

State of Florida



Public Service Commission

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DATE: AUGUST 26, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (FORDHAM) *CFY. CB*
DIVISION OF COMMUNICATIONS (BIEGALSKI) *UB RD*

RE: DOCKET NO. 990342-TP - DETERMINATION OF APPROPRIATE METHOD OF COLLECTING AND REMITTING 911 FEES TO THE APPROPRIATE COUNTIES AND PROVIDING ACCURATE CUSTOMER RECORD INFORMATION TO THE 911 COORDINATORS

AGENDA: 09/07/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990342.RCM

CASE BACKGROUND

- March 12, 1999 - Staff met with 911 personnel from the Department of Management Services (DMS) to discuss the problems that have arisen pertaining to the collection of 911 fees and the updating of the 911 database with customer account information for Alternative Local Exchange Companies' (ALECs) customers.
- April 5, 1999 - Staff met with representatives from some of the local exchange companies (LECs), as well as 911 personnel from DMS and selected counties. As a result of this meeting, staff has received a brief summary from each of the LECs regarding their procedures for collecting 911 fees on behalf of ALECs and updating and maintaining the 911 database.

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FPSC-RECORDS/REPORTING

- July 1, 1999 - Staff mailed a data request to all Alternative Local Exchange Companies (ALECs) requesting information pertaining to the collection and remittance of 911 fees as well as the maintenance of the 911 database.
- July 28, 1999 - Staff held a workshop for all ALECs, LECs and 911 personnel.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order all alternative local exchange companies to collect and remit the 911 fee to the appropriate 911 county authority pursuant to Section 365.171(13), Florida Statutes?

RECOMMENDATION: Yes. The Commission should order all ALECs to collect and remit the 911 fee, including all past due fees, to the appropriate 911 county authority pursuant to Section 365.171(13), Florida Statutes. This does not prevent an ALEC from entering into a billing arrangement with a LEC in order to bill and collect the fees. It only clarifies that the ALEC is ultimately responsible for the collection and remittance of the fees. (Biegalski)

STAFF ANALYSIS: The goal of the 911 coordinators is to provide the most efficient 911 services possible to all citizens in the State of Florida. Staff's discussions with the 911 coordinators indicates that this goal cannot be attained without the cooperation of the LECs and ALECs.

The LECs procedures regarding the collection and remittance of the 911 fees for ALECs are as follows:

- Sprint does not collect or remit the 911 fee for ALECs with which it has interconnection or resale agreements. Sprint believes it is the ALEC's responsibility to collect and remit the fees to the appropriate counties.
- GTE believes that the responsibility for the collection and remittance of 911 fees to the respective counties is that of the ALECs. Effective May 1, 1999, GTE will not collect and remit the 911 fees for ALECs under any circumstances.

- BellSouth contracts with ALEC resellers in its resale agreements to collect and remit the 911 fees to the appropriate counties. BellSouth states that a facilities based ALEC is responsible for the collection and remittance of 911 fees to the appropriate counties.

Each county relies on the funds collected from local telephone subscribers in order to operate and maintain its 911 system. Some Florida counties are unable to collect the appropriate 911 fees from the ALECs because they cannot be identified. Due to the fact that the fees are calculated on a per access line basis, and ALECs have not been reporting the number of access lines they serve in a particular county, the appropriate 911 fees have not been remitted by the ALECs. Therefore, the 911 system is significantly under funded.

Although a letter was sent to the certificated ALECs on January 26, 1999, informing them of their responsibilities in the provision of emergency services, ALECs have not complied with the statutory requirement to pay the fees. Therefore, DMS has requested and staff recommends the Commission should intercede.

Section 365.171(13), Florida Statutes, states in pertinent part:

(a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners, a county may impose a "911" fee to be paid by the local exchange subscribers within its boundaries served by the "911" service.

(1) At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered).

"Telephone company" is defined in Section 365.171(13)(a)5, Florida Statutes, as an exchange telephone service provider of "911" service or equipment. Section 364.02, Florida Statutes, states in pertinent part:

(1) "Alternative local exchange telecommunications company" means any company certificated by the commission

to provide local exchange telecommunications services in this state on or after July 1, 1995.

(6) "Local exchange telecommunications company" means any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.

(12) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility.

It is staff's opinion that "telephone company" as stated in Section 365.171, Florida Statutes, refers to any company that is providing local service to end users. Considering the definition of alternative local exchange telecommunications company in Section 364.02, Florida Statutes, staff believes that an ALEC is clearly a telephone company for purposes of Section 365.171, Florida Statutes. Therefore, all ALECs should be responsible for collecting and remitting the 911 fee, pursuant to Section 365.171, Florida Statutes.

The Commission's authority to enforce the provisions of Section 365.171, Florida Statutes, derives from both Chapters 365 and 364, Florida Statutes.

Section 365.171(10), Florida Statutes, provides:

365.171(10) COMPLIANCE.-All public agencies shall assist the division in their efforts to carry out the intent of this section, and such agencies shall comply with the developed plan.

We note the use of the word "shall", as opposed to "may", in establishing mechanisms for the implementation of the intent of the Act.

Further, Section 364.01, Florida Statutes, states in pertinent part:

(4) The Commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety and welfare by ensuring that basic local telecommunications services are available to all consumers in the State at reasonable and affordable prices.

The definition of "basic local telecommunications services" is defined in Section 364.02(2), Florida Statutes and specifically requires access to "emergency services, such as '911'."

Based on the cited provisions of Chapters 365 and 364, Florida Statutes, staff believes the Commission is clearly within its jurisdiction to assist the Department of Management Services in the implementation and enforcement of Chapter 365, Florida Statutes, by requiring ALECs to comply with the provisions of this Chapter.

