BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Florida Interexchange Carriers Association, MCI Telecommunications Corporation, and AT&T Communications of the Southern States, Inc. against BellSouth Telecommunications, Inc.	DOCKET NO. 960658-TP
In Re: Investigation into IntraLATA Presubscription.	DOCKET NO. 930330-TP ORDER NO. PSC-97-0518-FOF-TP ISSUED: May 6, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

I. BACKGROUND

By Order No. PSC-95-0203-FOF-TP, issued on February 13, 1995, in Docket No. 930330-TP, we found that intraLATA presubscription is in the public interest and ordered the four large local exchange companies (LECs) to implement intraLATA presubscription by the end of 1997. In the same proceeding, we ordered the LECs to file tariffs by July 1, 1995, instituting a rate element to allow the recovery of implementation costs for intraLATA presubscription.

On June 30, 1995, BellSouth Telecommunications, Inc. (BellSouth) filed the required tariff. In addition, BellSouth proposed to introduce several new intraLATA presubscription-related services and to reflect tariff language changes in its Access Services and General Subscriber Service Tariffs. On May 23, 1996, by Order No. PSC-96-0692-FOF-TP, we approved BellSouth's tariff. On May 24, 1996, the Florida Interexchange Carriers Association (FIXCA), MCI Telecommunications Corporation (MCI) and AT&T Communications of the Southern States, Inc. (AT&T) (the Complainants) filed a Joint Complaint against BellSouth. The

Complainants alleged that BellSouth had devised anticompetitive business practices and unreasonable tariff provisions, which would hinder the exercise of competitive choices. The Complainants argued that these practices would enable BellSouth, an incumbent provider of local exchange services, to use its dominant position to gain an unfair advantage over intraLATA competitors, thereby frustrating the purpose of Order No. PSC-95-0203-FOF-TP.

On June 11, 1996, the Complainants protested Order No. PSC-96-0692-FOF-TP and requested a hearing. The Complainants also filed a Motion to Consolidate Proceedings, stating that the tariff items challenged in Docket No. 930330-TP were the same tariff items that were the subject of the Joint Complaint in Docket No. 960658-TP. We granted the Motion to Consolidate by Order No. PSC-96-1162-FOF-TP, issued on September 17, 1996. On June 13, 1996, BellSouth filed a response to the Joint Complaint along with a Motion to Dismiss. BellSouth withdrew the Motion to Dismiss on October 4, 1996.

On October 17, 1996, we conducted an evidentiary hearing on the issues in this consolidated proceeding. We voted on the issues at our November 26, 1996, Agenda Conference. Our decisions were memorialized in Order No. PSC-96-1569-FOF-TP, issued on December 23, 1996, in Dockets Nos. 930330-TP and 960658-TP.

On January 7, 1997, BellSouth filed a Motion for Reconsideration of Order No. PSC-96-1569-FOF-TP. On January 21, 1997, the Complainants filed a response to BellSouth's Motion.

The purpose of a Motion for Reconsideration is to bring to the attention of the Commission some point which it overlooked or failed to consider when it rendered its Order in the first instance. It is not intended to be used to re-argue the whole case merely because the losing party disagrees with the Order. Diamond Cab Co. v. King, 146 So.2d 889, 891 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. 1st DCA 1981).

II. DECISION

BellSouth argues that in reaching our decision we either overlooked or failed to consider the significance of certain evidence in this docket. According to BellSouth, our findings rely on speculation and conjecture. Moreover, BellSouth argues, our decision lacks the requisite foundation of competent and substantial evidence.

The Complainants argue generally that BellSouth's lengthy arguments are inappropriate and should be rejected because they

merely warm up and serve again matters the Commission has already considered.

Marketing Restrictions

We note that during our Agenda Conference, we discussed the fact that the telecommunications industry is in transition to a competitive market. At this time a fully competitive intraLATA toll market does not exist. Therefore, based on the evidence presented, we determined that certain restrictions are appropriate at this time. Specifically, we held: 1) BellSouth cannot market its intraLATA service to a new customer, unless the customer introduces the subject; 2) BellSouth cannot initiate marketing efforts designed to dissuade customers, business or residential, from changing their intraLATA carrier from BellSouth to another carrier for a period of 18 months; and, 3) BellSouth cannot initiate communications with existing customers about its intraLATA services when existing customers contact BellSouth for reasons unrelated to intraLATA toll service for 18 months from the date of the Order.

