

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by City) DOCKET NO. 950699-TL
Commission of Haines City) ORDER NO. PSC-96-0620-POP-TL
requesting extended area service) ISSUED: May 8, 1996
(EAS) from Haines City exchange)
to all exchanges within Polk)
County,)

ORIGINAL
FILE COPY

PETITION FOR A FORMAL PROCEEDING

The City of Haines City, Florida, the party initiating this docket, and having standing in that its substantial interests will be effected by the proposed commission action, institutes proceedings for a Section 120.57 F.S. hearing and for such says:

- a. The name and address of the petitioner is the City of Haines City, Post Office Box 1507, Haines City, Florida, 33845. The petitioners substantial interests will be affected by the Commission determination in the following respects:

- (1) A substantial number of the City's residents and businesses are substantially affected by the proposed rule in that they are subscribers to telephone service provided by GTEFL and AT&T in Haines City and surrounding areas of Polk County, Florida, serviced by the Haines City exchange. The County Seat is located in Bartow, Florida and the residents of the Haines City area are denied toll free access to the many governmental services provided by Polk County and located in the County

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Seat. Many Federal and State offices providing services to the residents and businesses in the Haines City exchange are located in Lakeland, Florida and are rendered unavailable without payment of a long distance toll. With the increasing use of message machines, "voice mail" and computer answering devices the waiting periods and the call backs are resulting in increased and burdensome charges to the many retired and low to moderate income residents of the area. This results in isolation of the northeast area of Polk County and unfairly prejudices the residents and businesses in obtaining needed governmental services on a County, State and Federal level. Those citizens most needing governmental services are the ones that are least able to afford them because of the uncertainty of the time and expense involved in obtaining information and assistance by telephone.

- (2) The City of Haines City has sustained actual injury-in-fact at the time of filing its petition, in that the growth and development of the northeast Polk County area has been substantially retarded from a socioeconomic standpoint, resulting in a lack of growth, jobs, diminished tax base, and

economic opportunity enjoyed by the rest of Polk County.

- (3) The petitioner and area residents are immediately in danger of sustaining some direct and continuing injury as a result of the proposed Commission action in that the City of Haines City must wait three years after a petition has been denied before another can be made. During that three year period the residents and businesses located in the Haines City exchange will continue to suffer from the economic and psychological isolation created by the fact that the rest of the county can foster and develop an increased "community of interest" but Haines City is handicapped in meeting that pace.
- (4) The subject matter of the proposed order is within the City's general scope of interest and activity. The city supports many varied activities designed to improve and restore economic growth and vitality to the area, including designation as a "Main Street City", CRA District and financially supports the Chamber of Commerce and other non-profit organizations, all of which would benefit from expanding the local calling scope of the Haines City telephone exchange to include Lakeland, Bartow and other communities in Polk County.

(5) The relief requested is of the type appropriate for a municipality to request and receive on behalf of its residents and its business community and constitute a substantial interest in the outcome of this request for ECS.

b. A statement of all known disputed issues of material fact is made difficult because the telephone traffic information is not public. The Petitioner has not had an opportunity to question or review the "data" that has been provided by GTEFL pursuant to Commission Order No. PSC-95-1429-PCO-TL issued November 17, 1995. However, Petitioner deems it significant that the data collected pursuant to this Order did not include traffic studies on the interLATA routes, because GTEFL no longer performs billing services for AT&T.

The proposed order contains the statement that "since the traffic data on the intraLATA routes did not indicate a community of interest, we do not BELIEVE that additional interLATA traffic information would change this result." (Emphasis added) Petitioner disputes that material fact, and further states that the original request was for extended calling service (ECS) not extended area service (EAS) as addressed in the style of the docket, the title of the proposed order, as mistated in Section I BACKGROUND in the proposed order and the factual error is repeated throughout the Proposed Order.

The proposed order is based on the previous version of Chapter 364 and Rule 25-4-060(3) Florida Administrative Code which requires a calling rate of at least three (3) messages per access line per month (M/A/M). The rule further requires that at least fifty percent (50%) of the subscribers in the petitioning exchange make two or more calls per month to the larger exchange to qualify for traditional EAS. However with only partial data available, because the interLATA traffic information was not obtained or counted, there is a material factual issue unresolved and therefore in dispute.

