

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review of rates)	DOCKET NO. 860723-TP
and charges paid by PATS providers to)	ORDER NO. 22824
LECs)	ISSUED: 4-13-90
)	

ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038, Florida Administrative Code, all parties and Staff are hereby required to file with the Director of Records and Reporting a prehearing statement on or before June 25, 1990. Each prehearing statement shall set forth the following:

(a) all known witnesses that may be called and the subject matter of their testimony;

(b) all known exhibits, their contents, and whether they may be identified on a composite basis and witness sponsoring each;

(c) a statement of basic position in the proceeding;

(d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;

(e) a statement of each question of law the party considers at issue;

(f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;

(g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness;

(h) a statement of issues that have been stipulated to by the parties;

(i) a statement of all pending motions or other matters the party seeks action upon; and

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(j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 25, 1990. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certifications.

Each party is required to prefile all exhibits and all direct testimony it intends to sponsor in written form. Prefiled testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, in question and answer format, with a sufficient left margin to allow for binding. An original and fifteen copies of each witness' prefiled testimony and each exhibit must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the due date. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties.

A final prehearing conference will be held on July 9, 1990, beginning at 9:30 a.m., in Tallahassee. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

Any party who fails to attend the final prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in his or her prehearing statement.

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a

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new issue after the issuance of the prehearing order shall demonstrate that: he or she was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issues; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, he or she shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify his or her position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in his or her post-hearing statement.

To facilitate the management of documents in this docket, parties and Commission Staff shall submit an exhibit list with their respective prehearing statements. Exhibits will be numbered at the hearing. Each exhibit submitted shall have the following in the upper right-hand corner (for identification prior to the hearing): the docket number, the witness's name, the word "Exhibit" followed by a blank line for the Exhibit Number, the title of the exhibit, and a prehearing identification number consisting of the initials of the witness and a number.

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An example of the typical exhibit identification format is as follows:

Docket No. 870675-TL
J. Doe Exhibit No. _____
Cost Studies for Minutes of Use by Time of Day
(JXD-1)

The following dates have been established to govern the key activities of this proceeding in order to maintain an orderly procedure.

1. June 4, 1990 - Direct Testimony to be filed
2. June 18, 1990 - Staff Direct Testimony, if needed
3. June 25, 1990 - Rebuttal Testimony to be filed
4. June 25, 1990 - Prehearing Statements to be filed
5. July 9, 1990 - Prehearing Conference
6. August 1-3, 1990 - Hearings to be held.

Attached to this order as Appendix "A" is a tentative list of the issues which will be addressed in this proceeding. Prefiled testimony and prehearing statements shall be addressed to the issues set forth in Appendix "A".

Discovery

When interrogatories or requests for production are served on a party and the respondent intends to object to or ask for clarification of an interrogatory or request for production, the objection or request for clarification shall be made within ten (10) days of service of the interrogatory or request for production. This procedure is intended to reduce delay time in discovery. Additionally, because of the short time frame remaining prior to filing of testimony, Rule 1.340(a), Florida Rules of Civil Procedure, is hereby waived but only insofar as it limits the initial number of interrogatories which may be served.

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By ORDER of JOHN T. HERNDON, Commissioner and Prehearing
Officer, this 13th day of APRIL,
1990.

John T. Herndon
JOHN T. HERNDON, Commissioner
and Prehearing Officer

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APPENDIX "A"

LIST OF ISSUES

1. Should there be a cap on end user charges for intraLATA 1+, 0+ and 0- toll calls placed from nonLEC pay telephones? If so, what should the cap be?
2. Should there be a cap on 0+ and 0- local calls from nonLEC pay telephones? If so, what should the cap be?
3. Should there be a cap on end user charges for interLATA intrastate 1+, 0+ and 0- toll calls placed from nonLEC pay telephones? If so, what should the cap be?
4. If the Commission determines the PATS surcharge is not appropriate for 1+, 0+ and 0- intraLATA local and toll calls placed from nonLEC pay telephones, should the LECs be required to compensate the nonLEC pay telephone provider for these calls? If yes, what should be the appropriate level of compensation?
5. Currently the stipulated rate structure and level for interconnection of nonLEC pay telephones to the local exchange telephone network are as follows:
 - A. Flat rate line charge of 80% of the applicable b-1 rate.
 - B. An on-peak measured rate element for local calls of \$.04 for the first minute of use and \$.02 for each additional minute of use.
 - C. For Southern Bell, an off-peak measured rate element for local calls of \$.02 for the first minute of use and \$.01 for each additional minute of use; and for the rest of the LECs, an off-peak rate element for local calls of \$.03 for the first minute of use and \$.01 for each additional minute of use. Off-peak discount periods are the same as the current tariffs for non-LEC pay telephone interconnection.

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D. A monthly minimum charge of \$30.00 per line including both flat rate and usage charges.

What is the appropriate rate structure and level for interconnection?

6. Currently the flat rate in areas where local measuring and billing are not available is \$65.00. What is the appropriate rate level?
7. Should the LECs be required to provide operator call screening and blocking to nonLEC PATS providers? If so, what particular screening and blocking should apply and under what rates, terms and conditions?
8. Should a different rate cap and operational terms and conditions other than those generally available be permitted for penal and/or mental institutions?
9. What are the costs and revenues associated with the provision of LEC pay telephone service? If costs are higher than revenues, what action should the Commission take?
10. What are the costs and revenues associated with the provision of nonLEC pay telephone service?
11. Should nonLEC PATS providers be allowed to participate in LEC EAS, OEAS, EOEAS, and toll discount plans offered by the LECs for the purpose of resale? If so, what rates, terms, and conditions should govern a nonLEC PATS provider's offering of such services to end users?
12. If measured local service is retained for PATS providers, should all LECs bill in at least six second increments or in the smallest increments technically feasible?
13. Should a nonLEC PATS provider be allowed to handle local and intraLATA zero plus calls via store and forward technology? If yes, in what situations and pursuant to what rates and terms of service?

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14. Should a regulated provider of service to LECs have limits placed on the price of that service in cases where the LEC furnishes that service to a nonLEC pay telephone provider under price or tariff limitations, e.g. DA, call blocking, call screening, message recording? Or, in the alternative, should a LEC be allowed to charge a nonLEC pay telephone provider whatever the LEC is charged for the service in question, plus a handling charge and a reasonable return? How should it affect the end user rates from nonLEC pay telephones?
15. To what extent should pay telephone service be made available to low volume public interest locations and who should be required to provide it? How should such locations be identified? How should they be divided between nonLEC and LEC pay telephone service providers?