

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

July 2, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (SHELPER) *SH*
DIVISION OF LEGAL SERVICES (CANZANO) *2 NCB*

RE: DOCKET NO. 960613-TL - RESOLUTION BY THE CITY OF ORANGE
CITY FOR EXTENDED AREA SERVICE (EAS) BETWEEN THE ORANGE
CITY AND ORLANDO EXCHANGES.

AGENDA: JULY 16, 1996 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960613TL.RCM

CASE BACKGROUND

- On February 5, 1996, the City of Orange City filed Resolution No. 96-01-03 requesting extended calling service (ECS) between the Orange City and Orlando exchanges. The Orange City exchange is provided service by United, and the Orlando exchange is served by BellSouth. Both exchanges are located in the Orlando LATA. Attachment A is a map of the exchanges involved.
- By a request from the City of Orange City, this docket was deferred from the June 11, 1996 agenda conference.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the request by the City of Orange City for ECS between Orange City and Orlando?

RECOMMENDATION: No. Any requests for EAS or ECS filed after July 1, 1995, that are implemented become part of non-basic service. Since EAS or ECS requested after July 1, 1995, would become a non-basic service, the Commission is without jurisdiction to require the price-regulated LECs to implement EAS or ECS. Thus, whether to implement an EAS or ECS request is a decision for the price-regulated LEC rather than for the Commission.

STAFF ANALYSIS: The resolution in this recommendation was filed after July 1, 1995. Section 364.02(2), Florida Statutes, states that basic local telecommunications service for a local exchange telecommunications company includes any extended area service (EAS) routes, and extended calling service in existence or ordered by the Commission on or before July 1, 1995. The savings clause in Section 364.385(2), F.S., sets forth the situations in which the old law rather than the new law is applied. Specifically, it provides that all applications for EAS or ECS pending before the Commission on March 1, 1995, shall be governed by the law as it existed prior to July 1, 1995, and that upon approval, the EAS or ECS routes shall be considered basic services.

Resolutions and petitions requesting EAS or ECS filed after July 1, 1995, are problematic in light of the revisions to Chapter 364, Florida Statutes. Section 364.385(2), F.S., provides that:

Proceedings including judicial review pending on July 1, 1995, shall be governed by the law as it existed prior to the date on which this section becomes a law. No new proceedings governed by the law as it existed prior to July 1, 1995, shall be initiated after July 1, 1995. Any administrative adjudicatory proceeding which has not progressed to the stage of a hearing by July 1, 1995, may, with the consent of all parties and the commission, be conducted in accordance with the law as it existed prior to January 1, 1996.

Thus, based upon the revisions to Chapter 364, it is staff's position that for any docket originated after July 1, 1995, there can be no new PSC-ordered EAS or ECS based on the old law. If EAS or ECS can be implemented after that date, it must be under the

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terms of the new law. It is clear that requests for EAS or ECS filed after July 1, 1995, that are implemented, if any, become part of non-basic service. Staff believes that since EAS or ECS requested after July 1, 1995, would become a non-basic service, the Commission is without jurisdiction to require the price-regulated LECs to implement EAS or ECS. Accordingly, whether to implement an EAS or ECS request is a decision for the price-regulated LEC rather than for the Commission.

This recommendation is consistent with Commission action in Dockets Nos. 951097-TL (EAS between Fernandina Beach and Jacksonville), 951269-TL (EAS - Charlotte County), 960086-TL (EAS from Cherry Lake and Lee to Tallahassee), 960087-TL (EAS - Orange City to Winter Park and Orlando), 960612-TL (EAS from Punta Gorda to specific areas in Charlotte County), 960615-TL (EAS between Kingsley Lake and Middleburg and Orange Park; and EAS between Keystone Heights and Middleburg and Orange Park), and 960632-TL (EAS between Lady Lake and adjacent areas of Marion County).

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if no person whose substantial interests are affected files a protest within 21 days of the issuance date of the order from this recommendation, the order shall become final.

STAFF ANALYSIS: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the order from this recommendation, the order shall become final.

SEMINOLE

