

MEMORANDUM

MAY 23, 1994

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1:45 p.m.
FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (CANZANO) *RH*
RE: DOCKET NOS. 921074-TP, 930955-TL, 940014-TL, 940020-TL,
931196-TL, AND 940190-TL

0613-FOF

Attached is an ORDER DENYING REQUESTS FOR ORAL ARGUMENT, with attachments, to be issued in the above-referenced docket. (Number of pages in Order - 4)

DLC/js
Attachment
cc: Division of Communications
I:921074A.DC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Expanded Interconnection) DOCKET NO. 921074-TP
Phase II and Local Transport) DOCKET NO. 930955-TL
Restructure) DOCKET NO. 940014-TL
_____) DOCKET NO. 940020-TL
DOCKET NO. 931195-TL
DOCKET NO. 940190-TL

ORDER NO. PSC-94-0613-FOF-TP
ISSUED: May 23, 1994

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER DENYING REQUESTS FOR ORAL ARGUMENT

BY THE COMMISSION:

Phase I of this docket went to hearing and a Final Order was issued. See Order No. PSC-94-0285-FOF-TP. Various parties filed petitions for stay, motions for reconsideration, cross motions for reconsideration, motions to strike, and motions for clarification of aspects of the Final Order. GTE Florida Incorporated (GTEFL) asked for oral argument on its Petition for Reconsideration of the constitutional taking issue¹ and on its Petition for Stay of mandatory collocation pending the outcome of a federal proceeding addressing the constitutional taking issue. Florida Cable Television Association, Inc. (FCTA) asked for oral argument regarding pricing flexibility.

Phase II of this Docket has been set for hearing during August 22-26, 1994 with the special agenda scheduled for November 30, 1994.

¹ It is appropriate for the Commission to resolve a constitutional issue when an affected party asserts that the Commission is applying a statute or rule in such a way that it violates that party's constitutional rights. See Key Haven v. Bd. of Trustees Of the Internal Improvement Trust Fund, 427 So.2d 153, 157-158 (Fla. 1982) Reh'g Denied, March 9, 1983.

DOCUMENT NUMBER-DATE

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On March 25, GTEFL filed a Petition for Reconsideration and Petition for Stay of Order No. PSC-94-0285-FOF-TP. At the conclusion of the pleading, GTEFL asked for oral argument "if the Commission believes that further discussion of the constitutional question is necessary." Similarly, GTEFL asked for oral argument in the event that the Commission "is not prepared to grant the stay without further discussion."

Having reviewed the pleadings and related responsive pleadings, we find that there is adequate argument presented for us to make a well-reasoned determination regarding both the Petition for Reconsideration of the taking issue and the Petition for Stay. We do not believe that oral argument will aid us in reaching our decision. Accordingly, GTEFL's Request for oral argument is hereby denied.

On March 25, 1994, FCTA filed a Motion for Reconsideration and/or Clarification of Order No. PSC-94-0285-FOF-TP. In its Motion, FCTA questioned our approval of pricing flexibility in this docket² in light of various Florida Statutes. In the alternative, FCTA asked that language in the Order be clarified to indicate that LECs cannot continue to use Contract Service Arrangement (CSA) authority unless they justify, in Phase II of this proceeding, the use of CSAs for private line and special access.

We find that FCTA's pleading, and related responsive pleadings, provide a sufficient basis for us to make a well-reasoned decision and that oral argument will not aid us in reaching that decision. Therefore, FCTA's Request for Oral Argument is hereby denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that GTE Florida Incorporated and Florida Cable Television Association, Inc.'s Requests for Oral Argument are hereby denied. It is further

² In Phase I, LECs were: granted zone-pricing flexibility on a conceptual basis under the guidelines established by the FCC; required to submit zone density pricing plans; required to file results of efforts to streamline the Contract Service Arrangement process. PSC-94-0285-FOF-TP, at 36.

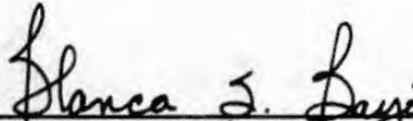
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ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 23rd
day of May, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DLC

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

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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.