

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Generic investigation) DOCKET NO. 930485-TL
into the proper regulatory) ORDER NO. PSC-94-1080-PHO-TL
treatment of inside wire.) ISSUED: SEPTEMBER 1, 1994
_____)

Pursuant to Notice, a Prehearing Conference was held on August 29, 1994, in Tallahassee, Florida, before Commissioner Diane K. Kiesling, as Prehearing Officer.

APPEARANCES:

J. Jeffry Wahlen, Esquire, Macfarlane Ausley Ferguson & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of ALLTEL Florida, Inc..

Laura L. Wilson, Esquire, 310 North Monroe Street, Post Office Box 10383, Tallahassee, Florida 32302
On behalf of Florida Cable Television Association, Inc..

David B. Erwin, Esquire, Young, van Assenderp & Varadoe, P.A., Post Office Box 1833, Tallahassee, Florida 32302-1833
On behalf of Florala Telephone Company, Inc., Gulf Telephone Company, Indiantown Telephone System, Inc., Northeast Florida Telephone Company, Quincy Telephone Company, Southland Telephone Company, and St. Joseph Telephone & Telegraph Company.

Kimberly Caswell, Esquire, Post Office Box 110, FLTC0007, Tampa, Florida 33601
On behalf of GTE Florida Incorporated.

Harris R. Anthony, Esquire, and J. Phillip Carver, Esquire, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301
On behalf of Southern Bell Telephone and Telegraph Company.

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On behalf of United Telephone Company of Florida and Central Telephone Company of Florida.

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On behalf of Vista-United Telecommunications.

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FPSO-RECORDS/REPORTING

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On behalf of the Office of the Attorney General.

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On behalf of the Citizens of the State of Florida.

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On behalf of the Commission Staff.

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On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

This docket was opened as a rulemaking proceeding on May 14, 1993, and the Commission voted to propose changes to Sections 25-4.0345, and 25-4.040, Florida Administrative Code, on September 7, 1993. At the October 22, 1993, rulemaking hearing the Commission voted to hold an adjudicatory hearing, as defined in Section 120.57, Florida Statutes, to address the proper regulatory treatment of inside wire services. The rule was subsequently withdrawn and the docket redefined as a generic investigation with a hearing scheduled for September 7-9, 1994.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person

providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits

appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
R. Earl Poucher	OPC	1 - 4
Jack R. Barrett	GTEFL	1 - 4
John Carroll	NE	1 - 4
Alphonso J. Varner	SBT	1, 2, 3, 4A, 4B, and 4C
F. Ben Poag	United/Centel	1, 3, 4
Harriet Eudy	ALLTEL	1 - 4
<u>Rebuttal</u>		
Alphonso J. Varner	SBT	1 - 4
Thomas F. Lohman	SBT	3, 4A, and 4C
Jack R. Barrett	GTEFL	1 - 4
F. Ben Poag	United/Centel	1, 3, 4
R. Earl Poucher	OPC	1 - 4

V. BASIC POSITIONS

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

ALLTEL: No regulatory changes are necessary or appropriate at this time.

FLORALA: It is the basic position of the Florala Telephone Company, Inc., that neither simple nor complex inside wire services should be reregulated by the Commission. In January, 1987, pursuant to Order No. 16641, Docket 860116-TL, issued September 26, 1986, The Florala Telephone Company, Inc., notified its customers that inside wire was being transferred to them. Thereafter, the Florala Telephone Company, Inc., ceased to provide any inside wire service, either on a time and material basis or under a monthly maintenance contract. In the nearly eight years since the Commission Order, the Florala Telephone Company, Inc. is unaware of any telephone company subscribers who have been unable to obtain any required inside wire services. There is no reason to change the situation that now exists.

GULF: It is the basic position of Gulf Telephone Company that neither simple nor complex inside wire services should be reregulated by the Commission. In 1986, pursuant to Order No. 16623, Docket 860117-TL, issued September 11, 1986, Gulf Telephone Company notified its customers that inside wire was being transferred to them. Thereafter, Gulf Telephone Company ceased to provide any inside wire service, either on a time and materials basis or under a monthly maintenance contract. In the nearly eight years since the Commission order, Gulf Telephone Company is unaware of any telephone company subscriber who have been unable to obtain any required inside wire services. There is no reason to change the situation that now exists.