BellSouth claims that in the Order we prohibited BellSouth from marketing its intraLATA toll services, regardless of whether the customer calling was new or existing and regardless of the reason for the customer call, unless the customer introduced the subject. BellSouth argues that the marketing restrictions placed upon BellSouth are unreasonable, unfair, discriminatory and anticompetitive. We note that BellSouth's arguments do not support a Motion for Reconsideration. Rather, they are arguments which a reviewing court would consider. Accordingly, we deny BellSouth's Motion on this issue.

The Complainants state that BellSouth testified that BellSouth's proposal to tell every new customer about its intraLATA service, and mention its competitors only when it was asked constituted a balanced and unbiased presentation. The Complainants assert that based upon all of the evidence, the Commission disagreed and prescribed a competitively neutral protocol to govern BellSouth's contact with new customers. The Complainants assert that BellSouth no longer attempts to portray its proposal as fair and unbiased. Rather, they argue, BellSouth groups the decision on the procedure applicable to new customers within the category of "marketing restrictions." The Complainants contend that the following excerpt from BellSouth's Motion confirms their point at the hearing:

> In the order, the Commission prohibited BellSouth from marketing its intraLATA toll

> services, regardless of whether the customer calling was new or existing...

Upon review, we believe BellSouth takes our decision on new customers out of context. What BellSouth omits in the new customer context is that we determined that BellSouth's business practices are not sufficiently neutral. We, therefore, made specific modifications to BellSouth's business practices and prompts. If we permitted BellSouth to market its toll services to new customers before the customer introduces the subject we would undermine our decision to modify BellSouth's business practices to ensure competitive neutrality.

In its Motion, BellSouth also refers to Order No. PSC-95-0203-FOF-TP, issued February 13, 1995, in Docket No. 930330-TP, where we found that intraLATA presubscription is in the public interest. BellSouth states that one of the public interest factors underlying our holding was that the interLATA restrictions placed on BellSouth would not impede the development of intraLATA competition because the LECs could overcome this disadvantage since the LECs were the first point of contact. BellSouth also states that the Order noted that BellSouth had amply demonstrated that it was an able competitor under current conditions. BellSouth argues that the Commission failed to recognize that every customer in the state is known to a number of long distance carriers who have mechanisms in place to contact these customers. Nevertheless, BellSouth asserts, the original Order recognized that only "current conditions" enabled BellSouth to remain competitive in the intraLATA toll market. BellSouth argues that in this case, we have changed those conditions so drastically that we may no longer claim that BellSouth's incumbent status is a public interest factor.

The Complainants respond that we should reject the arguments BellSouth bases on our original presubscription Order. First, they state that nothing about a new argument based on an old order meets the standard for review of a Motion for Reconsideration. Second, they argue BellSouth has taken the language from the Order completely out of context. According to the Complainants, the Commission's reference to the LECs as the customers' "first point of contact" was not an acknowledgment of BellSouth's future ability to abuse its gateway role, as BellSouth implies. In fact, they state, at page 38 of the same Order, the Commission approved a stipulation of parties requiring BellSouth to inform new customers of intraLATA options in the same manner that it communicates interLATA options to new customers. Therefore, the Complainants conclude, it is BellSouth, not the Commission, who has contravened Order No. PSC-95-0203-FOF-TP.

The Complainants assert that then and now the Commission regarded the contact with new customers as a time for responsible, neutral presentations, not a time for individual marketing. They state that in the portion of the Order BellSouth cites, the Commission was simply alluding generally to BellSouth's formidable, established presence in the marketplace. They assert that the Commission also observed that the LECs would begin with 100% of the 1+ market, and that competitors would have to win customers away through their marketing efforts. They argue that the observation that BellSouth had demonstrated that it was an able competitor "under current conditions" has nothing to do with the issues in this case. The Complainants cite to page 18 of the intraLATA Order where the Commission stated:

> We again conclude that the federally imposed interLATA limitations should not in and of themselves impede the implementation of intraLATA presubscription. Moreover, we are not persuaded that the LECs, particularly Southern Bell and GTEFL, will not be able to compete effectively despite the restrictions. Southern Bell and GTEFL have amply demonstrated that they are able competitors under current conditions.

