

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by Volusia) DOCKET NO. 950220-TL
County requesting creation of a) ORDER NO. PSC-95-0640-FOF-TL
separate exchange for Lake Ashby) ISSUED: May 24, 1995
Area (Sanford Exchange) with)
same calling scope as Sanford)
and New Smyrna Beach Exchanges.)
_____)

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 REQUEST FOR CREATION OF
A SEPARATE EXCHANGE

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.

On February 17, 1995, Volusia County filed Resolution No. 95-46 requesting the creation of a separate exchange for the Lake Ashby Area with the same calling scope as the Sanford and New Smyrna Beach exchanges. The Lake Ashby area is located in the southern portion of Volusia County and is currently served from the Sanford exchange which is located in Seminole County. The Sanford exchange is separated from the majority of Volusia County by a LATA (local access transport area) boundary and a different area code.

I. Background

By Order No. PSC-92-0982-FOF-TL in Docket No. 911185-TL, issued September 11, 1992, we ordered the \$.25 plan countywide within Volusia County. However, because of restrictions preventing BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell) from carrying traffic over a LATA (local access transport area) boundary several routes could

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not be implemented until the U.S. District Court granted a waiver. The Sanford/New Smyrna Beach route is one of the routes pending implementation. The U.S. District Court has not yet made a decision regarding these routes.

On December 2, 1992, the Volusia County Council filed a request to survey the Lake Ashby area to determine whether the community was in favor of being moved from the Sanford exchange, primarily located in Seminole County, to the New Smyrna Beach exchange, located in Volusia County.

We required Southern Bell to ballot the 170 Lake Ashby customers to determine if they would be in favor of moving from the Sanford exchange into the New Smyrna Beach exchange with an additive of \$3.38 per month for a period of ten years by Order No. PSC-93-1701-FOF-TL in Docket No. 930035-TL, issued November 24, 1993. The survey was to be conducted within 30 days. Rule 25-4.063(6), Florida Administrative Code, was determined to be used for the balloting.

Based on Rule 25-4.063(6), Florida Administrative Code, the survey passed since 51.67% of the ballots returned were in favor of changing the exchange service area from Sanford to New Smyrna Beach. The results of the survey were initially scheduled to be heard at the April 5, 1994 agenda. Because the survey was close, Volusia County requested a 60-day deferral to further review the customer list provided by Southern Bell and to try to develop alternatives to the original exchange boundary proposal.

On May 31, 1994, the Volusia County Council filed a modification to its original boundary change request. On June 10, 1994, members of the Commission staff met with Volusia County Council representatives and representatives of Southern Bell in the Lake Ashby community to review the proposed options.

Based on the results of the survey, we approved the boundary change. See Order No. PSC-94-1025-FOF-TL, issued August 23, 1994. This decision was consistent with Order No. PSC-93-1701-FOF-TL, issued November 24, 1993. We required Southern Bell to change the Lake Ashby service area from the Sanford exchange to the New Smyrna Beach exchange in Order No. PSC-94-1025-FOF-TL.

Volusia County Council's Motion for Reconsideration was denied. See Order No. 94-1281-FOF-TL, issued October 17, 1994. The County's request for a survey of the north portion of the Lake Ashby community as requested in its Motion for Reconsideration was also denied. We ordered that portion of the Sanford exchange to be moved into the New Smyrna Beach exchange in accordance with Orders

No. PSC-93-1701-FOF-TL and PSC-94-0184-FOF-TL. Southern Bell has not yet moved the Lake Ashby area from the Sanford exchange to the New Smyrna Beach exchange. We directed the conversion to occur as soon as possible but not later than August 23, 1995.

II. Evaluation of Request for a Separate Exchange

Volusia County states that its December 1992 request to move the Lake Ashby area from the Sanford exchange in area code 407 to the New Smyrna Beach exchange in area code 904 was based on the strong needs expressed by residents of the area. The County contends that upon taking the official survey, it became "painfully" clear that it had a split vote and a divided community over whether calling to the north to New Smyrna Beach and Daytona (904), or to the south to Sanford (407) was the most critical.

In addition, Volusia County states that from the "ashes" of the 50-50 split, the County, with the advice and assistance of Southern Bell, attempted to find a better solution which would solve the problem for a larger percentage of the residents. Further, the cross-LATA problem has not been solved but merely transferred from one-half of the people to the other. The County contends that its attempts at compromise were denied primarily based on the procedures we followed to redirect the action. Volusia County requests that this Commission recognize the "pain and suffering" involved and help resolve the issue for all concerned.

Southern Bell's position regarding Volusia County's request to create a new exchange for the Lake Ashby area is that it does not believe this would be an appropriate or efficient use of the critical telecommunications NXX resource. Southern Bell contends that the nation is using the available telephone prefixes at an alarming rate.

In addition, Southern Bell states that the request by Volusia County would require it to provide a 10,000 number group NXX for approximately 150 customers without the prospect of significant growth in the next 5-10 years. Southern Bell further states that none of the North American Numbering Plan Administration practices and guidelines, or Southern Bell's long-established switching facilities practices and procedures, would approve of the use of a 10,000 number group for 150-200 customers.

We agree with Southern Bell that creating a new exchange for 150 customers would be an inefficient use of the NXX resource. Southern Bell is in the process of splitting the 305 area code. A hearing on this matter was held on May 17, 1995 in Docket No.

941272-TL, and a decision is pending. In addition, Southern Bell has indicated that the 904 area code will split in 1996. NXXs are a scarce resource and should only be used when conditions exist to warrant it.

In addition, the County has requested that the calling scope for the new exchange include the current calling scope and optional plans that are available to the Sanford and New Smyrna Beach exchanges.

We find that Volusia County's request to establish local calling for the proposed Lake Ashby exchange is without merit. Although we appreciate Volusia County's attempt to satisfy more residents, we believe that creating a new exchange would be an inappropriate use of an NXX.

In addition, the requested calling scope for the proposed Lake Ashby exchange has not been substantiated. The local calling scopes for the Sanford and New Smyrna Beach exchanges were granted based on an exhibited calling need. To grant such a broad calling scope to a new exchange without meeting any criteria would not be fair to existing exchanges. If we were to approve a Lake Ashby exchange, the exchange should only have calling to itself. In order to receive EAS, alternative plans, or optional calling plans, the exchange must demonstrate a need. Typically, this is accomplished by the volume of toll calls between two exchanges.

We believe that this request by Volusia County is an attempt to revisit issues that were resolved in Docket No. 930035-TL. Although the request is a creative attempt to resolve some of the issues, we believe that the dedication of an NXX to 150 customers is an uneconomical use of a scarce resource. Accordingly, we find that the requested calling scope for the proposed Lake Ashby exchange is without merit. Therefore, Volusia County's request to create a separate exchange for the Lake Ashby area with the combined calling scope of the Sanford and New Smyrna Beach exchanges is denied.

Based on the foregoing, it is

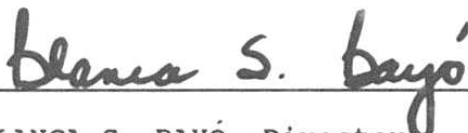
ORDERED by the Florida Public Service Commission that Volusia County's request to create a separate exchange for the Lake Ashby area with the combined calling scope of the Sanford and New Smyrna Beach exchanges is hereby denied. It is further

ORDERED that this Order shall become final and effective on the date set forth below if no timely protest is filed pursuant to the requirements set forth below. It is further

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ORDERED that if no protest is timely filed according to the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 24th day of May, 1995.



BLANCA S. BAYÓ, 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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 14, 1995.

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.

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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.