GTEFL: No party has or can demonstrate any need to reregulate inside wire services in any way. The Office of Public Counsel (Public Counsel) has admitted that there is no evidence to suggest a consumer problem with GTEFL's

inside wire business. GTEFL's simple inside wire maintenance rate is patently reasonable and has not changed since 1986. Moreover, inside wire markets are sufficiently competitive, with no significant barriers to entry. Commission control of prices and terms of inside wire provision would disrupt efficient operation of these markets.

Imputation of inside wire results for ratemaking purposes, would have even more serious anti-consumer effects. GTEFL believes Public Counsel has suggested imputation only because it suspects companies are earning unduly high profits from simple inside wire markets. Its only consequence would be to send local exchange carriers (LECs) a signal that if a service is perceived to be profitable, revenues will be reregulated. This is certainly not the way to encourage development of new and innovative services.

INDIANTOWN:

It is the basic position of Indiantown Telephone System, Inc. that neither simple nor complex inside wire services should be reregulated by the Commission. After the inside wire investment of Indiantown Telephone System, Inc. was fully amortized and inside wire was abandoned, Indiantown Telephone System, Inc., initially provided inside wire services through a fully separated subsidiary. When there proved to be too little business to sustain such an operation, Indiantown Telephone System, Inc. as public service, took over the provision of inside wire services, offering both a monthly maintenance plan and repair provided on a time and materials basis. There is no reason to change the method by which the need for inside wire services is satisfied in western Martin County Florida. Indiantown Telephone System, Inc. is not aware of any unmet needs for inside wire services or any complaints about the available services.

NE:

It is the basic position of Northeast Florida Telephone Company that neither simple nor complex inside wire services should be reregulated by the Commission. On June 30, 1987, the inside wire investment of Northeast Florida Telephone Company was fully amortized and inside wire was abandoned. Since June 30, 1986, Northeast Florida Telephone Company has not provided any inside

wire services. Such services have, however, been provided by an affiliated company. There is no reason to change the method by which the need for inside wire services is taken care of in Baker County, Florida.

QUINCY: It is the basic position of Quincy Telephone Company that neither simple nor complex inside wire services should be reregulated by the Commission. Since the Commission deregulated inside wire, Quincy Telephone Company has provided inside wire services on a time and materials basis and through a monthly maintenance plan. Quincy Telephone Company does not know of any failure to provide adequate inside wire services in that portion of Gadsden County served by Quincy Telephone Company. Consequently, reregulation would not improve the quality of inside wire services.

SBT: This Commission's Order No. 17040 deregulated inside wire services and thereby promoted competition. No rule change is needed by this Commission because a competitive market has in fact developed. Inside wire services are currently competitive. Proof of this is evident in the fact that Southern Bell's share of the inside wire market has dropped consistently in recent years. In addition, there are many vendors in the market for the installation and maintenance of inside wire services.

If, however, this Commission decides to reregulate inside wire services, then the services should be reregulated in their entirety. This Commission should not order the imputation of the revenues and expenses from inside wire services above the line because it would put all LECs at a disadvantage and would provide no benefit to inside wire customers. Reregulation, if chosen by this Commission, should be full and complete, including full tariffs. Also, if this Commission orders re-regulation, it should include both maintenance and installation rearrangement of inside wire.

SOUTHLAND:

It is the basic position of Southland Telephone Company that neither simple nor complex inside wire services should be reregulated by the Commission. Since the Commission deregulated inside wire, Southland Telephone Company has provided inside wire services, offering both a monthly maintenance plan and repair provided on a time and materials basis. There is no reason to reregulate

inside wire services in northern Escambia County, Florida. Southland Telephone Company is not aware of any unsatisfied needs for inside wire services or any complaints about the available services.