The Complainants argue that by the term "current conditions", the Commission was referring specifically to the existing interLATA restrictions on BellSouth. The Commission rejected those restrictions as grounds for delaying 1+ intraLATA presubscription. The Complainants state that the "current conditions" at the time of the 1995 Order included a routine for informing new, interLATA, customers of their options in a neutral manner. In addition, they argue that in 1995, as Mr. Honeycutt's testimony makes clear, BellSouth was not using its contacts with customers who called for LEC-related reasons as opportunities to market intraLATA service. In short, the Complainants argue, the Commission did not change "current conditions" in this case; rather, it restrained BellSouth from doing so in an unfair manner.

We are uncertain whether BellSouth is requesting us to reconsider our intraLATA presubscription Order or our Order on the Complaint. Nonetheless, we agree that BellSouth has misconstrued the phrase "under current conditions" in the intraLATA presubscription Order. We did not say that only current conditions enable BellSouth to remain competitive in the intraLATA toll market. We stated that BellSouth and GTEFL have amply demonstrated that they are able competitors under current conditions. Whether or not BellSouth has misconstrued the phrase "under current

conditions," we find that BellSouth's attempt to raise a new argument based on the intraLATA presubscription Order on reconsideration is inappropriate. Further, BellSouth has failed to raise a point of fact or law which we failed to consider in rendering our decision in this case.

Next, BellSouth states that its competitors may attempt to dissuade customers from changing intraLATA carriers, may initiate marketing efforts and may attempt to retain customers, while BellSouth may not. BellSouth argues that allowing the competitors to take these actions while prohibiting it from doing so is discriminatory. At the hearing we considered testimony that MCI was free to market any of its services during any contact with customers; but we concluded that as the incumbent LEC, BellSouth is in a unique position with respect to customer contacts and customer information which could give it an advantage over its competitors in the intraLATA market. We also considered BellSouth's testimony that as competition evolves it should be allowed to market its services as it deems necessary to compete in the intraLATA toll market. We agree, and that is why we limited the marketing restrictions to 18 months. We determined that on balance, to further our decision to open the intraLATA market to competition, certain marketing restrictions are appropriate at this time. Based on the foregoing, we find that BellSouth has failed to raise a point of fact or law which we overlooked or failed to consider.

BellSouth further argues that we erred in prohibiting BellSouth from marketing its services to existing customers who contact the Company to change intraLATA carriers. Specifically, BellSouth argues that because it may not ask why its existing customers may be dissatisfied, it is severely handicapped, and will appear indifferent to the concerns of its customers. We considered this argument on page 7 of our Order. BellSouth simply disagrees with our conclusion. We concluded that if BellSouth exploited its role as the gateway for customer contact, the development of competition in the intraLATA toll market will be stifled. For that reason, we ordered BellSouth not to initiate marketing efforts designed to dissuade customers, business or residential from changing their intraLATA carrier from BellSouth to another carrier for a period of 18 months. Based on the foregoing, we find that BellSouth has not raised a point of fact or law that we overlooked or failed to consider and thus has not met the Diamond Cab standard.

With respect to existing customers who contact BellSouth to change intraLATA carriers, BellSouth argues that the Order will prohibit BellSouth from advising current participants in local calling plans of the changes the customer will experience upon

selecting an intraLATA carrier other than BellSouth. We note that this argument is being raised for the first time on reconsideration, and is, therefore, not a point of fact or law which the Commission failed to consider in rendering its Order in the first instance.

BellSouth also argues that we erred in setting arbitrary time periods for the marketing restrictions we imposed. BellSouth argues that there is nothing in the record to support our determination that BellSouth may not initiate marketing efforts to existing customers contacting BellSouth for any reason for a period of 18 months. BellSouth asserts that we have no basis upon which to assume that any time period is appropriate, much less that 18 months is the magic number. According to BellSouth, there is no evidence to support the speculation that it will take 18 months for the IXCs to establish themselves and for customers to increase awareness. BellSouth also asserts that we were inconsistent in establishing time limits because we set no time limit on the prohibition against marketing BellSouth's intraLATA services to new customers. BellSouth concludes that this part of the Order is based on pure conjecture and speculation and should be reconsidered.

