

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Tariff proposal by ALLTEL FLORIDA,) DOCKET NO. 900819-TL
 INC. to reflect its non-concurrence with)
 Southern Bell's MegaLink Service and) ORDER NO. 23881
 MegaLink Channel Service tariffs)
 _____) ISSUED: 12-14-90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

ORDER APPROVING TARIFF WITHDRAWAL

BY THE COMMISSION:

On May 3, 1990, Alltel Florida, Inc. (Alltel or Company) filed a tariff proposal to discontinue its concurrence with Southern Bell Telephone and Telegraph Company's (Southern Bell) MegaLink Service and MegaLink Channel Service tariffs. The Company believed that it was necessary to file the proposal to insure that its local franchised service area was not violated by Southern Bell or any other company, thus protecting its right to provide local service to its customers in its territory.

MegaLink Service is a channel transport facility that utilizes 1.544 Mbps (DS1) rate for delivery. MegaLink Channel Service provides the channelization of the channel transport facility. This service provides local channels and interoffice channels for network exchange access, foreign exchange, ESSX services station lines, off-premise stations, tie lines, analog and digital data channels. Alltel presumed that Southern Bell, or any other company, could provide switched local services such as ESSX and other exchange-like services over private line services such as MegaLink into Alltel's service territory.

We believe that Alltel's concern with cross boundary service is adequately addressed by the procedures provided in Chapter 364.37, Florida Statutes. The statute provides that where a controversy concerning territory to be served arises, the commission, on its own initiative or on the complaint of anyone claiming to be adversely affected, may prescribe terms and conditions that are just and reasonable. Concurrently, Alltel has reviewed the statute and has requested to withdraw the tariff. If

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Southern Bell or any other Local exchange company should violate Alltel's certificated franchise area, the Company should file a complaint with this Commission for formal action.

We agree that Chapter 364.37, F.S., provides adequate recourse for territorial controversies. We, therefore, approve Alltel's request to withdraw its tariff proposal reflecting its non-concurrence with Southern Bell's MegaLink and MegaLink Channel Services.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Alltel Florida Inc.'s request to withdraw its tariff proposal to reflect its non-concurrence with Southern Bell Telephone and Telegraph Company's MegaLink Service and MegaLink Channel Service Tariff is hereby approved. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this
14th, day of DECEMBER, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

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