ST. JOE: It is the basic position of St. Joseph Telephone & Telegraph Company that neither simple nor complex inside wire services should be reregulated by the Commission. In January, 1987, pursuant to Order No. 16022, Docket No. 860078-TL, St. Joseph Telephone & Telegraph Company ceased to provide any inside wire service, either on a time and materials basis or under a monthly maintenance contract. In the nearly eight years since the Commission Order, St. Joseph Telephone & Telegraph Company is unaware of any telephone company subscribers who have been unable to obtain any required inside wire service. There is no reason to change the situation that now exists.

UNITED/CENTEL:

This Commission should not regulate any inside wire services. The FCC has preempted the states from regulating any aspect of complex inside wire, and while not preempting the states from regulating simple inside wire, the FCC has encouraged the states not to do so. Consumers are receiving inside wire installation and repair services from a variety of providers, including United and Centel, and have the freedom to choose United's and Centel's inside wire maintenance plans if these plans meet their needs. If not, consumers can self-maintain or use a different plan if one is available. Other providers will enter this market if there is a perceived opportunity for profit. Whether they do so or not does not change the fact that consumers have a choice, and regulation will not improve that situation.

If the Commission decides that it is not necessary to regulate the terms, conditions or prices of any aspect of simple inside wire, it further should not impute above the line any revenues, expenses or earnings from these services. In the first place, the cost allocation procedures governing the treatment of unregulated inside wire services already allocate annually approximately \$2.6 million of United's and Centel's expenses to these services to the benefit of the regulated ratepayers. Additionally, attempts to take legitimate profit away

from the Companies' investors sends the wrong signal to the financial marketplace and creates significant disincentives to be efficient or innovative.

VISTA: No regulatory changes are necessary or appropriate at this time.

ATTORNEY GENERAL:

The provision of simple inside wire maintenance by Florida local exchange telephone companies (LECs) should be regulated by the Public Service Commission (Commission). Regulation is necessary since the naturally competitive market for such services is not currently performing competitively due to anticompetitive behavior of the LECs. Initially, regulation can serve as a surrogate for competition by imposing prices, terms, and conditions for inside wire services which would normally prevail in an environment driven by competitive market forces. Expenses and revenues from simple inside wire maintenance should be imputed to the regulated intrastate portion of the LECs income statement. The Commission can also promote a competitive market by utilizing regulation to neutralize the existing LEC dominance of inside wire maintenance service achieved by anticompetitive means.

OPC: The Commission should regulate the prices, terms and conditions applicable for the provision of simple inside wire maintenance by Florida local exchange telephone companies and their affiliates. The resulting expenses and revenues should be included in the regulated intrastate accounting of the companies.

STAFF: None pending discovery.

VI. ISSUES AND POSITIONS

ISSUE 1: Has the FCC pre-empted states from prescribing specific regulatory treatment for inside wire services? If so, how?

ALLTEL: Agree with United/Centel.

FLORALA: No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate

simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, and 58.

GULF: No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, and 58.

GTEFL: Yes. States are preempted from regulating the price and terms and conditions for complex inside wire services. The FCC has encouraged states not to regulate simple inside wire services, but has not preempted them from doing so.

INDIANTOWN:

No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, and 58.

NE: No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for

complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, and 58.

QUINCY: No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, 58.

SBT: The FCC preempted states from requiring telephone companies to bundle charges for simple inside wire services (both installation/rearrangement and maintenance) with charges for basic telephone service. The FCC also preempted state regulation of rates for complex inside wire services. Further, the FCC required that simple inside wiring services be classified as nonregulated activities for federal accounting purposes. The FCC did not preempt state regulation of the price or the terms and conditions of simple inside wiring services and did not preempt state regulation requiring local exchange companies to act as providers of last resort for inside wiring services.

SOUTHLAND: No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, and 58.

ST. JOE: No, the FCC has not pre-empted states from prescribing specific regulatory treatment for simple inside wire services. The FCC encouraged the states not to regulate simple inside wiring services but did not pre-empt state regulation of the prices and terms and conditions under which telephone companies provide those services. However, states are pre-empted from setting rates for complex wiring service or regulating terms and conditions under which telephone companies provide complex wiring services. See FCC Docket No. 79-105, Third Report and Order, Paragraphs 56, 57, and 58.