Again, it should be noted that only ECS and not EAS was requested. Historically, the Commission has relaxed the requirements on ECS from the strict M/A/M or distribution requirements applied to EAS requests based on Rule 24-4.060(3), Florida Administrative Code. The commission has also approved alternative toll plans when the LEC's have proposed ECS. Although Resolution No. 627, requesting extended calling service was adopted and submitted by the City of Haines City, it resulted from joint meetings and cooperative effort between GTEFL and the City. If the Commission's proposed action was based on the assumption that GTEFL did not support the requested ECS, then Petitioner would dispute that issue as material since approval of ECS has historically been

- granted when LEC's proposed extended calling service, and GETFL supports this request for ECS.
- c. This petition is filed in response to notice of proposed agency action which was received May 10, 1996 by facsimile copy sent to petitioner by the Public Service Commission in the form of a Preliminary order dated May 8, 1996.
- d. The ultimate facts alleged by Petitioner are that it is entitled to a Section 120.57 hearing as a person with standing and entitled to participate in this proceeding as provided by Rule 25-22.029, Florida Administrative Code and Florida Statute Section 120.57 or 120.68, because its substantial interests will be affected by the Proposed Commission Action. Fla.Admin.Code Rule 28-5.111.

The request for extended calling services (ECS) should be granted to foster and expand the community of interest that exists between the residents and businesses of the Haines City exchange and the other communities in Polk County. Rule 25-4.060(3)

The Commission should hold a public hearing pursuant to Section 120.57(2) in the Haines City exchange area to receive public input to supplement the incomplete and inaccurate data obtained from GETFL which did not include data on interATLA traffic from AT&T or other long distance providers. Rule 25-22.036(9)(b)2.

- e. Petitioner therefore demands that the Commissioners grant the petition and hold a Section 120.57(2) hearing within the Haines City exchange service area to take additional testimony and supplement the data regarding the calling volumes to meet the M/A/M or distribution requirements to implement an alternative toll plan such as ECS, and to allow the LEC an opportunity to make its position on ECS a matter of record.
- f. Other information which the petitioner contends is material is the chilling effect that the present local calling scope of the Haines City exchange has on the community of interest between the Northeast Polk County area and the rest of Polk County. It is inherently unfair and an abuse of discretion to deny the residents and businesses equal opportunity to obtain the services and benefits provided by the County, State and Federal governmental agencies without a telephone surcharge. While extended calling service will not completely level the playing field, ECG rates of residential calls at \$.25 per call regardless of duration, and business calls at \$.10 for the first minute and \$.06 for each additional minute will provide much needed relief to the low and moderate income residents while not increasing the cost to all other users as would extended area service (EAS). It is also material to this request by a municipality

that the Legislature of the State of Florida has by Section 364.01(2) Florida Statutes given exclusive jurisdiction in all matters set forth in Chapter 364 to the Florida Public Service Commission removing and superseding any local authority. It is important to note that in conjunction with superseding municipal powers the legislature stated its legislative intent in Section 364.01(4)(a) and (c) that the commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety and welfare by insuring that basic local telecommunication services are available to all consumers in the state at reasonable, affordable prices and

(c) Protect the public health, safety and welfare by insuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.

The Legislature reiterated its legislative intent regarding exercise of exclusive jurisdiction in sub paragraph (h) of the above section by stating, "...if doing so does not reduce the availability of adequate basic local telecommunications to all citizens of the State at reasonable and affordable prices...". A further demonstration of the Legislature's charge to the Commission is found in Section 364.025(1) defining the term "universal service" requiring "just reasonable, and affordable rates to customers, including those in rural, economically disadvantaged,

and high cost areas". Petitioner respectfully submits that its request for extended calling service (ECS) conforms with the intent of the Legislature and would provide an affordable and practical solution to the needs of the residents and businesses in the Haines City telephone exchange.

I HEREBY CERTIFY that a copy of the preceding Petition For A Formal Proceeding has been furnished to: The Florida Public Service Commission, Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, this 25th day of May, 1996.

CITY OF HAINES CITY

BY:



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