

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of The Citizens of the State of Florida to initiate rulemaking which will require telephone companies to give customers reasonable notice before customers incur higher charges or change in services, and allow them to evaluate offers for service from competing alternative providers.

DOCKET NO. 010774-TP
ORDER NO. PSC-01-1344-PCO-TP
ISSUED: June 19, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER GRANTING PETITION TO INITIATE RULEMAKING PROCEEDINGS

BY THE COMMISSION:

On May 22, 2001, the Citizens of the State of Florida, through the Office of Public Counsel (OPC), filed a petition to initiate rulemaking. OPC proposes that we adopt a rule requiring telephone companies to give customers actual notice before implementing any change in rates or other terms and conditions of service. Pursuant to section 120.54(7), Florida Statutes, we have 30 calendar days following the date of filing of a petition to initiate rulemaking proceedings, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

OPC requests that we adopt the following rule:

All telecommunications companies furnishing service within this state shall provide notice of any change in

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rates or other terms and conditions of service directly to each customer that may be affected by the change. If the change may increase the cost of service for a customer, notice shall be provided at least 30 days in advance of any change in rates or terms and conditions of service. Notice of price increase shall be sent via first class mail. Service by mail of the notice of price increase shall be complete upon mailing. No change in tariffs, price lists, or terms and conditions that may increase the cost of service for a customer will be effective unless notice of the change is provided to customers as required by this rule. In the case of a rate decrease, telecommunications companies shall notify each affected customer no later than the first bill following implementation of the rate change. Any notice required by this sub-section shall be printed in a 12-point type or larger, and shall be clear, conspicuous, and legible. The notice shall include, at a minimum, the name and nature of any and all services to be changed, the past rates and the anticipated new rates. Notice of price increase shall include as a heading "NOTICE OF PRICE INCREASE" in uppercase, bold print. The envelope containing the notice of price increase shall contain a notice on the front thereof: "NOTICE OF PRICE INCREASE ENCLOSED" in uppercase, bold print. That telecommunications companies have tariffs or price lists for services on file with the commission is not a defense to any action brought for failure to disclose prices for which disclosure is required under this rule.

(Petition at 4)

In its petition, OPC states that "there is no rule in the State of Florida that requires telephone companies to give customers actual notice before implementing any change in rates or other terms and conditions of service." (Petition at 2) OPC argues that tariff filings, posting in telephone company offices, annual itemized billing to customers, and requirements for monthly billing are the only notices that are currently required under our rules, and these notices are not adequate to inform customers of a price or service change before it occurs.

OPC asserts that it is unreasonable to require customers to wait until they receive a bill, contact the Commission, or visit the telephone company offices on a daily basis to learn of any changes. OPC states that "it is a basic principle of the competitive marketplace that customers should know what services they are receiving and the rates and terms and conditions for those services in advance of purchase of those services." (Petition at 3) If the customers do not have this information, OPC argues, they will incur charges before they have the opportunity to change services, adjust usage or seek competitive providers.

OPC believes that its proposed rule promotes competition because customers will know of available services and the terms and conditions for those services in time to make informed choices. According to OPC, its proposed rule does not prevent telephone companies from changing rates and terms and conditions, but only requires that the companies give reasonable notice of such changes.

OPC states that we have the authority to implement its proposed rule under section 364.0252, Florida Statutes, which provides that the Commission

shall expand its current consumer information program to inform consumers of their rights as customers of competitive telecommunications services and shall assist customers in resolving any billing and service disputes that customers are unable to resolve directly with the company. The commission may, pursuant to this program, require all telecommunications companies providing local or long distance telecommunications services to develop and provide information to customers. The commission may specify by rule the types of information to be developed and the manner by which the information will be provided to the customers.

We agree that section 364.0252, Florida Statutes, authorizes us to implement the rule proposed by OPC. Section 364.19, Florida Statutes, which states, "The commission may regulate, by reasonable rules, the terms of telecommunications service contracts between telecommunications companies and their patrons," also provides authority for the proposed rule. Furthermore, we do not currently

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have a rule which addresses the concerns raised by OPC. Therefore, we hereby grant the petition to initiate rulemaking.

We would point out that our decision to grant OPC's petition simply begins the process. We will address the issue of whether to propose a rule at a later date.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition to initiate rulemaking filed by the Citizens of the State of Florida, through the Office of Public Counsel, is hereby granted. It is further

ORDERED that this docket shall remain open to proceed with the rulemaking process.

By ORDER of the Florida Public Service Commission this 19th day of June, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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.