UNITED/CENTEL:

Yes. With regard to complex wiring services, the FCC has preempted states from regulating the provisioning of complex wiring services.

With regard to simple inside wire, the FCC, upon remand by the Ninth Circuit Court of Appeals, declared that they would not preempt states from regulating the terms, conditions and prices for the provisioning of simple inside wire, as long as the states do not require or permit terms and conditions that are inconsistent with the technical standards set forth in the FCC's rules. The FCC, while not preempting the states, urged the states not to reregulate simple inside wire services.

VISTA: Agree with United/Centel.

ATTORNEY GENERAL:

The FCC, in its Third Report and Order, In the Matter of Detariffing the Installation and Maintenance of Inside Wire, 7 FCC Rcd. 1334 (1992), held that state regulation of the prices, terms, and conditions under which LECs provide simple inside wire services is not preempted, and the states are not precluded from assigning LECs costs and revenues to the intrastate jurisdiction for intrastate accounting purposes, and from setting unbundled rates based on those costs. Additionally, the FCC held that the states are preempted from setting rates for complex wiring services, but not preempted from imputing costs and revenues from those services.

OPC: The FCC, on February 14, 1992, abandoned its pre-emption of state regulation of the prices, terms and conditions for simple inside wire services, thus allowing the states

to regulate simple inside wire services and to impute the revenues and expenses of complex inside wire services in the intrastate regulatory proceedings. (EXHIBIT NO. REP-1)

STAFF: The FCC has pre-empted states from taking specific regulatory actions regarding complex inside wire services.

For complex inside wire services, states are pre-empted from regulating the rates, terms, and conditions under which local exchange companies offer such services. However, states are free to assign complex wiring costs and revenues to the intrastate jurisdiction for intrastate accounting purposes.

For simple inside wiring services, states are not precluded from any specific regulatory treatment as long as the states do not require or permit terms and conditions that are inconsistent with Part 68 of the FCC's Rules, which pertains to technical connection requirements.

ISSUE 2: Are inside wire services subject to Chapter 364 F.S. (including Chapter 364.338 F.S.)?

ALLTEL: Agree with United/Centel.

FLORALA: Yes, within the limitation set forth in response to issue 1, above.

GULF: Yes, within the limitations set forth in response to issue 1 above.

GTEFL: No. Chapter 364 does not address regulation of inside wire services. In fact, Chapter 364 was adopted years after inside wire services were deregulated in Florida. The Commission cannot now assert jurisdiction over a service that was not regulated when Chapter 364 was passed. With regard to section 364.338 in particular, it establishes a process to determine if a regulated service is effectively competitive. Since inside wire services are unregulated, this section is not relevant to this docket.

INDIANTOWN:

Yes, within the limitation set forth in response to Issue 1 above.

NE: Yes, within the limitations set forth in response to Issue 1 above.

QUINCY: Yes, within the limitation set forth in response to Issue 1 above.

SBT: No. Chapter 364 contains no provision that relates specifically to inside wire or to the matters at issue in this docket. Specifically, Section 364.338 applies only to regulated services. Since inside wire services are not regulated in Florida, they are not subject to the provisions of Section 364.338

SOUTHLAND:

Yes, within the limitations set forth in response to Issue 1, above.

ST. JOE: Yes, within the limitations set forth in response to issue 1, above.

UNITED/CENDEL:

No. The Florida Public Service Commission has deregulated inside wire services effective 1/1/87. Because inside wire services are not regulated services, they are no longer subject to the requirements of Chapter 364, Florida Statutes.

VISTA: Agree with United/Centel.

ATTORNEY GENERAL:

Section 364.01, Florida Statutes confers broad jurisdiction and regulatory power on the Commission in relation to services provided by telecommunications companies. The Commission is delegated regulatory authority particularly in respect to telecommunications services for which there is no effective competition, as well as "flexible regulatory" authority in respect to competitive telecommunications services. Also, Section 364.19, Florida Statutes, specifically authorizes the Commission to regulate service contracts. Section

364.338, Florida Statutes, expresses the legislative intent that, "where the Commission finds that a telecommunications service is effectively competitive, market conditions be allowed to set prices..." but the Commission would retain regulatory authority in connection with the service. In any event, simple inside wire maintenance service is not effectively competitive at this time. Accordingly, inside wire services are subject to Chapter 364. Florida Statutes.

