

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by Nassau) DOCKET NO. 931090-TL
County Commission for countywide) ORDER NO. PSC-96-0785-PHO-TL
calling within Nassau County.) ISSUED: June 17, 1996
_____)

Pursuant to Notice, a Prehearing Conference was held on May 30, 1996, in Tallahassee, Florida, before Commissioner Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

Lee L. Willis, Esquire and J. Jeffry Wahlen, Esquire,
Ausley & McMullen, Post Office Box 391, Tallahassee,
Florida 32302
On behalf of ALLTEL Florida, Inc.

J. Phillip Carver, Esquire, and Nancy White, Esquire, c/o
Nancy H. Sims, Esquire, 150 South Monroe Street, Room
400, Tallahassee, Florida 32301
On behalf of BellSouth Telecommunications, Inc.

Michael S. Mullin, Esquire, 26 South 5th Street,
Fernandina Beach, Florida, 32034
On behalf of Nassau County

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

PREHEARING ORDER

I. CASE BACKGROUND

Pursuant to Order No. PSC-95-1556-FOF-TL, issued December 15, 1995, the Commission has set this matter 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 the person providing the information. If no determination of

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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 Division of Records and Reporting 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>
H. E. Eudy	ALLTEL	All
* Nancy H. Sims	BellSouth	All
Walter D. Gossett	Nassau County	Various Geographical and Community of interest portions.

* Nancy Sims will be the witness appearing for BellSouth. She will adopt the prefiled testimony and exhibits of Joseph Stanley, Jr. who is unavailable to testify. None of the parties objected.

V. BASIC POSITIONS

POSITIONS:

ALLTEL: There is an insufficient community of interest to justify flat rate non-optional EAS. If the Commission decides to order an alternative plan, ECS would be the best alternative.

BELLSOUTH:

There is an insufficient community of interest to justify flat rate non-optional EAS. If the Commission decides to order an alternative plan, ECS would be the best alternative.

NASSAU: There is a sufficient community of interest to justify flat rate non-optional EAS and a minimum there is a sufficient community of interest to implement an alternative toll plan.

STAFF: There is not a sufficient community of interest to justify nonoptional EAS as defined in the Commission's

rules. Staff has no position at this time regarding whether there is a sufficient community of interest to implement an alternative toll plan on these routes.

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 for countywide calling on routes within Nassau County to justify surveying for nonoptional extended area service as currently defined in the Commission rules, or implementing an alternative toll plan?

POSITIONS:

ALLTEL: No. The traffic study performed revealed that there is not a sufficient volume and distribution of calls to demonstrate a community of interest to justify extended area service. If the Commission orders toll relief, ALLTEL advocates the implementation of the ECS plan.

BELLSOUTH:

No. The traffic study performed revealed that there is not a sufficient volume and distribution of calls to demonstrate a community of interest to justify extended area service. If the Commission orders toll relief, BellSouth advocates the implementation of the ECS plan.

NASSAU: Yes, there is a sufficient community of interest to justify surveying for non-optional EAS as defined in the Commission's rules. At a minimum, there is a sufficient community of interest to implement an alternative toll plan on these routes.

STAFF: No, there is not a sufficient community of interest to justify surveying for nonoptional EAS as defined in the Commission's rules. Staff has no position at this time regarding whether there is a sufficient community of interest to implement an alternative toll plan on these routes.

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

POSITIONS:

ALLTEL: Other community of interest factors that may be considered include the location of schools, county and governmental offices, fire and police departments, medical emergency facilities, and military installations.

BELLSOUTH:

Other community of interest factors that may be considered include the location of schools, county and governmental offices, fire and police departments, medical emergency facilities, and military installations.

NASSAU: Location of schools, county and governmental offices, fire and police departments, medical emergency facilities, hospital location, shopping and services.

STAFF: No position at this time.

ISSUE 3: If a sufficient community of interest is found on any of these routes, what is the economic impact of each plan on the customer and the company (summarize in chart form and discuss in detail)?

- a) EAS with 25/25 plan and regrouping;
- b) Alternative toll plan; and
- c) Other (specify)

POSITIONS:

ALLTEL: a) Under the 25/25 plan with regrouping, customers in the affected exchanges would pay an additive to their standard monthly rate. Under this plan, ALLTEL would have an increase in its revenues.

b) Under the ECS plan that ALLTEL advocates if the Commission should order an alternative, residence customers would pay \$.25 per message. Business customers would pay \$.10 for the initial minutes, and \$.06 for each additional minute. ALLTEL would sustain a net economic loss.

c) N/A.

