

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by) DOCKET NO. 940337-TL
Jacksonville City Council for) ORDER NO. PSC-95-1209-PHO-TL
extended area service (EAS)) ISSUED: September 29, 1995
between the Fort George and)
Jacksonville Beach exchanges.)
_____)

Pursuant to Notice, a Prehearing Conference was held on September 21, 1995, in Tallahassee, Florida, before Commissioner Diane K. Kiesling, as Prehearing Officer.

APPEARANCES:

Bruce Page, Assistant General Counsel, Office of General Counsel, 600 City Hall, 220 East Bay Street, Jacksonville, Florida 32202.
On behalf of Jacksonville City Council.

J. Phillip Carver, Esquire, c/o Nancy H. Sims, 150 South Monroe Street, Room 400, Tallahassee, Florida 32301.
On behalf of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company.

Donna L. Canzano, Esquire, Florida Public Service Commission, Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

Pursuant to the protest of Notice of Proposed Agency Action Order No. PSC-94-1380-FOF-TL, this matter is currently set for an administrative hearing.

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

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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>		
Mrs. Jessie W. Sammons	Jacksonville City Council	All Issues
Thomas W. Best	Southern Bell	All Issues

V. BASIC POSITIONS

JACKSONVILLE

CITY COUNCIL: The proximity and the community of interest between Fort George and Jacksonville Beaches telephone exchanges justify implementing Extended Area Service (EAS) for all Jacksonville Beach communities. EAS would give Fort George residents the same treatment enjoyed by the rest of Jacksonville's citizens. The Jacksonville City Council and the residents of Fort George believe that telephone calls between the neighboring Fort George and Jacksonville Beaches exchanges should not be toll or long distance calls.

SOUTHERN BELL: Southern Bell advocates that the Commission should not establish traditional, flat rate, non-optional EAS on the Ft. George to Jacksonville Beach route because the traffic study performed in April of 1994 did not indicate a community of interest as defined in the current Commission Rules. Southern Bell has, however, included the Ft. George to Jacksonville Beach route in its proposed ECS plan filed in Docket No. 920260-TL.

STAFF: There is not a sufficient community of interest on the Fort George/Jacksonville Beach toll route to justify implementing EAS based on Rule 25-4.060, Florida Administrative Code. Staff has no position at this time regarding whether there is a sufficient community of interest to implement an alternative toll plan on the Fort George/Jacksonville Beach toll route.

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.

VI. ISSUES AND POSITIONS

ISSUE 1: Is there a sufficient community of interest on the Fort George/Jacksonville Beach toll route to justify implementing EAS pursuant to Rule 25-4.060, Florida Administrative Code, or implementing an alternative toll proposal?

JACKSONVILLE CITY COUNCIL:

When community of interest is determined solely by the most recently conducted traffic study and the numerical standards set forth in Rule 25-4.060(2)(a), Florida Administrative Code (three or more m/m/m with at least 50% of the less populous exchange subscribers making two or more calls per month), then the answer is no. However, in 1987 when this identical issue was addressed, the traffic study results indicated the route exceeded the requirements of the rule. (Order No. 18896, issued February 22, 1988). Despite the traffic which met the requirements, subscribers were not allowed to vote on their desired EAS but rather on an alternate plan which was rejected.

When factors beyond the most recent traffic study figures are considered and when the desires of the Fort George subscribers are assessed, the Jacksonville City Council believes that implementing EAS is both just and reasonable.

SOUTHERN BELL: No. Florida Public Service Commission Rule 25-4.060(3), Florida Administrative Code, requires a preliminary showing that there is a community of interest sufficient to warrant further EAS proceedings. This showing is made when there is a certain call volume and distribution on the route(s) in question. The traffic study performed in April of 1994, established that the traffic between these exchanges does not satisfy the Commission rule.

STAFF: No, there is not a sufficient community of interest on the Fort George/Jacksonville Beach toll route to justify implementing EAS based on Rule 25-4.060, Florida Administrative Code. Staff has no position at this time regarding whether there is a sufficient community of interest to implement an alternative toll plan on the Fort George/Jacksonville Beach toll route.

ISSUE 2: What other community of interest factors should be considered in determining if either an optional or nonoptional toll alternative should be implemented?

JACKSONVILLE CITY COUNCIL: The Fort George Island exchange is predominantly a sparsely populated rural residential area with a few fish camps. The contiguous Beaches communities of Mayport, Atlantic Beach, Neptune Beach and Jacksonville Beach combined have residential, business and service facilities including a hospital, churches, schools and a large Naval station. The residents in the Fort George Island exchange have family, business and social connections with the Beaches neighborhoods to their immediate south. Their elected officials live or have offices in the Beaches exchanges. Children who live in the Fort George Island exchange area attend school in the immediately adjacent Beaches area. Shopping, recreation, work, community services, churches and elected representatives are all factors for the subscribers living in the Fort George Island exchange.

SOUTHERN BELL: Flat rate, nonoptional EAS should not be ordered in the absence of the required level of calling volume and distribution. Optional plans may be ordered by this Commission when there are indications of a sufficient level of a community of interest arising from the location of schools, county and governmental offices, fire and police departments, medical emergency facilities, and military installations.

