

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Lake Mary)
City Commission for extended)
area service from the Sanford)
and Geneva exchanges to the)
Orlando and Apopka exchanges.)

DOCKET NO. 910762-TL
ORDER NO. PSC-92-0101-PCO-TL
ISSUED: 3/25/92

ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038, Florida Administrative Code, all parties and Staff are hereby required to file with the Director of Records and Reporting a prehearing statement on or before April 24, 1992. Each prehearing statement shall set forth the following:

- (a) all known witnesses that may be called and the subject matter of their testimony;
- (b) all known exhibits, their contents, and whether they may be identified on a composite basis and witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue;
- (f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;
- (g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness;
- (h) a statement of issues that have been stipulated to by the parties;
- (i) a statement of all pending motions or other matters the party seeks action upon; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

DOCUMENT NUMBER-DATE

02835 MAR 25 1992

FPSC-RECORDS/REPORTING

The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of April 24, 1992. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certifications.

Each party is required to prefile all exhibits and all direct testimony it intends to sponsor in written form. Prefiled testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, in question and answer format, with a sufficient left margin to allow for binding. An original and fifteen copies of each witness' prefiled testimony and each exhibit must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the due date. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties.

A final prehearing conference will be held on May 1, 1992, in Tallahassee. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

Any party who fails to attend the final prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in his or her prehearing statement.

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: he or she was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issues; due diligence was exercised to

obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, he or she shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify his or her position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in his or her post-hearing statement.

To facilitate the management of documents in this docket, parties and Commission Staff shall submit an exhibit list with their respective prehearing statements. Exhibits will be numbered at the hearing. Each exhibit submitted shall have the following in the upper right-hand corner (for identification prior to the hearing): the docket number, the witness's name, the word "Exhibit" followed by a blank line for the Exhibit Number, the title of the exhibit, and a prehearing identification number consisting of the initials of the witness and a number.

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An example of the typical exhibit identification format is as follows:

Docket No. 870675-TL
J. Doe Exhibit No. _____
Cost Studies for Minutes Of Use by Time of Day
(JXD-1)

The following dates have been established to govern the key activities of this proceeding in order to maintain an orderly procedure:

1. April 10, 1992 - Direct Testimony to be filed
2. April 24, 1992 - Rebuttal Testimony to be filed
3. April 24, 1992 - Prehearing Statements to be filed
4. May 1, 1992 - Prehearing Conference
5. May 5, 1992 - All discovery completed
6. May 12, 1992 - Hearing to be held.

The hearing in this docket is presently set for May 12, 1992. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by May 5, 1992. In addition, to facilitate their identification, all interrogatories, requests for admissions, and requests for production of documents shall be numbered consecutively. Each set of discovery requests shall be numbered sequentially from any previous set(s). Unless authorized by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 150, and requests for production of documents, including all subparts, shall be limited to 75.

Parties are directed to file copies of all prehearing statements, post-hearing statements of positions on issues or briefs, and proposed findings of fact and conclusions of law on diskette in word processing format. Specific details regarding the appropriate word processing software shall be obtained from the Director of the Division of Records and Reporting. Exceptions to this requirement may be granted by the Prehearing Officer for good cause shown.

Attached to this order as Appendix "A" is a tentative list of the issues which will be addressed in this proceeding. Prefiled testimony and prehearing statements shall be addressed to the issues set forth in Appendix "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 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.


In the event it becomes necessary to handle confidential information during the hearing, the following procedures will be observed:

- 1) 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.
- 2) 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.
- 3) Failure of any party to comply with 2) above shall be grounds to deny the party the opportunity to

present evidence which is proprietary confidential business information.

- 4) 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.
- 5) 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.
- 6) 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.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 25th day of MARCH, 1992.


J. TERRY DEASON, 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.

APPENDIX "A"

LIST OF ISSUES

1. Is there a sufficient community of interest on the Sanford/Orlando, Sanford/Apopka, Geneva/Orlando, or Geneva/Apopka toll routes to justify implementing EAS as currently defined in the Commission rules, or implementing some alternative toll proposal?
2. What other community of interest factors should be considered in determining if either an optional or nonoptional toll alternative should be implemented?
3. What plans, including the plans listed below, should be considered, and what is the economic impact of each plan on the customer and the company (summarize in chart form and discuss in detail)? Should the same plan be implemented in both directions; be optional or nonoptional; be one-way or two-way?
 - A. EAS (on qualifying routes at full cost recovery, no leapfrogging)
 - B. \$.25 plan
 - C. 25/25 plan with regrouping
 - D. Flat rate EAS with regrouping only
 - E. MarketReach
 - F. Other (specify)
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?
5. What are the specific cost items that should be considered in determining the proper cost of the implementation of EAS? What are the costs of implementation for each route for flat

- rate, nonoptional, two-way, traditional EAS? Should the plan the Commission implements permit full recovery of costs and lost revenues, including incremental costs?
6. What revenue sources are available and appropriate to use to offset the costs of EAS implementation?
 7. What are the appropriate rates and charges for the plan to be implemented on these routes?
 8. Should the customers be surveyed and if so, how should the survey be conducted? If surveyed customers fail to accept the plan presented to them, what alternatives, if any, should be considered?
 9. What action should be taken regarding the experimental Lake Mary MarketReach plan and the Sanford/Orlando and Geneva/Orlando EOEAS plans?