

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request by Lake Mary) DOCKET NO. 910762-TL
City Commission for extended) ORDER NO. PSC-93-0305-FOF-TL
area service from the Sanford) ISSUED: 02/25/93
and Geneva exchanges to the)
Orlando and Apopka exchanges.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
LUIS J. LAUREDO

FINAL ORDER DENYING EXTENDED AREA
SERVICE AND REQUIRING IMPLEMENTATION
OF ALTERNATIVE TOLL RELIEF PLAN

BY THE COMMISSION:

BACKGROUND

This docket was initiated pursuant to Resolution No. 91-376 filed with this Commission by the City Commission of Lake Mary. The resolution requested that we consider requiring implementation of extended area service (EAS) from the Sanford and Geneva exchanges (Seminole County) to the Orlando and Apopka exchanges (Orange County). Resolution No. 91-212 by the Seminole Board of County Commissioners and Resolution No. 91-1605 by the City Commission of Sanford have also been filed with this Commission and make the same request. The Apopka exchange is served by United Telephone Company of Florida (United), while the Geneva, Orlando, and Sanford exchanges are served by BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell).

By Order No. 25031, issued September 9, 1991, the companies were directed to perform traffic studies between these exchanges to determine whether a sufficient community of interest exists, pursuant to Rule 25-4.060, Florida Administrative Code. The companies were required to prepare and submit these studies within sixty (60) days of the issuance of Order No. 25031, making the studies due by November 8, 1991.

On December 10, 1991, United filed a Motion for Extension of Time requesting an extension to file the study by December 18,

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1991. By Order No. 25507, issued December 19, 1991, United's request was granted. Subsequently, both companies filed the requested traffic studies.

Following analysis of this data, our staff filed a recommendation for consideration at the February 4, 1992, Agenda Conference. The recommendation suggested that we require Southern Bell to survey its customers in the Sanford and Geneva exchanges for implementation of nonoptional, flat rate, two-way, toll free calling to and from Orlando under the 25/25 plan with regrouping. Representatives of the Lake Mary area appeared in opposition to our staff's proposed calling plan.

Upon consideration of the staff recommendation, we found it appropriate to proceed directly to hearing in this matter. We believed that holding a hearing would be the best way to reach a resolution that meets the needs of the greatest number of customers. The Order on Prehearing Procedure, Order No. PSC-92-0101-PCO-TL, issued March 25, 1992, set forth the procedures to be used and the issues to be resolved through the hearing process.

The hearing in this matter was held on May 13, 1992, in Lake Mary, Florida. The hearing was divided into two phases: the first phase to take testimony of citizens concerning their toll needs and the second phase to receive testimony and exhibits from the parties. Due to time constraints, the hearing in Lake Mary was adjourned and reconvened in Tallahassee, Florida, on May 15, 1992, by agreement of the parties.

Following analysis of the testimony and exhibits, our staff filed a recommendation for consideration at the August 18, 1992, Agenda Conference. At that Conference, we voted to separately survey the customers in the Geneva and Sanford exchanges for nonoptional, flat rate, two-way, toll free calling to and from the Orlando exchange under the 25/25 plan with regrouping. We deferred decisions on the appropriate action should the surveys fail and on the MarketReachSM and EOEAS plans until the survey results were known.

DISCUSSION

The surveys were required to be conducted under Rule 25-4.063(5), Florida Administrative Code, except we determined that a simple majority of eligible subscribers (50% plus one vote) would

be sufficient for passage of the respective surveys. Rule 25-4.063(5) provides two methods by which a survey may pass. The rule states that a survey will have passed if:

(a) Fifty-one (51%) percent of all subscribers in each exchange required to be surveyed vote favorably; or

(b) Sixty (60%) percent of the respondents in each exchange vote favorably and at least seventy (70%) percent of all subscribers in each exchange required to be surveyed respond.