OPC: Inside wire services provided by the regulated telecommunications companies in the State of Florida are subject to all of the provisions of Chapter 364 F.S. as stated in Chapter 364.01, to wit: "(3) The commission shall exercise its exclusive jurisdiction in order to: (b) Protect the public health, safety, and welfare by ensuring that monopoly services provided by a local exchange telecommunications company continue to be subject to effective rate and service regulation."

Further, Chapter F.S. 364.19 states, "The commission may regulate, by reasonable rules, the terms of telecommunications service contracts between telecommunications companies and their patrons." This provision of the statutes authorizes the Commission broad powers to regulate the prices, terms and conditions of simple inside wire services provided by the LECs.

STAFF: Staff has no position on this issue pending submittal of legal briefs by the parties.

ISSUE 3: Should any inside wire services be reregulated? If so, which ones?

ALLTEL: No.

FLORALA: No.

GULF: No.

GTEFL: No. Inside wire markets function well today; regulatory intervention would only disrupt these markets, to the detriment of consumers. There is no plausible justification for consideration of reregulation. This docket was not prompted by consumer complaints. In fact, Public Counsel has admitted that there are no consumer problems with GTEFL's inside wire services. GTEFL's

inside wire maintenance rate is reasonable and has remained the same since 1986. Regulatory control of prices and terms of this service is thus unnecessary. Imputation of inside wire results is equally unwarranted. LECs are not earning undue profits from these services. In any case, imputation will not enhance competition in inside wire markets. It will merely tell LECs that revenues will be reregulated for services that are deemed too profitable. This policy will chill the implementation of new and innovative services and thus retard the development of Florida's information infrastructure.

INDIANTOWN:

No.

NE: No.

QUINCY: No.

SBT: No, reregulation of inside wire services is unnecessary because there are competitive alternatives and because reregulation is contrary to this Commission's policy of fostering competition.

SOUTHLAND:

No.

ST. JOE: NO.

UNITED/CENDEL:

No. Inside wire services, including both simple inside wire installation and maintenance, should not be reregulated.

VISTA: No.

ATTORNEY GENERAL:

Simple inside wire maintenance services provided by LECs should be regulated and costs and revenues imputed. The Attorney General takes no position at this time with respect to simple inside wire installation or imputation of costs and revenues from complex inside wire services.

OPC: Simple inside wire maintenance services provided by the LECs should be regulated because the provision of these services by the LECs is not an effectively competitive service. The Commission may consider the regulation of simple inside wire installation and impute of the revenues and expenses of complex inside wiring "above the line", however, there is no compelling reason to do so.

STAFF: Staff has no position at this time.

ISSUE 4: If the Commission reregulates any inside wire services:

- a. What should be the form of regulation?
- b. Does this form of regulation require a rule change?
- c. What is the appropriate accounting treatment?

ALLTEL: The Commission should not re-regulate any inside wire services.

FLORALA: The Florala Telephone Company, Inc. believes that there should be no reregulation of any sort. The Florala Telephone Company, Inc. has had absolutely no exposure to the provision of inside wire services for almost eight years. There has been no occasion to study or consider appropriate forms of regulation. Consequently, the Florala Telephone Company has not formulated any position on the form any unnecessary and undesirable reregulation should take.

GULF: Gulf Telephone Company believes that there should be no reregulation of any sort. Gulf Telephone Company has had absolutely no exposure to the provision of inside wire services for almost eight years. There has been no occasion to study or consider appropriate forms of regulation. Consequently, Gulf Telephone Company has not formulated any position on the form any unnecessary and undesirable reregulation should take.

GTEFL: As GTEFL explained in response to Issue 3, no reregulation of any kind is warranted for inside wire services.

INDIANTOWN:

Indiantown Telephone System, Inc. believes that there should be no reregulation of any sort, so Indiantown Telephone System, Inc. has no position on the form any unneeded reregulation should take.

NE: Northeast Florida Telephone Company believes that there should be no reregulation of any sort, and Northeast Florida Telephone Company has no position on the form any unnecessary and undesirable reregulation should take.

