

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 930007-TI
proceedings against SOUTHNET) ORDER NO. PSC-93-1204-AS-TI
SERVICES, INC. for violation of) ISSUED: August 17, 1993
Rule 25-24.485(1)(I), F.A.C., by)
charging in excess of its)
tariff.)
_____)

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 ACCEPTING SETTLEMENT PROPOSAL

BY THE COMMISSION:

Southnet Services, Inc. (Southnet or the Company) has been a certificated interexchange carrier (IXC) since October 3, 1989. As a certificated IXC Southnet is subject to our jurisdiction pursuant to Chapter 364, Florida Statutes.

On February 25, 1993, we issued Order No. PSC-93-0302-FOF-TI (Order No. 0302) requiring Southnet to show cause why it should not be fined or be subject to revocation of its IXC certificate or both for billing in excess of its tariffed rates in violation of rule 25-24.485(1)(i), Florida Administrative Code. On March 16, 1993, Southnet filed a Petition for a Formal Proceeding. On March 17, 1993 the Company filed a Response to Order No. PSC-93-0302-FOF-TI. In its response, Southnet essentially admits to having violated Rule 25-24.485(1)(i) and Section 364.08(1), Florida Statutes. Section 364.08(1) prohibits telecommunications companies from charging rates inconsistent with their duly filed tariffs. Southnet asserts that the violation was an inadvertent result of a programming error. Southnet also argues that on its own motion it has prospectively reduced rates generally and has also reduced rates to various charitable organizations and that these actions ameliorate any penalty. In its Petition for Formal Hearing, the Company appears to be requesting a hearing despite an apparent admission of the facts alleged in Order No. 0302.

DOCUMENT NUMBER-DATE

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On May 26, 1993, Southnet filed a settlement proposal in this docket. Southnet's proposal offered the following terms:

1. Southnet will reduce its intrastate 0+/0- rates by \$.15 per call for such period of time necessary to refund a total of \$17,000 to Southnet customers, such reductions to commence within one week of a final order incorporating the terms of this Settlement Agreement (the "Final Order").
2. Southnet will pay \$10,000 to the Commission within 60 days of the date of the Final Order.
3. Southnet's agreement to the above settlement conditions is not to be construed as an admission of guilt by Southnet to any of the allegations made by the Commission in this proceeding.
4. Following Southnet's performance with the above settlement conditions, the Commission will dismiss with prejudice its show cause proceeding against Southnet.

In cases such as this, we prefer a refund to the customers who were actually overcharged. In the case of collect calls, this would entail refunds to persons with whom the interexchange carrier had no prior relationship. Some companies have asserted that the costs of such refunds is prohibitive. In Docket No. 910875-TL, Equal Access Corporation originally proposed a fine of \$2,000 and a refund of approximately \$100,000. This proposal was approved by Order No. PSC-92-0494-AS-TC. Subsequently, Equal Access discovered that the cost of such a refund would be twice the amount refunded. On May 13, 1993, we amended the settlement proposal in response to a motion to do so by Equal Access. We ordered a \$200,000 rate reduction, or prospective refund in lieu of the conventional refund.

In the instant case, the Company has proposed a substantially greater fine relative to the amount overcharged and agrees to refund the actual amount overcharged by means of the prospective rate reduction. While an actual refund to those customers who were overcharged is preferable to a prospective rate reduction, the current proposal is consistent with the prior result in Docket No. 910875-TL.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement proposal proffered by Southnet Services, Inc. and discussed in the body of this Order is hereby approved. It is further

ORDERED that this docket will remain open to permit staff to monitor the completion of the terms of the settlement. It is further

ORDERED that upon completion of the terms of the settlement offer, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 17th day of August, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kary Hizon
Chief, Bureau of Records

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.

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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.