

MEMORANDUM

JUNE 13, 1996

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JUN 18 1996

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (PIERSON) *RPD*
RE: DOCKET NO. 951099-TL - PETITION BY RESIDENTS OF NORTH
GOLDEN GATES AND CORKSCREW TO MOVE FROM IMMOKALEE
EXCHANGE INTO NAPLES EXCHANGE.

FPSC-RECORDS/REPORTING

PSC-96-0794-FOF-TL

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER REQUIRING
BALLOT FOR PURPOSES OF A BOUNDARY CHANGE to be issued in the above-
referenced docket. (Number of pages in Order - 7)

RJP/clp
Attachment
cc: Division of Communications
I: 951099.rjp

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by residents of) DOCKET NO. 951099-TL
North Golden Gates and Corkscrew) ORDER NO. PSC-96-0794-FOF-TL
to move from Immokalee exchange) ISSUED: June 19, 1996
into Naples exchange.)
_____)

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 REQUIRING BALLOT FOR
PURPOSES OF A BOUNDARY CHANGE

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.

Background

On September 1, 1995, residents of the North Golden Gate and Corkscrew areas filed a petition to be moved from the Immokalee exchange into the Naples exchange. North Golden Gate and Corkscrew are both served by United Telephone Company of Florida (United). According to the petition, these residents have Naples addresses, but Immokalee telephone numbers. The petitioners contend that their jobs, schools, doctors, churches and other communities of interest are in Naples. The petition also stated that the residents must pay long distance charges to call Naples.

In order to determine the feasibility of this request, the staff of this Commission sent a data request to United. In response to the data request, United stated that North Golden Gate

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and Corkscrew are roughly defined areas, and that it could only review the street addresses on the petition and locate the customers in that manner. United contends that none of the addresses on the petition are in the northern part of the Golden Gate exchange.

The petitioners provided maps that seem to indicate fairly clear boundaries for both the North Golden Gate and the Corkscrew areas. Based on these maps, it appears that these areas are contiguous communities of the Naples exchange. The maps indicate that the boundary between the Naples and Immokalee exchanges is at 48th Avenue NE. Naples residents with addresses of 49th Avenue NE and greater are served from the Immokalee exchange.

United also argued that calls between Immokalee and Naples are not toll, as stated in the petition, but \$.25 each. In response to United's argument, the petitioners revised their argument somewhat. However, they contend that toll is defined as a charge for a type of service, and that \$.25 calls are, therefore, not toll-free.

United originally contended that it would cost approximately \$952,500 to move the petitioners to the Naples exchange. This estimate was based upon the costs to bury 19.1 miles of fiber optic cable and the electronic equipment necessary to convert fiber optic signals. After a conference call with United, United revised its estimate to \$111,900. The reduction in cost is the result of United's conclusion that it could use existing inter-office fiber instead of burying new fiber.

United was also originally opposed to balloting Immokalee for extended area service (EAS) using the 25/25 additive with regrouping. United has since offered to survey the Immokalee exchange, under this Commission's existing EAS rules, for EAS to the Naples exchange with regrouping and the 25/25 additive. The petitioners argue that this is unacceptable, since they consider themselves Naples residents. They also argue that, even if they received EAS to Naples, it would still be a toll call to North Naples where their schools and other areas of interest are located.

Due to the recent revisions to Chapter 364, Florida Statutes, this Commission no longer has the authority to require a price regulated local exchange company (LEC) to implement EAS. However, we do believe that Section 364.15, Florida Statutes, allows this Commission to modify existing exchange boundaries when we find that such modifications are reasonably necessary to secure adequate service or facilities for telecommunications services.

Proposed Boundary Change

Boundary changes are typically used to consolidate a subdivision into one exchange, resolve pocket area problems, or handle EAS issues that cannot be resolved in a conventional manner. Historically, if the cost to move the boundary was prohibitive, we denied the request. However, in Docket No. 930035-TL (Lake Ashby), we determined that an additive was appropriate to recover some of the cost, and the subscribers were balloted with an additive.

It should be noted that boundary changes require the customer, in most cases, to experience not only a change in their existing calling scope but also in their telephone number. Boundary changes can adversely impact customers involved in the change, since they lose something when the exchange boundary is changed.