In the alternative, BellSouth requests that if we uphold the prohibitions, a more reasonable period is six months, including the prohibition relative to new customers. BellSouth asserts that the IXCs are large companies, well experienced in marketing, endowed with large advertising budgets, and quite gifted at enhancing the awareness of the public. According to BellSouth, 18 months is a lifetime in the fast-moving world of telecommunications. BellSouth argues it should not be shackled for so great a span of time before it is allowed to play in the same manner as its competitors.

The Complainants respond that the "competent substantial evidence" test is the standard to be applied by a court during judicial review. They assert that all of the cases cited by BellSouth deal with the standard applicable to a reviewing court and that none involved the issue of whether a party seeking reconsideration of an agency's decision successfully demonstrated a mistake, omission, or misapprehension of evidence.

The evidence that the Commission found persuasive, the Complainants argue, is the testimony of Sandra Seay. They state:

> Ms. Seay testified that, absent constraints, BellSouth will exploit its unique position unfairly to cripple the development of competition in the intraLATA market.

> Specifically, Ms. Seay described the prejudicial effects of attempts by the BellSouth representatives to "undo" the very marketing conversions envisioned by the Commission when the customer instructs them to execute their choices. She delineated the extensive data base of customer information available only to BellSouth and only by virtue of its role as provider of local exchange service, and described the tremendous competitive advantage it would give BellSouth if BellSouth is permitted to seize unrelated contacts as marketing opportunities. BellSouth's own witness, Hilda Geer, testified that such a practice is not appropriate now, but would be in a future competitive environment. Ms. Seay advocated an open-ended prohibition on the anti-competitive practices. During cross-examination, she testified that the restrictions on BellSouth's ability to market to existing customers should remain in place until BellSouth's competitors were sufficiently established in the market to withstand such tactics. Based on the interLATA market, Ms. Seay believes the process will require at least four or five years. She suggested the Commission reevaluate market conditions in two years.

The Complainants state that the record actually supports the imposition of restrictions longer than the ones we fashioned. They argue that we could have simply imposed the restrictions until BellSouth could prove with empirical evidence that the level of competition warranted removing the restrictions. They further argue that BellSouth's proposed 6 month alternative contradicts its own position that time frames are inappropriate, and is inadequate on its face.

Upon review, we find that our decision to impose certain marketing restrictions upon BellSouth for a period of 18 months is fully supported by the evidence in the record. Further, we find that BellSouth's arguments do not comport with the Diamond Cab standard for a Motion for Reconsideration. Accordingly, we deny BellSouth's Motion on this issue.

We note also that we discussed the 18 months limitations extensively during our Agenda Conference. We approved an 18 month limitation on the marketing restrictions imposed on BellSouth

regarding existing customers; however, we did not impose an 18-month limitation on business practices and marketing restrictions pertaining to new customers. We contemplated the differences between new customers contacting BellSouth to initiate service and existing customers contacting BellSouth to change service or for other reasons. We noted that we could revisit our decision at any time, if it appears there is a robust market. Notwithstanding, we find BellSouth's argument that our decision regarding new customers is inconsistent with our decision regarding existing customers is not in and of itself a basis for reconsideration. Accordingly, we deny BellSouth's Motion for Reconsideration on this point.

Finally, BellSouth states that it is confused by the dissents in this case. BellSouth argues that at least two Commissioners appear to take issue with the prohibitions placed on BellSouth. BellSouth asserts that it can be interpreted that four Commissioners appear to disagree with the time limit imposed on BellSouth with regard to marketing efforts made when customers contact BellSouth for reasons other than to select an intraLATA carrier. "For this reason alone, it appears that the Commission may welcome an opportunity to review its Order and BellSouth urges the Commission to do so."

In response, the Complainants argue that there is nothing confusing about the Order, and there is nothing about the fact that the voting Commissioners were aligned differently on the various issues that warrants reconsideration. The Complainants argue that if anything, the dissents eliminate any possibility of ambiguity. In response to BellSouth's assertion that it can be interpreted that four Commissioners opposed one of the 18 months restrictions, the Complainants argue that it is BellSouth's claim, not the Order, that is vague, baseless and unexplained. The Complainants submit that BellSouth's urging of a review is a desperate attempt to reopen the voting that is based, not on an error or even on an ambiguity, but on the fact the vote on certain issues was close.

