

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
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Tallahassee, Florida 32399-0850

M E M O R A N D U M

FEBRUARY 9, 1995

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF AUDITING AND FINANCIAL ANALYSIS (MAILHOT) *DM*
DIVISION OF COMMUNICATIONS (BUTLER) *MB*
DIVISION OF LEGAL SERVICES (ELIAS) *Rto R/E*

RE : DOCKET NO. 950146-TL - ALLTEL FLORIDA, INC. -
INVESTIGATION INTO THE 1995 EARNINGS OF ALLTEL FLORIDA,
INC.

AGENDA: 02/21/95 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\AFA\WP\

CASE BACKGROUND

Staff, the Office of Public Counsel (OPC), and ALLTEL Florida, Inc. (ALLTEL) began discussions on January 4, 1995, concerning the company's authorized return on equity (ROE) and its projected earnings for 1995 and 1996. After receiving ALLTEL's actual 1994 data through December 31, 1994, staff made a written proposal on January 24, 1995, to resolve the ROE and earnings issues. A conference call was held on January 24, 1995, to discuss staff's proposal and the positions of ALLTEL and OPC. On January 27, 1995, ALLTEL submitted a written proposal to resolve the issues. Another conference call was made on January 30, 1995, in which ALLTEL made some minor modifications to its written proposal of January 27, 1995. Staff made another written proposal on February 2, 1995. ALLTEL responded on February 7, 1995, with a written proposal that simply stated its position from the January 30, 1995, conference call. Staff believes that formal action is now necessary due to the lack of recent progress in resolving these issues.

DOCUMENT NUMBER-DATE

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission place \$1,353,000, plus interest, subject to refund, effective beginning on February 21, 1995?

RECOMMENDATION: Yes. Annual revenues of \$1,353,000, plus interest, should be held subject to refund pending the outcome of this docket. (MAILHOT, ELIAS)

STAFF ANALYSIS: The Florida Legislature has directed the Commission to exercise its exclusive jurisdiction over telecommunications companies in order to "Protect the public health, safety, and welfare by ensuring that monopoly services provided by a local exchange telecommunications company continue to be subject to effective rate and service regulation." See Section 364.01(3)(b), Florida Statutes (1993). In addition, Section 364.14(1), Florida Statutes, provides, in part:

(1) Whenever the Commission finds, upon its own motion or upon complaint, that:

(c) [The] rates charges, tolls or rentals yield excessive compensation for the service rendered,

the commission shall determine the just and reasonable rates, charges, tolls or rentals to be thereafter observed and in force and fix the same by order. In prescribing rates, the commission shall allow a fair and reasonable return on the telecommunications company's honest and prudent investment in property used and useful in the public service.

In accordance with these provisions, Staff believes that in the exercise of its exclusive jurisdiction, the Commission has the inherent authority to prospectively require monies to be collected subject to refund. On several occasions, the Commission has declined to exercise this authority. However, the Commission has never found that it did not have this inherent authority.

By Order No. PSC-94-0383-FOF-TL, ALLTEL's authorized ROE was lowered to 11.5% +/- 1.0%, \$450,000 of 1994 intraLATA subsidy revenues were deferred to 1995, various rates were lowered, and 1994's earnings were capped at 12.5% ROE. Staff has been reviewing ALLTEL's 1994 earnings and projected the company's earnings for 1995 and 1996. For 1994, it appears that ALLTEL will earn approximately \$475,000 above its authorized ROE ceiling. The ratepayers are protected by the earnings cap for 1994, which was approved by Order No. PSC-94-0380-FOF-TL.

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Staff is concerned with a continued high level of ALLTEL's earnings on a prospective basis for 1995 and 1996. Staff estimates that ALLTEL will earn 12.87% ROE in 1995, which is in excess of the company's maximum authorized ROE of 12.5%. In addition, there is an issue concerning the FCC's rules on the interaction of the Universal Service Fund and the allocation of costs to the interstate jurisdiction. Staff believes that ALLTEL's intrastate earnings will be increased by approximately \$1,352,000 in 1995, due to the FCC rule. ALLTEL does not believe that staff is interpreting the rule correctly. If staff is correct about the FCC rule, then staff projects that ALLTEL will earn 15.14% ROE for 1995. Staff intends to request a ruling from the FCC concerning the application of the rule. The application of this rule will affect only one other small local exchange company (LEC) in Florida in 1995. However, it will likely have an impact on the earnings of several other LECs in 1996 and future years. Even after requesting an opinion from the FCC, it may be a long period of time before we receive a response. In order to protect the interests of the ratepayers during the pendency of this request, staff recommends that the Commission place \$1,353,000 in annual revenues, plus interest, subject to refund.

If staff's interpretation of the FCC rule is correct, then further proceedings are likely after the FCC renders an opinion. ALLTEL's earnings may be well above its authorized ROE; therefore, minimum filing requirements and a full revenue requirements case may be necessary. If the FCC does not agree with staff's interpretation, then staff will evaluate ALLTEL's earnings at that time and make any necessary recommendation.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to resolve the FCC rule issue and the revenue held subject to refund. (MAILHOT)

STAFF ANALYSIS: This docket should remain open to allow staff to return to agenda with a proposed request to FCC on the application of its rule. Also, the final disposition of the revenue held subject to refund will have to be addressed.