STAFF: No position at this time.

ISSUE 3: If a sufficient community of interest is found, what is the economic impact of each of the following plans on the customer and the company? (Summarize in chart form and discuss in detail)

- A. EAS with 25/25 plan and regrouping;
- B. \$.25 hybrid plan; and
- C. Other (specify)

JACKSONVILLE

CITY COUNCIL: No position.

SOUTHERN BELL: A. Under the EAS with 25/25 plan and regrouping, subscribers in the Ft. George exchange would be charged a single additive to their standard monthly rate. Jacksonville Beach customers would have no change to their local rates. Southern Bell would not fully recover its costs for the implementation of this plan.

B. Under the \$.25 hybrid plan, residence customers would be allowed two-way calling between the Ft. George and Jacksonville Beach exchanges on a seven-digit basis at \$.25 per message. Business customers would pay \$.10 for the first minute and \$.06 for each additional minute. Although Southern Bell would sustain a net economic loss, it would not be as great as with the EAS plan with 25/25 and regrouping.

C. Southern Bell has not discussed in its testimony, or analyzed the potential impact of, any other plans.

STAFF: No position at this time.

ISSUE 4: Should subscribers be required to pay an additive as a prerequisite to implementation of EAS? If so, how much of a payment is required and how long should it last?

JACKSONVILLE CITY COUNCIL: Subscribers should be required to pay an appropriate additive for a just and reasonable period. Jacksonville City Council is unable to make a specific recommendation as to either the amount or term of such additive.

SOUTHERN BELL: If flat rate EAS under the 25/25 plan with regrouping is ordered on this route, the rates for customers should be increased as set forth above in response to Issue 3. No additional additive should be required.

STAFF: If the Commission determines that EAS is appropriate, then the subscribers should be required to pay an additive. Staff has no position at this time regarding the length of time the additive should remain in place.

ISSUE 5: If a sufficient community of interest is found, what are the appropriate rates and charges for the plan to be implemented on this route?

JACKSONVILLE CITY COUNCIL: Rates charged subscribers in the Fort George area exchanges should be consistent with charges in the balance of the Consolidated City of Jacksonville.

SOUTHERN BELL: Under the EAS with 25/25 and regrouping plan, subscribers in the Ft. George exchange would pay an additional \$1.26 per month. Business line customers would pay an additional \$4.25 per month.

STAFF: No position at this time.

ISSUE 6: If EAS is determined to be appropriate, should the customers be surveyed for nonoptional, flat rate, two-way EAS?

JACKSONVILLE

CITY COUNCIL: Yes, if EAS is determined to be appropriate, the customers should be surveyed for nonoptional, flat-rate, two-way EAS with an additive.

SOUTHERN BELL: The calling characteristics of this route do not warrant nonoptional, flat-rate EAS. If, however, the Commission determines that nonoptional, flat rate EAS is appropriate, then every customer who would receive an increase in their monthly rate for local service should be surveyed.

STAFF: Yes, if EAS is determined to be appropriate, the customers should be surveyed for nonoptional, flat-rate, two-way EAS with an additive.

ISSUE 7: If EAS or an alternative toll plan is implemented, what action should be taken regarding the existing optional toll plans?

JACKSONVILLE

CITY COUNCIL: If flat rate EAS is implemented, all optional toll plans should be discontinued simultaneously with the implementation of EAS.

SOUTHERN BELL: If an alternative plan is implemented, all options under the enhanced optional extended area service plan, Ft. George to Jacksonville Beach, with the exception of the residence premium option, should be eliminated. If flat rate, nonoptional EAS under the 25/25 plan is implemented, the EOEAS plan should be eliminated in its entirety.

STAFF: If flat-rate EAS is implemented, all optional toll plans should be discontinued simultaneously with the implementation of EAS. If an alternative toll plan is selected, then the premium flat-rated residential option should be retained and the remaining EOEAS options should be discontinued.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mrs. Jessie W. Sammons	Jacksonville City Council	_____	Jacksonville Map
		(JWS-1)	
		_____	Jacksonville and Vicinity Local and Long Distance Exchanges
		(JWS-2)	
Thomas W. Best	Southern Bell	_____	Map of Duval County
		(TWB-1)	
		_____	SBT's Monthly Messages & Calling Rates
		(TWB-2)	
		_____	Long Distance Calling for SBT Exchanges
		(TWB-3)	
		_____	Conversion Costs
		(TWB-4)	

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

VIII. PROPOSED STIPULATIONS

Jacksonville City Council stipulates the accuracy of the data submitted in Southern Bell's Exhibits TWB-2 and TWB-3.

IX. PENDING MOTIONS

None.

X. RULINGS

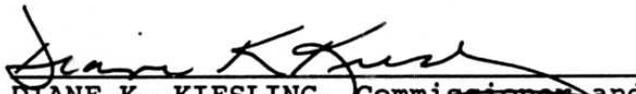
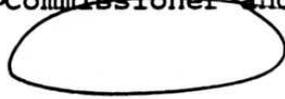
None.

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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 29th day of September, 1995.


DIANE K. KIESLING, Commissioner and
Prehearing Officer 

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(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,

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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.