Southern Bell submitted its proposed survey explanatory letters and ballots for our staff's review prior to mailing to the Geneva and Sanford customers. Each of the explanatory letters contained a statement reading, "Failure to return your ballot will result in a vote against increasing the toll free area". The results of the surveys are as follows:

SURVEY OF GENEVA SUBSCRIBERS

	<u>NUMBER</u>	<u>PERCENT OF TOTAL MAILED</u>
Ballots Mailed	1,746	100.00
Ballots Returned	865	49.54
Unreturned Ballots	881	50.46
For EAS	587	33.62
Against EAS	270	15.46
Invalid	8	.46
Needed to Pass	874	50% + 1 vote

SURVEY OF SANFORD SUBSCRIBERS

	<u>NUMBER</u>	<u>PERCENT OF TOTAL MAILED</u>
Ballots Mailed	30,028	100.00
Ballots Returned	12,512	41.67
Unreturned Ballots	17,516	58.33
For EAS	6,806	22.67
Against EAS	5,616	18.70
Invalid	90	.30
Needed to Pass	15,015	50% + 1 vote

One of the issues at the hearing, Issue No. 8, was "Should the customers be surveyed and if so, how should the survey be conducted? If surveyed customers fail to accept the plan presented to them, what alternatives, if any, should be considered?" The portion of the issue regarding the survey was decided at our August 18, 1992, Agenda Conference. The decision on the alternatives was deferred, pending the outcome of the surveys. Since neither survey has passed under Rule 25-4.063(5), Southern Bell shall be ordered to implement for residential customers the \$0.25 message rate plan on both routes, in both directions. The \$0.25 rate shall apply regardless of call duration. Calls on these routes by business customers shall be rated at a per minute rate of \$0.10 for the initial minute and \$0.06 for additional minutes. This alternative toll relief plan is known as the Extended Calling Service (ECS) plan. Calls shall be furnished on a local, seven-digit dialed basis. NonLEC pay telephone providers shall charge end users \$0.25 per call (local) and shall pay the standard measured usage rate to the LEC. Southern Bell shall implement the ECS plan on these routes within six (6) months of the date of this Order.

Issue 9, which was also deferred, asks "What action should be taken regarding the experimental Lake Mary MarketReachSM plan and the Sanford/Orlando and Geneva/Orlando EOEAS plans?" Lake Mary wanted nonoptional, flat rate, two-way EAS implemented for regrouping only, with the EOEAS and MarketReachSM plans terminated, while Southern Bell asked to continue MarketReachSM until its scheduled expiration. In lieu of the EOEAS plan in effect from Geneva to Orlando and from Sanford (except the Lake Mary wire center) to Orlando, Southern Bell advocated the ECS plan. Many of the public witnesses expressed dislike for both the MarketReachSM plan and the EOEAS plan. To them, each plan was difficult to understand and did not offer sufficient toll relief.

Since both the Geneva and Sanford surveys have failed and the ECS plan has been ordered on both routes, we find it appropriate that the EOEAS plans on the Geneva/Orlando and Sanford/Orlando routes shall be discontinued simultaneously with implementation of the ECS plan, except the premium residence rate shall be retained. The Lake Mary MarketReachSM plan shall also be cancelled at the same time.

Based on the foregoing, it is

Ordered to Pass

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ORDERED by the Florida Public Service Commission that each and every finding set forth herein is approved in every respect. It is further

ORDERED that the surveys required by Order No. PSC-92-0992-FOF-TL have failed and that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company shall not be required to implement the extended area service plan described in that Order. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company shall, within six months of the date of this Order, implement an alternative toll relief plan in accordance with the terms and conditions set forth herein. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 25th day of February, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

by: Kay Hagan
Chief, Bureau of Records

Commissioner Luis J. Laredo dissents as follows:

I dissent with the majority decision in this case. I believe this EAS applicant is caught between the transition of new rules. Under the old EAS rules, the balloting results indicate flat rate EAS service would fail. It is ambiguous whether the voting results would qualify this applicant for flat rate EAS service under the new rule. Therefore, I would recommend that this route be rebaloted and the results be evaluated under the newly adopted standards.

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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.

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.