

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| 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 Park, East Orange, Reedy Creek, Windermere, and Lake Buena Vista exchanges |) | DOCKET NO. 900039-TL |
| |) | ORDER NO. 24992 |
| |) | ISSUED: 8/29/91 |
| |) | |

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

ORDER DENYING IMPLEMENTATION OF EXCHANGE TRANSFER
AND
NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING IMPLEMENTATION OF ALTERNATIVE TOLL PLAN

BY THE COMMISSION:

I. 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 Mt. 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 Mt. Dora exchange (with separate studies for the Orange County pocket area of the Mt. 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 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 Mt. Dora exchange is

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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.

By Order No. 23635, issued October 18, 1990, we proposed requiring United to survey its customers in the Orange County pocket area of the Mt. Dora exchange for a transfer to the Apopka exchange, at rates set forth in the Order. No protest was filed to our proposed action, so Order No. 23635 became final on November 9, 1990, following expiration of the protest period.

II. SURVEY RESULTS

In accordance with the directive contained in Order NO. 23635, United proceeded to survey its customers in the Orange County pocket area of the Mt. Dora exchange. United mailed 744 ballots to all customers of record in the survey area. The results of the survey are as follows:

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| | <u>Number</u> | <u>Percent</u> |
|----------------------|---------------|----------------|
| Ballots Mailed | 744 | 100% |
| Ballots Returned | 531 | 71% |
| Ballots Not Returned | 213 | 29% |
| For Transfer | 192 | 26% |
| Against Transfer | 335 | 45% |
| Invalid Ballots | 4 | <1% |

In order for the survey to pass, we required a margin of fifty percent (50%) plus one (1) favorable vote (at least 373 votes) out of all subscribers surveyed. As the table above reveals, the survey has failed and, therefore, we shall not require United to implement the exchange transfer contemplated by Order No. 23635.

III. ALTERNATIVE TOLL PLAN

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.

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. As we reported in Order No. 23635, 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, Apopka, and Winter park exchange which would qualify only for an optional EAS plan under our rules, if optional plans were technically feasible for interLATA routes.

Since the time of the original decision in this docket, a new toll alternative plan has come into favor. In several recent dockets we have ordered an alternative to traditional EAS known as the \$.25 plan. This plan has gained favor for several reasons, including its simplicity, its message rate structure, and the fact that it can be implemented as a local calling plan on an interLATA basis. Optional EAS plans, particularly OEAS plans, are somewhat confusing to customers; the additives or buy-ins are generally

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rather high; and the take rates for most OEAS plans have been rather low. We have also expressed our concern that where Toll-Pac is implemented, a three minute message still has a substantial cost to the customer. For example, in the peak period, a three minute message from Mt. Dora to Orlando would only be reduced from \$.7050 to \$.4950. However, the most important reason we favor the \$.25 plan in this particular instance is that the \$.25 plan (which converts the traffic to local status, and is implemented on a seven digit basis) is feasible for interLATA routes, whereas most other usage sensitive alternatives to EAS are feasible only for intraLATA routes.

Upon consideration, we hereby propose requiring United and Southern Bell to implement the alternative toll plan known as the \$.25 plan on the following routes: between Mt. Dora and Apopka; between Mt. Dora and Orlando; and between Mt. Dora and Winter Park. Calls between these exchanges shall be rated at \$.25 per call, regardless of call duration. These calls shall be furnished on a seven digit basis and shall be reclassified as local for all purposes. These calls shall be handled by pay telephone providers in the same way and at the same price to end users as any other local call. Customers may make an unlimited number of calls at \$.25 per call. Affected customers shall be provided with appropriate directory listings.

In reaching the above decision, we considered United's comments regarding our proposal, particularly its concerns with our requiring seven digit dialing. Although exhaustion of NXX codes is a legitimate concern, we do not see this as relevant in this particular case, where 1+ dialing will not be utilized (our plan requires seven digit dialing, like all other local calls).

Proper assignment of NXXs has historically avoided the problem of the same NXX being used in two NPAs, yet both within the local calling area, or potentially within the local calling area, of one exchange. For example, NXXs which are assigned to the Orlando exchange in the 407 area code would not be assigned in the Lake County area (near Orlando, but in the 904 area code). Rather, NXXs used in Orlando should be assigned in Jacksonville or Pensacola (904 area code but more distant from Orlando). Since there is little likelihood of local calling between Orlando and Jacksonville, or Orlando and Pensacola, the use of the same NXX in both areas should not pose any switching or dialing problems. Although seven digit dialing across NPA boundaries may make future

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assignment of NXXs slightly more difficult, we do not find the additional difficulty to be very significant. In fact, seven digit local calling across NPA boundaries already exists in several areas of the state.

An additional consideration here is the calling scope of the Monteverde exchange. The Monteverde exchange has local calling to all exchanges which the Mt. Dora exchange can presently call. In addition, the Monteverde exchange has local calling to the Apopka, Orlando, and Winter Park exchanges, as well as several others in the 407 area. Because of this large calling scope (into two NPAs - 407 and 904), no NXXs can be assigned in both NPAs which would be a local call from Monteverde. Therefore, regardless of whether seven digit or ten digit dialing were ordered in this docket, the future assignment of NXXs would be unaffected. Accordingly, we find it appropriate that the \$.25 message rate plan be implemented on a seven digit basis.

