

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL
ORDER NO. PSC-03-0994-PCO-TL

FILED: November 10, 2003

AARP'S RESPONSE AND OPPOSITION TO INTERVENTIONS OF KNOLOGY OF FLORIDA, AT&T COMMUNICATIONS OF THE SOUTHERN STATES AND MCI WORLDCOM COMMUNICATIONS, INC.

AARP, pursuant to Rule 25-22.037(2), Fla. Admin. Code, moves the Commission to deny, or in the alternative, to dismiss the Interventions of Knology Of Florida, AT&T Communications of the Southern States and MCI WorldCom Communications, Inc., and in support thereof, states as follows:

1. The petitions fail to comply with the requirements pertaining to standards set forth in Fla. Admin. Code 25-22.039. That rule requires a petition for leave to intervene:

Include allegations sufficient to demonstrate that the intervenor is entitled to participate in a proceeding as a matter of constitutional or statutory right pursuant to Commission Rule, or that the substantial interest of the intervenor are subject to determination or will be affected through the proceeding.

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2. None of the three petitioners have standing for the reasons stated below.
3. In Agrico Chem. V. Dept. of Envl. Reg., 406 So.2d 478, 482 (Fla. 2nd DCA 1981)

the Court stated:

Before one can be considered to have a substantial interest in the outcome of a proceeding you must show (1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a [section]120.57 hearing and (2) that his substantial injury is of a type or nature which the proceeding is designed to protect.

Each of the requirements must be met to demonstrate a substantial interest and the none of the three petitioners passes the test.

4. None of the three meet the “injury in fact” test that requires allegations that either (1) the petitioner has sustained actual injuries at the time of the filing of the petition, or (2) that petitioner is greatly in danger of sustaining some direct injury as a result of the Commission’s decision in the proceeding.

On October 27, 2003, Knology Of Florida, AT&T Communications of the Southern States and MCI WorldCom Communications, Inc. filed their separate petitions seeking intervention in these consolidated dockets seeking to participate as full parties. Knology in its petition variously alleges that it is a competitive local exchange carrier and that the resolution of the issues in this case will have a direct, immediate and substantial impact on its future decision to expand in Florida. AT&T and MCI allege identical interests supposedly warranting their participation as parties saying that they are certificated interexchange carriers that provide intrastate long distance service in the State of Florida. They say that the outcome of these cases will have a direct and immediate impact on both the access charges paid by them as IXC’s as well as the intrastate toll rates they may charge if the Commission orders changes in these dockets.

Neither company states what level of intrastate tolls it will charge if the Commission approves the specific access fee reductions requested by the LECs in each of the three dockets consolidated herein.

Each of the companies above merely is seeking to enhance their competitive positions relative to each other and the LECs, each of whom is also a carrier of intrastate toll service. Recall that the access fee reductions, if any, are to be “revenue-neutral” per the statute and that, therefore, neither of the IXCs can claim to have an economic interest at play here. Knology doesn’t state a recognizable interest either.

5. None of three petitioners state injuries that are within the “zone of interest” of these consolidated cases either. In short, these consolidated cases, if they are to be granted at all, ask the question whether competition will be induced by increasing local rates and whether those increases and corresponding intrastate toll reductions will “benefit residential consumers.” None of the petitioners have an interest in these matters and their petitions, accordingly, should be denied.

6. AARP has, on the other hand, demanded that the IXCs be effectively joined in these consolidated cases so long as they bring with them the exact intrastate toll tariffs they will file if the LEC’s petitions are granted as submitted so that AARP and other customers may ascertain if they will have an opportunity to “break-even” or “win” through increased intrastate toll rates at the lower residential rates. AARP cannot know if there will be an opportunity for savings absent these tariffs. Accordingly, AARP would not object to the intervention of AT&T and MCI, so long as they submit the tariffs they will file with the Commission upon the Commission’s approval, if at all, of the LEC petitions now pending.

WHEREFORE, AARP urges the Commission to deny, or in the alternative, to dismiss the three petitions to intervene.

Respectfully submitted,

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