

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution by the Orange County) DOCKET NO. 900039-TL
Board of County Commissioners for extended))
area service between the Mount Dora) ORDER NO. 23635
exchange and the Apopka, Orlando, Winter))
Garden, Winter Park, East Orange, Reedy) ISSUED: 10-18-90
Creek, Windermere, and Lake Buena Vista))
exchanges))
_____))

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING SURVEY OF CUSTOMERS
FOR AN EXCHANGE TRANSFER

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

This docket was initiated pursuant to Resolution No. 89-M-118 filed with this Commission by the Orange County Board of County Commissioners, requesting that we consider requiring implementation of extended area service (EAS) between the Mount Dora exchange and all exchanges in Orange County. By Order No. 22567, issued February 16, 1990, we directed Southern Bell Telephone and Telegraph Company (Southern Bell), United Telephone Company of Florida (United), and Vista-United Telecommunications (Vista-United) to perform traffic studies between these exchanges to determine whether a sufficient community of interest existed, pursuant to Rule 25-4.060, Florida Administrative Code. In particular, the companies were directed to submit studies of the traffic between the Mount Dora exchange (with separate studies for the Orange County pocket area of the Mount Dora exchange) and the Apopka, East Orange, Lake Buena Vista, Orlando, Reedy Creek, Windermere, Winter Garden, and Winter Park exchanges. All of these exchanges are served by United, except the Orlando and East Orange

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ORDER NO. 23635
DOCKET NO. 900039-TL
PAGE 2

exchanges, which are served by Southern Bell, and the Lake Buena Vista exchange, which is served by Vista-United. In addition to involving intercompany routes, this request also involves interLATA (local access transport area) routes. The Mount Dora exchange is located in the Gainesville LATA, while the remaining exchanges are located in the Orlando LATA. The companies were to prepare and submit these studies to us within sixty (60) days of the issuance of Order No. 22567, making the studies due by April 17, 1990.

On April 4, 1990, Southern Bell filed a Motion for Extension of Time, requesting an extension through and including May 17, 1990, in which to prepare and to submit the required traffic studies. As grounds for its request, Southern Bell cited the complexities inherent in the preparation of traffic studies for EAS pocket areas, including the need to compile and tabulate the data manually. By Order No. 22807, issued April 12, 1990, we granted Southern Bell the requested extension of time through May 17, 1990.

Subsequently, all three companies filed the required traffic studies in response to Order No. 22567. On May 17, 1990, Southern Bell filed a request for confidential treatment of certain portions of its traffic study data. Southern Bell requested specified confidential treatment of only that data which represented a quantification of traffic along interLATA routes. By Order No. 22983, issued May 25, 1990, we granted Southern Bell's request. Similar requests for specified confidential treatment were filed by United on July 16, 1990, and by Vista-United on August 2, 1990. By Order No. 23303, issued August 3, 1990, and Order No. 23351, issued August 13, 1990, we granted each of these requests.

Each of the involved exchanges currently has EAS as follows:

<u>EXCHANGE</u>	<u>ACCESS LINES</u>	<u>EAS CALLING SCOPE</u>
Mt. Dora	9,663	Astor, Clermont, Eustis, Groveland, Howey-in-the-Hills, Lady Lake, Leesburg, Monteverde, Tavares, Umatilla

Apopka	20,608	East Orange, Lake Buena Vista, Monteverde, Orlando, Reedy Creek, Windermere, Winter Garden, Winter Park
East Orange	3,770	Apopka, Lake Buena Vista, Monteverde, Orlando, Oviedo, Reedy Creek, Windermere, Winter Garden, Winter Park
Lake Buena Vista	5,373	Apopka, East Orange, Monteverde, Orlando, Reedy Creek, Windermere, Winter Garden, Winter Park
Orlando	261,415	Apopka, East Orange, Lake Buena Vista, Monteverde, Oviedo, Reedy Creek, Windermere, Winter Garden, Winter Park, (West Kissimmee - optional)
Reedy Creek	5,147	Apopka, East Orange, Lake Buena Vista, Monteverde, Orlando, Windermere, West Kissimmee, Winter Garden, Winter Park
Windermere	4,131	Apopka, East Orange, Lake Buena Vista, Monteverde, Orlando, Reedy Creek, Winter Garden, Winter Park
Winter Garden	13,016	Apopka, East Orange, Lake Buena Vista, Monteverde, Orlando, Reedy Creek, Windermere, Winter Park
Winter Park	159,634	Apopka, East Orange, Geneva, Lake Buena Vista, Monteverde, Orlando, Oviedo, Reedy Creek, Sanford, Windermere, Winter Garden

The demographics of the areas involved in this EAS request are described below.