We recognize that there is an economic impact to United and Southern Bell as a result of our proposed calling plan. Based upon the traffic study data provided in this docket, the estimated monthly revenue loss, without considering stimulation, is \$52,266 - \$58,414 for United and \$9,222 - \$9,880 for Southern Bell. It should be noted that these figures do not include any stimulation. Although stimulation levels can be difficult, even impossible to predict, if the number of calls on these routes were to little more than double, the projected revenue loss would be negated. Accordingly, we find it appropriate to waive Rule 25-4.062(4), Florida Administrative Code, which provides for full recovery of costs where the qualification for EAS is dependent upon calling levels and subscriber approval of the petitioning exchange, to the extent that this rule arguably applies in this scenario.

United and Southern Bell shall implement this calling plan within twelve (12) months of the date this Order becomes final. Southern Bell shall immediately begin seeking a waiver of the Modified Final Judgment to allow it to carry the traffic on the affected routes.

Finally, following implementation of the calling plan, United and Southern Bell shall file quarterly reports with our staff, broken down on a monthly basis. These reports shall include a detailed analysis of the distribution of calling usage among subscribers, over each route, segregated between business and

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residential users and combined, showing for each category the number of customers making zero (0) calls, one (1) call, et cetera, through twenty-five (25) calls, and in ten (10) call increments thereafter, to ninety-five (95) calls, and ninety-six (96) or more calls. These reports on usage shall be filed for a one year period following implementation. These usage reports shall also include a record of any customer contact, along with the reason for such contact, regarding the \$.25 calling plan.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the survey required by Order No. 23635 has failed and that United Telephone Company of Florida shall not be required to implement the exchange transfer contemplated by Order No. 23635. It is further

ORDERED that if no proper protest is filed within the time frame set forth below, United Telephone Company of Florida and Southern Bell Telephone and Telegraph Company shall, within twelve months of the date this Order becomes final, implement an alternative toll plan in accordance with the terms and conditions set forth in Section III of this Order. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall seek a waiver of the Modified Final Judgment in accordance with the requirement set forth in Section III of this Order. It is further

ORDERED that Rule 25-4.062(4), Florida Administrative Code, has been waived for the reasons discussed in the body of this Order. It is further

ORDERED that United Telephone Company of Florida and Southern Bell Telephone and Telegraph Company shall file certain reports as set forth herein. It is further

ORDERED that our actions described in Section III of this Order shall become final and this docket shall be closed following the expiration of the protest period specified below, if no proper protest to our proposed agency action is filed in accordance with the requirements set forth below.

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By ORDER of the Florida Public Service Commission, this 29th
day of AUGUST, 1991.


STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

As identified in the body of this Order, our action described in Section III of this Order 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 9/19/91. In the absence of such a petition, this Order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution by the Orange) DOCKET NO. 900039-TL
County Board of County) ORDER NO. 24992-A
Commissioners for extended area) ISSUED: 09/23/92
service between the Mount Dora)
exchange and the Apopka, Orlando,)
Winter Park, East Orange, Reedy)
Creek, Windermere, and Lake Buena)
Vista exchanges.)
_____)
_____)

AMENDATORY ORDER

BY THE COMMISSION:

By Order No. 24992, issued August 29, 1991, we proposed requiring Southern Bell Telephone and Telegraph Company (Southern Bell) and United Telephone Company of Florida (United) to implement an alternative toll relief plan on certain routes, under terms and conditions specified in the Order. No protest was filed to our proposal, so Order No. 24992 became final on September 20, 1991.

On September 14, 1992, Southern Bell filed a Petition for Entry of Amendatory Orders relative to this docket and two other dockets. According to Southern Bell, a reporting requirement was misstated in the Order. Having reviewed the staff recommendation, vote sheet, and resulting Order, it is evident that a reporting requirement was misstated in the Order. The last paragraph in the body of the Order, which appears at the bottom of Page 5 and continues through the top of Page 6 of the Order, is incorrect. That paragraph was inadvertently inserted into the Order due to a computer processing error and should be deleted in its entirety. In its place, the following paragraph should be inserted:

Finally, the companies shall file appropriate tracking reports with our staff following implementation of the \$.25 plan.

The substitute paragraph represents the correct reflection of our vote in this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. 24992 is hereby amended to the extent outlined in the body of this Order. It is further

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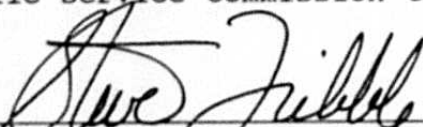
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ORDERED that Order No. 24992 is affirmed in all other respects.

By ORDER of the Florida Public Service Commission this 23rd day of September, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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 the relevant portion of 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this Order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 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 after the issuance 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.