Upon consideration, we do not believe the dissents in this proceeding render our decision ambiguous. More importantly, BellSouth has failed to raise a point of fact or law which we failed to consider in rendering our decision. The standard for reconsideration has not been met. Therefore, we deny BellSouth's Motion for Reconsideration on this point.

PIC Changes

BellSouth insists that its policy regarding PIC changes in the intraLATA market is identical to the practice it has followed in the interLATA environment for a decade. BellSouth first encourages

the customer to contact his or her new intraLATA carrier, but then makes the PIC change if the customer requests BellSouth to make the change. BellSouth contends that we ignored the fact that the process of a customer directly contacting the intraLATA carrier is in the best interest of the customer and the carrier.

BellSouth also argues that we ignored the fact that requiring BellSouth to process every PIC change request without first attempting to refer the customer to his or her selected intraLATA carrier increases its service representatives' time and the work associated with PIC changes. BellSouth concludes that this will increase BellSouth's costs. BellSouth suggests that the IXCs could abuse this arrangement by referring their customers to BellSouth to process all PIC change requests, instead of using the more efficient and cost-effective mechanized CARE system if the PIC change request had come from the IXCs. BellSouth argues that we accepted the notion that the existing PIC change charge would compensate for BellSouth's increased costs at face value. BellSouth asserts that we made no inquiry to determine the factual content of this notion. If we affirm our decision to require it to process all PIC changes, BellSouth requests that we set a time limit of 6 months.

The Complainants argue that BellSouth attempts to portray its proposed practice of steering some customers away without accepting their PIC change request as a normal practice. They assert that both the FCC orders and BellSouth's tariff require BellSouth to process all PIC changes. According to the Complainants, BellSouth's directory language instructs customers to call BellSouth to change PICs. The Complainants assert that BellSouth's witness Geer corroborated this when she testified that customers who call BellSouth to change PICs are entitled to have BellSouth process the changes. Ms. Geer also acknowledged if BellSouth can sidestep their instruction to process their PIC change requests customers may not understand that they can require BellSouth to process their change orders. The Complainants contend our Order therefore did not impose this as a new requirement. Instead, it prohibits BellSouth from shirking an existing requirement in a discriminatory manner. They argue that we determined that such a practice would be discriminatory and would penalize customers who relent too quickly in their efforts to change carriers.

The Complainants disagree with BellSouth's claim that our finding that BellSouth's intraLATA procedures appear to be inconsistent with its interLATA procedures is speculative and is wrong. Our finding, they argue, is supported by Ms. Seay's testimony. The Complainants assert that BellSouth is only renewing arguments that we already considered, and are therefore

inappropriate in a Motion for Reconsideration. The Complainants conclude by asserting that Rule 25-4.118(1), Florida Administrative Code, requires BellSouth to process all PIC change requests.

Upon consideration, we agree that BellSouth is rearguing matters we considered during our deliberations. See Order No. PSC-96-1569-FOF-TP, at pp 9 - 11. After, considering the arguments of the parties and reviewing the evidence, we determined that BellSouth's interLATA and intraLATA PIC change procedures are inconsistent. We disagree with BellSouth that its intraLATA and interLATA practices are identical. BellSouth witness Seay testified that BellSouth's proposal to attempt to refer existing customers who call to change intraLATA carriers to the new carrier before effecting the PIC change departs from BellSouth's past interLATA practice. Ms. Seay did note that BellSouth now routinely treats existing interLATA customers who call to change PICs in the same way BellSouth plans to treat existing intraLATA customers who call to change PICs.

As noted earlier, BellSouth argues that the Commission ignored the benefits of a direct contact by the customer with the intraLATA carrier. We considered BellSouth's assertions about the benefits of direct customer contacts on page 10 of our Order:

> BellSouth argued that it should be allowed to refer customers to their newly-selected carriers to process the PIC change as the company claims it has done for interLATA PIC changes since divestiture. BellSouth's witness Geer testified that this minimizes the redundancy for the customer during the ordering process when the customer must contact his or her carrier of choice in order to establish an account. Witness Geer also indicated that this approach allows the customer to deal with his or her newly chosen carrier and to determine which of that carrier's full range of services best meets his or her needs.

