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June 17, 1998

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RECORDS AND REPORTING

HAND DELIVERED

Blanca S. Bayo, Director
Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket Nos. 870248-TL, 870790-TL, 900039-TL, 910022-TL,
910528-TL, 910529-TL, 911185-TL, 921193-TL, & 930173-TL

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of the Florida Competitive Carriers Association's Post-Hearing Brief in the above dockets.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

- ACK _____
- AFA _____
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06418 JUN 17 98

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by Holmes County Board of County Commissioners for Extended Area Service in Holmes County.

Docket No. 870248-TL

In Re: Request by Gilchrist County Commissioners for Extended Area Service Throughout Gilchrist County.

Docket No. 870790-TL

In Re: Resolution by the Orange County Board of County Commissioners for Extended Area Service Between the Mount Dora Exchange and the Apopka, Orlando, Winter Garden, Winter Park, East Orange, Reedy Creek, Windermere, and Lake Buena Vista Exchanges.

Docket No. 900039-TL

In Re: Resolution by Bradford County Commission Requesting Extended Area Service Within Bradford County and Between Bradford County, Union County and Gainesville.

Docket No. 910022-TL

In Re: Request by Putnam County Board of County Commissioners for Extended Service Between the Crescent City, Hawthorne, Orange Springs, and Melrose Exchanges, and the Palatka Exchange.

Docket No. 910528-TL

In Re: Request by Pasco County Board of County Commissioners for Extended Service Between All Pasco County Exchanges.

Docket No. 910529-TL

In Re: Request for Extended Area Service Between All Exchanges Within Volusia County by Volusia County Council.

Docket No. 911185-TL

DOCUMENT NUMBER-DATE

06418 JUN 17 2008

FPSC-RECORDS/REPORTING

In Re: Resolution by the Palm Beach
County Board of County Commissioners
for Extended Area Service Between All
Exchanges in Palm Beach County.

) Docket No. 921193-TL
)
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In Re: Petition by the Residents of
Polo Park Requesting Extended Area
Service (EAS) Between the Haines City
Exchange and the Orlando, West
Kissimmee, Lake Buena Vista, Windermere,
Reedy Creek, Winter Park, Clermont,
Winter Garden and St. Cloud Exchanges.

) Docket No. 930173-TL
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) Filed: June 17, 1998
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**POST-HEARING BRIEF OF
THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION**

Pursuant to rule 25-22.056, Florida Administrative Code, the Florida Competitive Carriers Association (FCCA) files its Post-Hearing Statement of Issues and Positions and its Post-Hearing Brief.¹

INTRODUCTORY STATEMENT

As a matter of policy, the FCCA believes that it is not appropriate to implement any more Extended Area Service (EAS) or Extended Calling Service (ECS) routes. In a competitive marketplace, such plans distort the ability of carriers other than incumbents to compete on the routes. Therefore, they do not foster competition--the overriding goal of both Florida and federal telecommunications legislation. However, recognizing the procedural posture of the dockets at issue here, FCCA will brief the matters at issue.

¹ The following abbreviations are used in this brief. The Florida Public Service Commission is referred to as the Commission. BellSouth Telecommunications, Inc. is referred to as BellSouth.

BACKGROUND

Most of the dockets which the Commission will consider in this case are quite old. They arose prior to the 1995 revision to Chapter 364, Florida Statutes and prior to the passage of the federal Telecommunications Act of 1996 (Act). The various dockets are in different procedural stages and involve pending requests for interLATA EAS. All involve BellSouth routes.

After the passage of the Act, the Commission suspended activity in these dockets to consider the impact of the Act on the cases. After briefing on the issues, the parties agreed, and the Commission determined, that due to the passage of the Act, BellSouth is currently prohibited from originating traffic on these interLATA routes. The Commission then directed the parties to consider whether one-way ECS is feasible on any of the routes in question. Order No. PSC-97-0620-FOF-TL.

At the Prehearing Conference held on May 15, 1998, the parties agreed that the issues in these cases would be decided on the briefs.

ARGUMENT

ISSUE 1

IS ONE-WAY ECS APPROPRIATE ON THE ROUTES IN QUESTION?