Demographics

The majority of the Mt. Dora exchange is in Lake County; however, approximately 10% of the 80.4 square miles which comprise the Mt. Dora exchange lies within Orange County. The City of Mt. Dora, which is located on the north side of Lake Dora and is bound by U.S. 441 on its north and east sides, consists mostly of retirees, and service jobs are most prevalent. Retirees, winter visitors, and agriculture are the mainstays of the economy for the Mt. Dora exchange. Local businesses consist primarily of small retail stores and professional services catering to temporary and permanent residents. The large number of antique shops has earned Mt. Dora the name "Antique Center of Central Florida."

Much of the area's growth is expected to occur along State Road 46 from Interstate 4 to Mt. Dora. More than 5,000 vehicles travel this road daily. Migration is expected from Orlando to Lake County as Orlando residents try to escape increasingly congested development. Residents in the Wekiva area of the Mt. Dora Exchange are expected to do most of their shopping in Sanford and/or Winter Park.

For the Lake County portion of the Mt. Dora Exchange, the community of interest is Lake County. For the Orange County portion of the Mt. Dora Exchange, the community of interest is Apopka. Any county business for that portion of the Mt. Dora exchange within Orange County would have to be conducted in Apopka, including school attendance.

Current basic local service rates for the exchanges involved in this EAS request are shown below.

Mt. Dora (United)

R-1	\$ 7.67
B-1	17.95
PBX	36.37

Winter Park (United)

R-1	\$ 7.67
B-1	20.58
PBX	44.62

Apopka, Reedy Creek, Windermere,
and Winter Garden (United)

R-1	\$ 9.97
B-1	23.22
PBX	46.92

Lake Buena Vista (Vista-United)

R-1	\$ 7.20
B-1	17.65
PBX	29.25

East Orange and Orlando (Southern Bell)

R-1	\$10.30
B-1	28.00
PBX	62.81

DISCUSSION

All of the routes under consideration in this docket are interLATA routes. The actual results of the traffic studies were granted confidential treatment by Orders Nos. 22983, 23303, and 23351. We can report, however, that none of the routes under consideration met the threshold of Rule 25-4.060(2)(a), which requires three (3) or more messages per main or equivalent main station per month (M/M/M), with at least fifty percent (50%) of the exchange subscribers making two (2) or more calls per month, to qualify for nonoptional EAS. Further, taken as a whole, the Mt. Dora exchange exhibits calling rates to the Orlando and Apopka exchanges which would qualify only for an optional EAS plan under our rules, if optional plans were feasible for interLATA routes. However, in at least five separate EAS dockets which have previously come before us, we have noted that interLATA optional EAS plans are not feasible because of technical constraints. In particular, most optional plans retain 1+ calling, offering some type of discount from the usual rates. In equal access areas, 1+ calling on an interLATA basis on the affected routes could not be captured by the LEC. Rather, such calls would continue to be routed to the various presubscribed interexchange carriers (IXCs). The Mt. Dora exchange is scheduled for equal access in 1993.

ORDER NO. 23635
DOCKET NO. 900039-TL
PAGE 6

Although the M/M/Ms were significant for the Mt. Dora to Orlando and the Mt. Dora to Apopka routes, the percentage of customers making two or more calls was below the threshold required for a survey for nonoptional EAS. It is our belief that a survey of the entire Mt. Dora exchange for nonoptional EAS would fail because of the low percentage of customers making calls (considering that a majority of customers must vote in the affirmative for a survey to pass.)

Having found that neither an optional plan nor a nonoptional plan is possible for the entire Mt. Dora exchange, we next considered the Orange County pocket of the Mt. Dora exchange separately. Initially, we note that the original EAS request was submitted by the Orange County Board of County Commissioners and that the Lake County customers of the Mt. Dora exchange have not requested EAS. The calling rates for the Orange County pocket area do meet our stated criteria for a survey for nonoptional EAS. However, it has generally been our policy that EAS should not be granted to pocket areas. Among our reasons for this policy are the scarcity of NXXs and issues of fairness. If EAS is thus excluded as a solution for the Orange County pocket area, the only means of addressing the concerns of those customers for calling to the requested exchanges is a transfer of the pocket area customers from the Mt. Dora exchange to the Apopka exchange.

A transfer of the Orange County pocket area of the Mt. Dora exchange would affect these customers in several ways. First and foremost, reclassification into the Apopka exchange would give these customers exactly the same calling scope of all other customers in the Apopka exchange (primarily Orange County), no more and no less. The affected customers would lose the calling scope they presently enjoy in the Mt. Dora exchange (primarily Lake County). In addition, the rates for these customers would increase somewhat (from a basic residential rate of \$7.67 per month to \$9.97 per month - as well as an increase in applicable zone charges for some customers). The increase in the basic rate would occur because subscribers in the Mt. Dora exchange presently pay less than customers of the Apopka exchange (because of the difference in the size of their respective calling scopes). The customer's area code would change from (904) to (407) and each telephone number would be assigned an Apopka NXX code. As United is presently involved in a rate case, these increases might be compounded if local rate increases are granted in the rate case.