BellSouth also argues that direct contact will ensure that the customer's account with the new carrier is established in the most efficient manner, because the customer information taken by the IXC is then transmitted to BellSouth through the mechanized CARE interface. BellSouth further argues that the contact will allow the customer to deal directly with the carrier from the beginning of service so that the customer is aware of the full range of services the carrier offers. BellSouth states that if customers

place the PIC change through BellSouth and never initiate a call to the new carrier, customers would more than likely pay a basic intraLATA rate and would not be aware of any discount plans that may be applicable to them. Moreover, BellSouth claims that the customers would then be billed the PIC change charge, and would not benefit from the possibility that the carrier would pay the charge on their behalf under a special promotion or other incentive plan. BellSouth concludes that we acknowledged some of these benefits in our Order, but ignored them in reaching our decision.

In our decision, we did acknowledge BellSouth's arguments regarding the benefits of direct customer contact with the newly chosen carrier. We weighed the evidence, however, and we concluded that in order to expedite intraLATA competition, BellSouth shall be required to process all intraLATA PIC changes for its customers. "This process will foster competition and provide customers with a centralized point of contact." See Order at p. 11. In addition, BellSouth's arguments regarding the cost effectiveness of the mechanized CARE interface transfer of PIC change were not directly made in this proceeding. We did, however, consider the costs associated with PIC changes at page 10 of our Order. We also note that we considered BellSouth's arguments regarding customers paying a basic intraLATA rate and not participating in the potential discount plans at page 10 of our Order. It appears to us that we have already fully considered BellSouth's arguments. BellSouth simply disagrees with our decision. Accordingly, BellSouth's Motion is denied. The Motion does not comport with the standard for reconsideration.

We note that we did not ignore BellSouth's argument that to process its customers' PIC change request without first attempting to refer customers to their selected intraLATA carrier would increase BellSouth's service representatives' time, and thereby its costs. We simply reached a conclusion with which BellSouth disagrees. See Order at p. 10. We stated that BellSouth receives a PIC change charge of $1.49. See Order at p. 11. BellSouth argues that we accepted at face value the notion that the existing PIC change charge compensates BellSouth for its increased costs. We find no record evidence that the PIC change charge does not compensate BellSouth for processing the PIC change orders. Nevertheless, BellSouth is free to come back to us should it discover that the $1.49 PIC change charge does not cover its costs for processing the PIC requests.

Based on the foregoing, we find that BellSouth has failed to raise a point of fact or law which we overlooked or failed to consider when we rendered our Order in the first instance.

BellSouth simply disagrees with our decisions. Accordingly, BellSouth's Motion for Reconsideration is denied.

Cost Recovery

BellSouth claims that we required BellSouth to bear the costs of implementing the "NO-PIC" option, the free PIC change and the two-for-one PIC change pending further investigation of the appropriate cost recovery mechanism. BellSouth states that it is concerned that bearing these costs will be a violation of Florida law prohibiting BellSouth from providing service below cost. BellSouth, therefore, requests this Commission to expedite its inquiry into the appropriate cost recovery mechanism.

The Complainants assert that BellSouth's submission on this issue does not amount to a basis for reconsideration, but a request for an expedited treatment. The Complainants do not object to a prompt consideration of the cost recovery mechanism that has been referred to a new docket.

Upon review, we agree this issue does not meet the reconsideration standard. We, however, find it appropriate to clarify our Order. Specifically, BellSouth shall not be required to absorb its costs; rather, BellSouth shall track its costs until we conclude our investigation into the appropriate cost recovery mechanism.

It is, therefore,

ORDERED by the Florida Public Service Commission that each and all of the specific findings herein are approved in every respect. It is further

ORDERED that BellSouth Telecommunication, Inc.'s Motion for Reconsideration is denied. It is further

ORDERED that we hereby clarify Order No. PSC-96-1569-FOF-TP, to require BellSouth to track its costs as discussed in the body of this Order. It is further

ORDERED that Order No. PSC-96-1569-FOF-TP, is reaffirmed in all other respects. It is further

ORDERED that Docket No. 960658-TP is closed. It is further

ORDERED that Docket No. 930330-TP shall remain open.

By ORDER of the Florida Public Service Commission, this 6th day of May, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

MMB

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 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 wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.