FCCA: *No. In a competitive market, it is not the Commission's role to require carriers to provide particular services. The Commission should refrain from requiring any more ECS discounts. •

Both the federal Act and the 1995 revisions to Chapter 364 envision a fundamental shift in the telecommunications market. Rather than a market in which

regulation is a surrogate for competition, in the post-Act world market forces will bring competition to bear. In this competitive market, it is not the Commission's role to require carriers to provide particular services. Rather, the decision as to what services to provide is one that carriers themselves will make based on the types of services and the packages of services which the market demands.

The Commission should refrain from ordering any more ECS routes because such plans stifle competition, in contravention of the legislative intent of both the state and federal telecommunications law. The marketplace should determine the services and rates which carriers provide to consumers.

ISSUE 2

IF ONE-WAY ECS IS APPROPRIATE, WHAT RATE, IF ANY SHOULD BELLSOUTH CHARGE TO TERMINATE ECS INTERLATA TRAFFIC FOR ALL CARRIERS?

FCCA: *If the Commission requires one-way ECS, BellSouth must charge all carriers the same amount to terminate the ECS calls. The Commission should require BellSouth to charge the local interconnection rate for the termination of such calls. •

There is no dispute among the parties regarding the fact that BellSouth cannot discriminate as to the rates it charges all carriers; it must charge all carriers the same charge to terminate these calls. What is in dispute, however, is what the amount of the charge should be. For the following reasons, it is FCCA's position that the charge should be the local interconnection charge.

First, in *Florida Interexchange Carriers Association v. Beard*, 624 So.2d 248 (Fla. 1993), the Court, in regard to FIXCA's (FCCA's predecessor organization)

challenge to certain GTE ECS routes, found that the ECS routes at issue were *local* routes.² The Commission has recognized in various orders that the calls on these type of routes are local. See, *i.e.*, Order Nos. PSC-93-0997-FOF-TL, PSC-92-1350-FOF-TL. The ECS routes at issue here should be viewed as local routes for purposes of determining the termination charge BellSouth may levy on its competitors.³

Second, what is actually important in order to foster competition is to have appropriate carrier-to-carrier rates. If that were the case on these routes (for example, through the use of local interconnection rates rather than greatly inflated access rates), it would be possible to have greater competition on the routes at issue and foster the Florida Legislature's and Congress' goal of open and competitive telecommunications markets. The Commission should take this opportunity to take a step in that direction via the routes at issue in this case.

ISSUE 3

IF ONE-WAY ECS IS ORDERED ON THE ROUTES IN QUESTION AND A TERMINATION CHARGE IS DEEMED APPROPRIATE, WHAT ECONOMIC IMPACT WILL THIS HAVE ON THE ORIGINATING LECS?

FCCA: *No position.*

² It should be noted that at least some interconnection agreements designate EAS routes as local routes; ECS is simply a variation on the EAS plan.

³ As a practical matter, FCCA believes that distinctions between toll and local routes will become less and less important as markets become more competitive; what is important is that the Commission ensure that carrier-to-carrier charges are cost based so that no carrier has an undue advantage in the market.

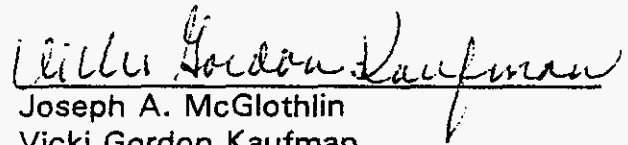
ISSUE 4

IF ONE-WAY ECS IS APPROPRIATE, WHAT RATE STRUCTURE AND RATE LEVELS SHOULD THE LECS CHARGE?

FCCA: *See Issue No. 2.*

CONCLUSION

The Commission should not order any more ECS plans. However, if it does require ECS on the routes at issue in these dockets, it should require BellSouth to charge the local interconnection rate to all carriers to terminate the ECS calls.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the FCCA's Post-Hearing Brief has been furnished by (*) hand delivery or U.S. Mail to the following parties of record this 17th day of June, 1998:

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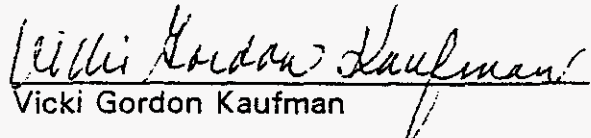
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