

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for equitable ) DOCKET NO. 940744-TC  
application of the set use fee ) ORDER NO. PSC-95-0557-FOF-TC  
by FLORIDA PUBLIC ) ISSUED: May 8, 1995  
TELECOMMUNICATIONS ASSOCIATION, )  
INC. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING PETITION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

The Florida Public Telecommunications Association, Inc. (FPTA) filed a Petition requesting "equitable application of the set use fee" (Petition) on July 14, 1994. The Petition was considered at the April 18, 1995, Agenda Conference.

The set use fee was established in Order No. 24101, Docket No. 860423-TP, to compensate pay telephone providers for the use of their telephones. The set use fee is mandatory for both LEC-provided pay telephone service (LPATS) and non-LEC provided pay telephone service (NPATS) for 0+/0- local and 0+/0- intraLATA calls, and optional for 0+/0- interLATA calls.

In its Petition, FPTA requests that the Commission require the set use fee to be assessed on all non-sent-paid calls. This includes all access code calls (10XXX), and all 1-800, 950, or other credit card calls to reach a customer's carrier of choice. FPTA also requests that the set use fee be mandatory for all of the above calls, including 0+ and 0- interLATA calls.

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At the Agenda Conference, FPTA asserted that the Commission originally instituted the set use fee because it recognized the cost that exists for using a pay telephone and that only upon reconsideration did it decide that there would be no set use fee for interLATA calls because of technical constraints. According to FPTA, the technical constraints no longer exist, therefore, the Commission should go back to its original Order and reinstitute the set use fee for interLATA calls. Further, FPTA argues that the set use fee should be applied to all non-sent paid calls.

It should be noted that the set use fee was authorized in Order No. 24101, issued February 14, 1991, and on reconsideration in Order No. 25312 issued November 2, 1991. However, on reconsideration we found that the set use fee for 0+ and 0-interLATA calls should not be mandatory, but rather optional because the LECs did not have billing and collection agreements with every interexchange carrier (IXC). FPTA argues that there are no longer any technical constraints and that we should mandate the set use fee for all interLATA calls.

Upon consideration, we are not satisfied that there have been technical changes that would support FPTA's request to make the set use fee mandatory for 0+ and 0- interLATA calls. Further, we do not believe it is appropriate to expand the set use fee to include all non-sent paid calls. The original philosophy for making the charge mandatory for LPATS and NPATS providers was to "establish a rate element for the cost of the pay telephone and the pay telephone operation. . ." and "to establish uniform rates between LPATS and NPATS and to alleviate the marketing disadvantage that NPATS providers claim exists when a surcharge or 'set use' charge is placed only on its pay telephones." See Order No. 25312. The rapidly progressing competitive climate of telephone service in general, as well as recent Commission decisions such as 1+ intraLATA presubscription, necessitate that we reevaluate our policy on mandatory surcharges. Accordingly, we will conduct an investigation into whether it is appropriate to continue to require a mandatory set use fee surcharge for pay telephone service.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition of Florida Public Telecommunications Association, Inc. For Equitable Application of the Set Use Fee is denied. It is further

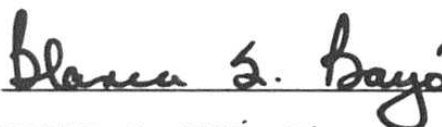
ORDERED that unless a person, whose interests are substantially affected by the action proposed herein, files a petition in the form and by the date specified in the Notice of

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Further Proceedings or Judicial Review, below, this docket shall be closed. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 8th day of May, 1995.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

MMB

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 30, 1995.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 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 of the effective date 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.