ORDER NO. 23635
DOCKET NO. 900039-TL
PAGE 7

Upon consideration, we hereby propose requiring United to survey its customers in the Orange County pocket area of the Mt. Dora exchange for a transfer to the Apopka exchange. We see this as the best possible way, given current technology, to provide toll relief to these customers. The rates at which the customers shall be surveyed are those of the new exchange, Apopka, plus applicable zone charges, as follows:

<u>CUSTOMER CLASS</u>	<u>CURRENT RATE *</u>	<u>NEW RATE *</u>
R-1	\$ 7.67	\$ 9.97
B-1	17.95	23.22
PBX	36.37	46.92

*plus applicable zone charges:

Zone A - \$1 Zone B - \$2 Zone C - \$3 Zone D - \$5

A boundary change, as herein ordered, differs from a typical EAS implementation in that EAS involves the addition of local calling scope, while a boundary change may involve a change of calling scope. That is, while EAS extends the number of access lines a subscriber may call without any reduction in calling scope, a subscriber faced with a boundary change may have a new calling scope (and would, in this case). The boundary change subscriber may gain the ability to call some exchanges toll-free, while losing the ability to call other exchanges toll-free. EAS subscribers are generally charged some type of additive for their increased calling scope. Boundary change subscribers, on the other hand, should pay the same rates as those subscribers in the exchange to which they are transferred; they should not face any additive charges because they are faced with the loss of a portion of their previous calling scope.

The subscribers in the Orange County pocket area of the Mt. Dora exchange shall be surveyed by United within thirty (30) days of the issuance of the consummating order finalizing this proposed agency action. Prior to conducting the survey, United shall submit its explanatory survey letter and ballot to our staff for approval. If the survey passes by a simple majority of the customers surveyed, United shall implement the transfer within twelve (12) months of the date of survey approval.

ORDER NO. 23635
DOCKET NO. 900039-TL
PAGE 8

While our action herein is not strictly EAS and, therefore, not bound by our EAS rules, we still believe many of the same issues must be considered. Inasmuch as the traffic studies reflect a sufficient community of interest to warrant consideration of an alternative to toll rates for the pocket area, we believe that the issues of cost and cost recovery should be examined. However, since the alternative being proposed in this docket does not consider costs in setting rates, we do not believe it is appropriate to require United to conduct cost studies for this boundary change. We also do not believe it is appropriate to require cost recovery in the case of a boundary change, as additives of any sort would result in disparate basic local service rates within one exchange. Finally, we have been guided by our EAS rules in setting the voting requirement of a simple majority as sufficient for passage of the survey. While Rule 25-4.063(5)(a), Florida Administrative Code, requires a 51% majority for EAS survey approval, we have waived this rule in a number of recent EAS dockets, choosing to interpret the intent of the rule to mean a simple majority, rather than 51%, of those eligible to vote. We believe the same requirement is appropriate here.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Resolution No. 89-M-118 filed by the Orange County Board of County Commissioners is hereby approved to the extent outlined in the body of this Order. It is further

ORDERED that if no proper protest is filed within the time frames set forth below, United Telephone Company of Florida shall, within thirty (30) days of the issuance of the consummating order, survey the subscribers in the Orange County pocket area of the Mount Dora exchange for a transfer to the Apopka exchange that complies with the terms and conditions set forth herein. It is further

ORDERED that United Telephone Company of Florida shall submit its survey letter and ballot for our staff's approval prior to its distribution. It is further

ORDERED that certain rules as described herein have been considered and determined to be inapplicable to the proposal

ORDER NO. 23635
DOCKET NO. 900039-TL
PAGE 9

ordered for the reasons set forth in the body of this Order. It is further

ORDERED that if the survey passes, the plan described herein shall be implemented by United Telephone Company of Florida within twelve (12) months of the date of survey approval in this docket. It is further

ORDERED that the effective date of our action described herein is the first working day following the date specified below, if no proper protest to this Proposed Agency Action is filed within the time frames set forth below. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 18th
day of OCTOBER, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

by: Kay Flynn
Chief, Bureau of Records

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

ORDER NO. 23635
DOCKET NO. 900039-TL
PAGE 10

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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 8, 1990.

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, and as reflected in a subsequent order.

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 adversely 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 sewer 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.