BELLSOUTH:

a) under the 25/25 plan with regrouping, customers in the affected exchanges would pay an additive to their standard monthly rate. Under this plan, BellSouth would have an increase in its revenues.

b) Under the ECS plan that BellSouth advocates if the Commission should order an alternative, residence customers would pay \$.25 per message. Business customers would pay \$.10 for the initial minute, and \$.06 for each additional minute. BellSouth would sustain a net economic loss.

c) BellSouth has also analyzed a plan for implementing EAS (the 10/10 plan) that would have a smaller additive for each affected customer. BellSouth would have a small revenue increase under this plan.

NASSAU: At this time there is not sufficient data to determine the economic impact for each plan, and, therefore, the county takes no position at this time.

STAFF: No position at this time.

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

POSITIONS:

ALLTEL: Yes. Customers should be required to pay an additive adequate to offset the revenue loss to ALLTEL that results from implementing the plan. The additive should remain in place for three years.

BELLSOUTH:

Yes. Customers should be required to pay an additive adequate to offset the revenue loss to BellSouth that results from implementing the plan. The additive should remain in place for three years.

NASSAU: At this time there is not sufficient data to determine whether the subscriber should be required to pay an additive, and, therefore, the county takes no position at this time.

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.

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

POSITIONS:

ALLTEL: If sufficient community of interest factors other than call volume and call distribution are found to exist, ALLTEL would support the implementation of an alternative plan such as ECS.

BELLSOUTH:

If sufficient community of interest factors other than call volume and call distribution are found to exist, BellSouth would support the implementation of an alternative plan such as ECS.

If a non-optional plan is deemed appropriate, the 10/10 plan with regrouping, which BellSouth has suggested as an alternative to the 25/25 plan with regrouping (because the 25/25 plan would entail a larger additive) would charge Fernandina Beach subscribers \$9.21 for residential service, \$25.09 for business service and \$42.65 for PBX service. Subscribers in Yulee would pay \$10.86 for residential service, \$29.59 for business service and \$50.30 for PBX service. Subscribers in Baldwin would pay \$10.89 for residential service, \$29.69 for business service and \$50.47 for PBX service.

NASSAU: At this time there is not sufficient data to determine what the appropriate rates and charges the subscriber should be required to pay, and, therefore, the county takes no position at this time.

STAFF: No position at this time.

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

POSITIONS:

ALLTEL: Yes. All customers who would receive an increase in their rates should be surveyed.

BELLSOUTH:

Yes. All customers who would receive an increase in their rates should be surveyed.

NASSAU: Yes, if extended area service is determined to be appropriate, the customer should be surveyed for non-optional flat rate, two-way extended area service with an additive.

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

VII. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
H. E. Eudy	ALLTEL	_____ HEE-1	Composite Exhibit
Nancy H. Sims	BellSouth	_____ NHS-1	Map of Nassau and Duval Counties
Nancy H. Sims	BellSouth	_____ NHS-2	Call distribution studies
Nancy H. Sims	BellSouth	_____ NHS-3	Traffic data
Nancy H. Sims	BellSouth	_____ NHS-4	Revenue Impact
Nancy H. Sims	BellSouth	_____ NHS-5	Revenue Impact

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
Walter D. Gossett	Nassau	<u> </u> WDG-1	Composite Exhibit (includes service area map)

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

VIII. PROPOSED STIPULATIONS

There are none.

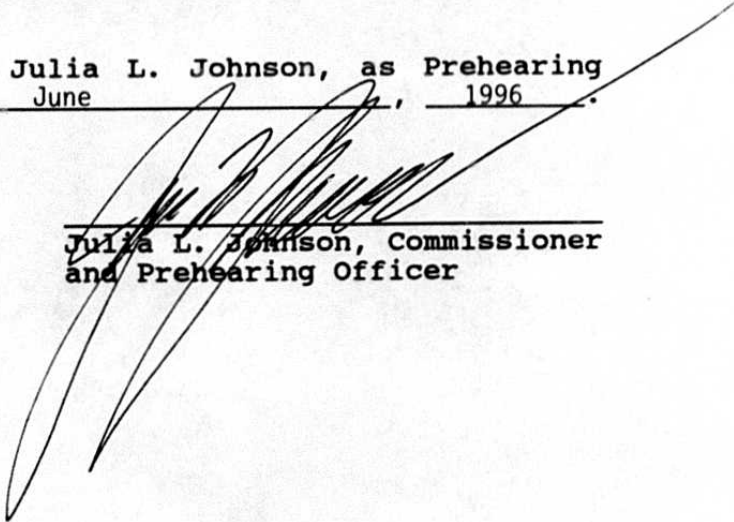
IX. PENDING MOTIONS

There are none.

It is therefore,

ORDERED by Commissioner Julia L. Johnson, 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 Julia L. Johnson, as Prehearing Officer, this 17th day of June, 1996.



Julia L. Johnson, Commissioner
and Prehearing Officer

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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, 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.