QUINCY: Quincy Telephone Company believes that there should be no reregulation of any sort. Quincy Telephone Company has no position on the form any reregulation should take.

SBT: A. While there is no basis for this Commission to reregulate inside wiring series, if the Commission order such reregulation, it should include regulation of the terms, conditions, and price of inside wire services, as well as a tariff requirement for all providers. Such reregulation should include both installation/rearrangements and maintenance of simple inside wire services.

B. If the Commission reregulates inside wire services, which Southern Bell strongly opposes, a rule change would be required.

C. If the Commission reregulates inside wire services, which Southern Bell strongly opposes, the appropriate accounting treatment would be to recover all of the costs from the intrastate jurisdiction.

SOUTHLAND:

Southland Telephone Company believes that there should be no reregulation of any sort, so Southland Telephone Company has no position on the form any reregulation should take.

ST. JOE: St. Joseph Telephone & Telegraph Company believes that there should be no reregulation of any sort. St. Joseph Telephone & Telegraph Company has had absolutely no exposure to the provision of inside wire services for

almost eight years. There has been no occasion to study or consider appropriate forms of regulation. Consequently, St. Joseph Telephone & Telegraph Company has not formulated any position on the form any unnecessary and undesirable reregulation should take.

UNITED/CENTEL:

Inside wire services should not be reregulated. However, if any form of reregulation is undertaken, it should only require that subscribers be made aware of the fact the service is optional and that inside wire services are available from other suppliers. This notification could be given at the time of initial subscription to telephone service and annually thereafter.

The rules could be changed to reflect the above notification requirement.

The currently existing accounting cost allocation procedures are appropriate. For both companies, they allocate approximately \$2.6 million in expenses annually to these services to the benefit of regulated ratepayers.

VISTA: The Commission should not re-regulate any inside wire services.

ATTORNEY GENERAL:

- a. No position at this time.
- b. No position at this time.
- c. Simple inside wire maintenance revenues and expenses should be imputed "above the line."

OPC:

- a. The companies should be required to file tariffs for the provision of simple inside wire maintenance services and the revenues and expenses emanating from those activities should be included in intrastate rate of return proceedings of the various LECs.
- b. The Commission should amend 25-4.0345(2)(a) and (b) to reflect the Commission's decision in this docket. If the Commission reregulates portions of the inside wire market, it should exempt those services from the requirements of an independent audit, as is required by existing rule.

- c. Simple inside wire maintenance revenues and expenses should be recorded "above the line". Inside Wire is, primarily, an integral part of the regulated portion of telephone business. (REP, P6, L6-7) The revenues from Inside Wire, just like custom calling services, should be used to help keep basic rates as affordable as possible. (REP, P7, L2-3)

STAFF: Staff has no position at this time.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
H. E. Eudy	ALLTEL	_____	Exhibit consists of one document.
Alex Robinson	NE	_____	Deposition dated May 27, 1994
Kenneth Kirkland	NE	_____	Deposition dated May 27, 1994
Ronald Gray	NE	_____	Deposition dated May 27, 1994
Alphonso J. Varner	SBT	_____	None at this time
Thomas F. Lohman	SBT	_____	Basic Inside Wire Financial Results (Rebuttal)
R. Earl Poucher	OPC	_____	FCC 3rd Report and Order, Docket No. 79-105
	OPC	_____	Memorandum Opinion and Order, Docket No. 79-105

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

None.

IX. PENDING MOTIONS

There are pending requests for confidential classification of material produced in response to Staff's and OPC's discovery. Those requests will be handled pursuant to established procedures.

X. RULINGS

The oral motion of United/Centel to withdraw its Motion to Compel FCTA to respond to interrogatories and requests to produce documents is hereby granted.

The oral motion of FCTA to withdraw as a party to the proceedings in Docket No. 930485-TL is hereby granted.

The Motion of Attorney General for Enlargement of Time to file Prehearing Statement is hereby granted.

It is therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 1st day of September, 1994.


DIANE K. KIESLING, Commissioner and
Prehearing Officer

(S E A L)

WEW

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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.