

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rulemaking) DOCKET NO. 930505-TI
by Donald L. Pevsner to abolish) ORDER NO. PSC-93-1112-FOF-TI
automatic rounding-off of) ISSUED: July 30, 1993
additional long distance minutes)
after the first minute.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER DENYING PETITION FOR RULEMAKING
FILED BY DONALD L. PEVSNER, ESQUIRE

BY THE COMMISSION:

By petition, Donald L. Pevsner, asked the Commission to begin a proceeding to establish a new rule prohibiting regulated intrastate long-distance telephone service providers from rounding up long distance charges to the next-highest full minute. The petitioner claims that telephone companies presently have the technology to time all long-distance calls to the second at no incremental cost except for "the negative impact that such a development would have on the ill-gotten revenues currently being derived from the practice of 'rounding-off' all such calls to a higher minute, or fraction thereof."

The question raised by the petition is whether the present policy of allowing the billed time for long distance calls to be rounded up to the nearest full minute is in the public interest. We believe that the petitioner has not provided us with sufficient support to justify his apparent claim that the current policy is not in the public interest.

We have previously considered this issue in Docket No. 880603-TP. In that docket we proposed a rule amendment that would have required local exchange companies (LECs) and major interexchange carriers (IXCs) to reduce their billing increment from one minute

DOCUMENT NUMBER-DATE

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FILED-RECORDED-INDEXED

ORDER NO. PSC-93-1112-FOF-TI
DOCKET NO. 930505-TI
PAGE 2

to fifteen seconds, after the initial minute. We voted to withdraw the proposed rule.

IXCs are not subject to our price regulation. Instead, they compete for customers and set their rates in response to competition from other long distance providers. We believe that IXCs should be allowed to differentiate their services from those of competitors by offering fractional minute billing in response to customer demand.

LECs, on the other hand, are subject to "rate of return" regulation. Under rate of return regulation the LECs are allowed to earn a certain amount of revenues from their regulated operations. This "revenue requirement" allows the utility to cover its costs or "rate base." If the billing increments were reduced and the rates were to remain the same, the company would fall short of the revenue requirement. Under rate of return regulation the utility would need to raise the rate of that service or another regulated service in order to make up for the revenue shortfall. Thus, customers' LEC telephone bills would not be reduced as a result of a change in the billing increment.

Based on the foregoing, it is

ORDERED that the Petition for Rulemaking by Donald L. Pevsner, Esq. to Abolish Automatic Rounding-Off of Additional Long Distance Minutes After the First Minute, is hereby denied.

ORDERED that Docket No. 930505-TL be closed.

By ORDER of the Florida Public Service Commission this 30th day of July, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

WEW

by: Kay Flynn
Chief, Bureau of Records

Chairman Deason dissents from the Commission's decision.

Commissioner Johnson dissents from the Commission's decision herein as follows:

The question raised by the petition is whether the present policy of allowing the billed time for long distance calls to be rounded up to the nearest full minute is in the public interest. The petitioner states that the telephone companies presently have the technology to "time" all long distance calls to the second at no incremental cost. Even though the issue was reviewed in Docket 880603-TP, the PSC staff has recommended that the Commission further investigate the issues raised in the petition. I believe that further investigation is warranted given the astronomical rate at which the industry has advanced technologically. The information relied upon in 1988 may need to be updated and revised to coincide with technological advancement.

In fact, the PSC staff has already begun sending data requests to the local exchange carriers so that staff might formulate a position as to whether telephone companies presently have the technology to time all long distance calls to the second at no incremental cost.

I believe that to make a well-reasoned and fair decision on the merits of the issues raised in the petition, current data needs to be gathered to fully evaluate the costs and benefits of changing the current policy of allowing one-minute billing increments. After such an analysis has been conducted, then my fellow commissioners and I must decide two policy questions. The first question is related to the LECs statutory authority to have the opportunity to earn a reasonable rate of return. I do not believe that such a "right" would entitle a utility to charge for a service that a consumer does not receive, absent extraordinary circumstances. The second question is related to IXCs and whether the competitive long distance service market adequately protects the consumers. At this point, I do not believe that the record adequately demonstrates that the consumers are protected.

Based on the foregoing, I dissent from the Commission's decision to deny the petition for rulemaking. The petition should be granted so that staff can begin a review of the rounding policy. I also note that granting the petition does not operate to adopt the positions taken by the petitioner with regard to the current rounding policy.

ORDER NO. PSC-93-1112-FOF-TI
DOCKET NO. 930505-TI
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.