After careful review of the existing boundaries, growth of the areas, and the geographic location of this area, we find that the current exchange boundary is inadequate. Although it may have been reasonable for United to serve North Golden Gate and Corkscrew from the Immokalee exchange at one time, we note that they are divided from the remainder of the Immokalee exchange by the Corkscrew swamp. It is, therefore, highly unlikely that they will ever be contiguous to Immokalee. The maps we examined show that growth in the Naples exchange is trending northward and will eventually encompass the North Golden Gate and Corkscrew areas. Accordingly, it seems reasonable that the North Golden Gate and Corkscrew areas should be included in the Naples exchange.

Recovery of Costs of Boundary Change

As noted above, the current estimate of the costs to change the boundary is \$111,900, or \$402.52 per customer. We do not believe that a LEC's election of price regulation eliminates our ability to require it to absorb some of the costs associated with a specific project; however, in this case, only a small group will benefit from the boundary change. Accordingly, we believe that both United and the petitioners should each bear approximately fifty percent of the cost. Moreover, United shall collect the customers' contribution over a ten-year period. This will result in an additive of \$1.68 per line per month for a ten-year period. Any new subscribers served in this portion of the exchange during the ten years after the boundary change is implemented should also pay the monthly additive for the remainder of the ten-year period.

Increase Due to Calling Scope

In addition to the additive, these subscribers should pay a higher rate for local service, since they would be located in the Naples exchange. The Naples exchange has a higher rate because those in the exchange have a greater calling scope than those in the Immokalee exchange. Such an increase in rates due to calling scope is not only permissible, but mandatory, since to do otherwise would discriminate against the other subscribers in the Naples exchange.

Balloting

Under our EAS rules, when the subscribers are balloted to determine whether they are in favor of EAS, at least 40 percent of ballots mailed must be returned, and of those returned, a majority must be in favor of the change. Boundary changes, however, are different than EAS. In this case, the subscribers will gain local calling to Marco Island, North Naples, and Bonita Springs, but lose \$.25 calling to Fort Myers. In addition, their local rates will increase and their telephone numbers will change. Accordingly, we do not believe that a 40 percent return and a simple majority thereof is appropriate for balloting for a boundary change. We believe that it is more appropriate to require at least 50 percent of those balloted to respond and, of these, 60 percent to approve of the boundary change.

It should be noted that the area in question has 278 access lines, but only 218 customer accounts. Even though each access line would pay the higher rate and an additive, balloting should be based on a per account basis. We believe that this is necessary to prevent multi-line customers from driving the outcome of the ballot. This approach is consistent with the balloting method used for EAS.

Based upon the foregoing, we find that the 218 customers located in the North Golden Gate and Corkscrew areas should be surveyed, at the amounts stated in the Table A, to determine if they favor moving from the Immokalee exchange into the Naples exchange. The survey should be conducted within 45 days from the date this Order becomes final. The ballot should identify the amount of the additive, how long the additive will be applicable, the changes in rates, the changes in telephone numbers, and the change in calling scope. The survey letter and ballot should be submitted to the staff of this Commission for review prior to distribution to customers. In order for the survey to pass, at

least 50 percent of those balloted must respond and, of those responding, at least 60 percent must favor the boundary change.

TABLE A

ACCOUNT TYPE	NAPLES RATES (a)	IMMOBILE RATES (b)	DIFFERENC E (a-b)	ADDITIVE	TOTAL INCREASE	NEW RATES
R-1	\$ 8.73	\$ 6.47	\$2.26	\$1.68	\$3.94	\$10.41
B-1	20.37	15.20	5.17	1.68	\$6.85	\$22.05

It is, therefore,

ORDERED by the Florida Public Service Commission that United Telephone Company of Florida shall ballot the 218 customers of North Golden Gate and Corkscrew, within forty-five (45) days of the date this Order becomes final, to determine whether they are in favor of the boundary change, at the rates, and with the additive set forth in the body of this Order. It is further

ORDERED that the ballot shall identify the amount of the additive, how long the additive will be applicable, the changes in rates, the changes in telephone numbers, and the change in calling scope. It is further

ORDERED that United Telephone Company of Florida shall submit its survey letter and ballot to the staff of this Commission for review prior to distribution to customers. It is further

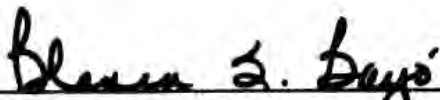
ORDERED that, in order for the survey to pass, at least 50 percent of those balloted must respond and, of those responding, at least 60 percent must favor the boundary change. It is further

ORDERED that, unless a person whose interests are substantially affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final. It is further

ORDERED that this docket shall remain open pending the results of the survey.

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DOCKET NO. 951099-TL
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By ORDER of the Florida Public Service Commission, this 19th
day of June, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RJP

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 July 10, 1996.

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.

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.