FTS to respond via e-mail with the explanation of why the local service freezes had not been removed as directed. The response from FTS offered only a partial offer of compliance with our direction. Accordingly, this Docket was initiated to investigate FTS' apparent violation of Rule 25-4.110(16), Florida Administrative Code, Customer Billing for Local Exchange Telecommunications Companies. As a result of this Docket being opened, on June 12, 2002, we received FTS' offer to settle the issues in this docket.

The Florida Public Service Commission is vested with jurisdiction over this matter pursuant to Sections 364.285, 364.337 and 364.603, Florida Statutes.

#### DISCUSSION

We interpret Section 364.603, Florida Statutes, and Rule 25-4.110(16), Florida Administrative Code, to mean that a preferred carrier (PC) freeze is the customers' option, not the service providers' option. Section 364.603, Florida Statutes, Methodology for changing telecommunications provider, states in part:

...provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge...

Rule 25-4.110(16), Florida Administrative Code, which implements the Section 364.603, Florida Statutes, identified above, states:

(16) Companies that bill for local service must provide notification with the customer's first bill or via

letter, and annually thereafter that a PC Freeze is available. Existing customers must be notified annually that a PC Freeze is available.

As indicated above, we have received numerous complaints from customers and several complaints from other certificated ALECs regarding FTS' practice of placing PC freezes on customers lines. We find that FTS, by requiring a PC freeze as a condition of service, is operating in apparent violation of Rule 25-4.110(16), Florida Administrative Code. The company was encouraged, unsuccessfully, to voluntarily remove all unauthorized local service freezes. Thus, the need for this docket.

After this docket was opened, FTS initiated negotiations to identify measures to resolve the apparent violations of Rule 25-4.110(16), Florida Administrative Code. As a result, FTS has proposed the following:

1. No later than July 8, 2002, the company will:
  - a. identify all customer lines that have a local PC Freeze assigned,
  - b. submit requests to the underlying local exchange companies to have all local PC Freezes removed, and
  - c. in the form of a billing insert, notify all customers that a local PC Freeze is available, provide instructions about obtaining a local PC Freeze, and state that the local PC Freeze is the exclusive right of the customer.
  
2. No later than July 31, 2002, the company will provide a report to the Commission to include:
  - a. a list of customer telephone numbers on which the company had placed a local PC Freeze,
  - b. the purchase order number of requests submitted to underlying carriers to have the local PC Freezes removed, and
  - c. a list of telephone numbers for customers that have requested a local PC Freeze in response to FTS' billing insert identified in 1.c.

3. Implement use of a revised letter of agency.
4. No longer require a local PC Freeze as a condition of service.

We find that the corrective measures proposed by FTS will adequately resolve the issues in this docket. The report that FTS proposes to submit to the Commission by July 31, 2002, will provide our staff with the necessary data to verify that the company has complied with the terms and conditions of its settlement proposal. We also note and support FTS' request that we treat the list of telephone numbers included in its report as confidential. Accordingly, such report should be filed pursuant to Rule 25-22.006(5), Florida Administrative Code.

Accordingly, we accept Florida Telephone Services, LLC's settlement offer to resolve the apparent violations of Rule 25-4.110(16), Florida Administrative Code. If the Proposed Agency Action Order is not protested within 21 calendar days of issuance, the Commission's order will become final upon issuance of the Consummating Order.

Based on the foregoing, it is

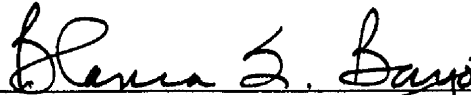
ORDERED by the Florida Public Service Commission that the settlement offer by Florida Telephone Services, LLC, detailed in the body of this Order, is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the 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 the Commission Clerk and Administrative Services, 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 this Order becomes final, this Docket shall be closed administratively upon verification by our staff of compliance with the terms of the settlement agreement.

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By ORDER of the Florida Public Service Commission this 10th  
Day of July, 2002.



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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

CLF

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 31, 2002.

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

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