Accordingly, staff recommends that ALECs are ultimately responsible for payment of the 911 fee on its access lines, and that the Commission should order ALECs to collect and remit the fees to the appropriate county authorities, including any past due fees. However, ALECs may enter into a billing arrangement with a willing LEC in order to bill and collect the fees.

ISSUE 2: Should the Commission order all alternative local exchange companies to provide customer account information (name, address, telephone number) to the appropriate 911 database administrator pursuant to Section 365.171, Florida Statutes, within three business days from the date of connection of any customer?

RECOMMENDATION: Yes. The Commission should order all ALECs to provide the appropriate 911 database administrator with its customer account records (name, address, telephone number) within three business days of connection. **(Biegalski)**

STAFF ANALYSIS: As a result of staff's meeting on April 5, 1999, with the LECs and 911 county coordinators, the following is a list of the LECs' current procedures regarding the maintenance of the 911 database as it relates to ALEC customers:

- Sprint includes ALEC customers in the 911 database when Sprint is the owner/operator (host) of the database or when Sprint is a secondary database provider to another database host.

Therefore, Sprint should be aware of any changes to the database for orders relating to customers of resellers because Sprint is responsible for processing the orders and making the necessary network changes. However, facilities based ALECs are responsible for providing Sprint with updates or changes to the E911/911 database relating to their customers when Sprint is the owner/operator of the 911 database.

- GTEFL receives subscriber database records from all other participating telephone companies operating in Hillsborough, Pasco, Pinellas, Polk, Sarasota, and Manatee counties, including LECs and ALECs. The ALECs are responsible for the accuracy of their database records and the periodic provision of the records for inclusion in GTEFL's Automatic Location Identification (ALI) database.
- BellSouth is responsible for providing and processing the database information on behalf of ALECs which resell BellSouth services. BellSouth ensures that the ALEC customer information is current in the database. However, it is the responsibility of the facilities based ALECs to provide and update the data contained in the 911 database.

Section 365.171, Florida Statutes, states in pertinent part:

(13)(a)(6) ...For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer.

The integrity of the 911 database relies on accurate customer information in order to dispatch emergency personnel from the correct emergency operations center. This database allows for customer specific information, such as a telephone number and address, to be displayed to the emergency operator when a customer dials "911". Based on this customer specific information, the 911 operator dispatches emergency personnel that serves the address shown in the database. If the information in the database is incorrect, the processing of the call is delayed because the 911 operator has to determine the correct emergency personnel to contact once the error is discovered. Therefore, it is crucial that the database be maintained with the most accurate customer account information (name, address, telephone number), and without the ALEC's cooperation, public safety is at risk.

The Florida Public Services Commission is appropriately involved in this matter, pursuant to Chapter 364.01(4)(a), which states in pertinent part:

(4) The Commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the State at reasonable and affordable prices.

Staff believes, therefore, that in order to maintain public safety and ensure the 911 database is accurate, pursuant to Sections 365.171 and 364.01(4), Florida Statutes, the ALECs should be ordered to provide the 911 coordinator in each county in which they serve with their customer account records (name, address, telephone number) and all updated information, within three business days of connection or change.

ISSUE 3: Should the Commission order all alternative local exchange companies to provide a list of all counties in which they operate, the number of access lines by county that are relevant in the calculation of the 911 fees, and the name of a contact person available 24 hours a day, 7 days per week, to the appropriate 911 county coordinators on a quarterly basis beginning January 1, 2000?

RECOMMENDATION: Yes. The Commission should order all ALECs to provide a list of all counties in which they operate, the number of access lines by county that are relevant in the calculation of the 911 fees, and the name of a contact person available 24 hours a day, 7 days a week, to the appropriate 911 county coordinator on a quarterly basis beginning January 1, 2000. **(Biegalski)**

STAFF ANALYSIS: Staff believes this report will allow the 911 county coordinators to have an accurate list of all ALECs operating in a particular county and the number of access lines by county in order to ensure the correct 911 fees are being remitted. In addition, it will provide the 911 county coordinators with an ALEC contact person that is available 24 hours a day, 7 days a week, in case the information in the 911 database is not accurate.

Section 365.171, Florida Statutes, states in pertinent part:

(13) "911" FEE.--

(a) ... The manner of imposing and collecting said payment shall be as follows:

(1) At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered).

(15) CONFIDENTIALITY OF RECORDS.--...The exemption applies only to the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services.

In addition, Section 119.07(3), Florida Statutes, states in pertinent part:

(r) All records supplied by a telecommunications company, as defined by s. 364.02, to a state or local governmental agency which contain the name, address, and telephone number of subscribers are confidential and exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.

At the staff workshop held on July 28, 1999, concerns were raised regarding the confidentiality of the line count information. Some of the ALECs were concerned that Section 365.171(15), Florida Statutes, does not encompass the line count information submitted to the 911 county coordinator.

Although staff understands the concerns of the ALECs, the 911 fees currently remitted are derived directly from access line information and therefore would not be confidential. Accordingly, staff concludes that even though Sections 365.171(15) and 119.07(3)(r), Florida Statutes, do not extend confidentiality to the access line information, due to the fact that the 911 system is partially funded by the 911 fees, it is imperative for the 911 county coordinators to have accurate line count information from

DOCKET NO. 990342-TP
DATE: August 26, 1999

the ALECs in order to determine if the appropriate 911 fees are being remitted.

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. If staff's recommendation in Issues 1, 2 and 3 are approved, this docket should remain open pending the processing of any protest that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest is filed, the Order will become final upon issuance of the Consummating Order, and this docket should be closed. **(Fordham)**

STAFF ANALYSIS: If staff's recommendation in Issues 1, 2 and 3 are approved, this docket should remain open pending the processing of any protest that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest is filed, the Order will become final upon issuance of the Consummating Order, and this docket should be closed.