

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request by Volusia ) DOCKET NO. 930035-TL  
County Council to move the Lake ) ORDER NO. PSC-94-1025-FOF-TL  
Ashby Community from the Sanford ) ISSUED: August 23, 1994  
exchange New Smyrna Beach )  
exchange. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
DIANE K. KIESLING

ORDER TO MOVE LAKE ASHBY COMMUNITY  
FROM SANFORD EXCHANGE TO NEW SMYRNA BEACH EXCHANGE

BY THE COMMISSION:

On December 2, 1992, Volusia County filed a request to survey the Lake Ashby area to determine whether the community was in favor of being moved from the Sanford exchange, primarily located in Seminole County, to the New Smyrna Beach exchange located in Volusia County.

In view of a desire to explore the feasibility of imposing some charge on the affected residents to cover the cost of the requested boundary change, we directed our staff to provide additional information. On September 9, 1993, members of the Commission staff met with a representative of Volusia County, some Lake Ashby residents and representatives of Southern Bell to review the facilities and the cost data to move the boundary.

By Order No. PSC-93-1701-FOF-TL, issued November 24, 1993, we required Southern Bell to ballot the 170 Lake Ashby customers to determine if they would be in favor of moving from the Sanford exchange into the New Smyrna Beach exchange with an additive of \$3.38 per month for a period of ten years. The survey was to be conducted within 30 days of the date that Order became final. The Order became final on December 16, 1993.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

The survey was originally scheduled to be mailed on January 14 but, due to complications in completing the mailing list, Southern Bell requested an extension until February 1, 1994. Because there were no protests from the parties (including Volusia County), the Commission granted the extension by Order No. PSC-94-0184-FOF-TL which became final on March 8, 1994.

Southern Bell stated that on February 1, 1994, it mailed 170 ballots to all customers of record in the Lake Ashby community to determine if these customers were willing to pay a higher monthly rate to move from the Sanford exchange (407 area code) to the New Smyrna Beach exchange (904 area code). The Lake Ashby subscribers were informed that their respective telephone numbers (including area code) and local calling scope would change. In addition, a monthly additive of \$3.38 would apply for a period of ten years.

By Order No. PSC-93-1701-FOF-TL, we determined to utilize the same guidelines for balloting as extended area service (EAS). Rule 25-4.063(6), Florida Administrative Code, requires a majority of all respondents in each exchange to vote favorably and at least 40% of all ballots sent must be returned.

Based on Rule 25-4.063(6), Florida Administrative Code, the survey passed since 51.67% of the ballots returned were in favor of changing the exchange service area from Sanford to New Smyrna Beach. The results of this survey were initially scheduled to be heard at the April 5, 1994 agenda. Because the survey was so close (Favor - 51.67% / Oppose - 48.33%), Volusia County requested a 60 day deferral to further review the customer list provided by Southern Bell and to try to develop alternatives to the original exchange boundary proposal to satisfy a greater percentage of the people involved.

On May 26, 1994, Volusia County filed a proposal with five options. As a result of the ballot, the County suggested three courses of action: 1) take no action at this time (too close to call); 2) move all users to New Smyrna Beach exchange based on majority vote; or 3) leave everyone in Sanford exchange based on the close vote.

On May 31, 1994, Volusia County filed a modification to its original boundary change. On June 10, 1994, members of the Commission staff met with Volusia County representatives and representatives of Southern Bell in the Lake Ashby community to review the proposed options.

The County stated that upon closer examination of the results of the voting and the subscribers' desires, it would appear that those in the northern section (close to New Smyrna Beach) voted convincingly to move (approximately 80%) while those more in the southern portion voted heavily to remain in the Sanford exchange (approximately 70%). Based on this conclusion, Volusia County proposed two other options (using the voting preferences from the original ballots). They suggested that the Commission move the exchange boundary to just north of Colony Road on the west of State Road 415 and just north of Lake Ashby Mobile Home Park on the east or move the exchange boundary just south of Eugenia Road on the west of State Road 415 and to just north of the mobile home park on the east.

The first proposal, to take no action, was not feasible since the survey results were so close. A majority of Lake Ashby area customers voted to pay more in order to gain local calling to New Smyrna Beach. Based on our EAS rules, the survey passed. It was not reasonable to dismiss the survey results simply because the outcome was not what some of the parties expected.

Proposal 2 was consistent with the survey results. The survey was ordered based on a request by the County. Even though the vote was close, the majority voted in favor of changing the boundary. Based on the EAS rules, which require 40% to respond and a majority to vote in favor of the survey, the survey passed and the boundary should be changed.

The third proposal, similar to proposal 1, left the Lake Ashby customers in the Sanford exchange. This proposal ignored the vote of the majority and was unacceptable.

Proposals 4 and 5 were also unacceptable because, even though they might result in a higher percentage of satisfied customers, these proposals had no distinct boundaries. In the case of Proposal 5, the boundary line would have run between a house and the mobile home park. In addition, Proposals 4 and 5 would have resulted in an increase in the recovery additive. With only approximately 60 customers affected instead of the original 170, Proposal 4 would have increased the additive charge to these 60 customers from \$3.38 to \$9.26 per month (over ten years). Proposal 5 involved approximately 80 customers, and their monthly additive would have increased from \$3.38 to \$6.67 per month for ten years.

We received 38 letters from residents involved in this boundary change from the time that Volusia County filed its proposal. Of these letters, 25 were in favor of changing the boundary (either as it was originally proposed or using one of the

proposals made by Volusia County). 13 were opposed to changing it at all.

There were a number of allegations raised in these letters regarding the validity of the mailing list provided by Southern Bell. The letters indicate that there may have been people included in the mailing list that do not live in Lake Ashby but live 10 miles away in Osteen. Some letters were received from customers who claimed that they were not included on the mailing list, and did not have an opportunity to vote.

The County initially identified nine customers as being incorrectly balloted. However, upon further review, Volusia County states that only one customer was incorrectly balloted. Finally, the County contended that there may have been two customers who were left off the mailing list.

Significantly, even if nine customers had been excluded from the ballot, the survey would still have passed. In addition, letters from the two customers who were originally excluded from the ballot indicate that they were in favor of the move. It would not be appropriate to adjust the boundary line just because the results of the survey were not as expected.

Based on the information before us, it appears impossible to satisfy all the customers. Those who were in favor of the move were just as adamant as those who opposed the move. Based on the results of the survey, in accordance with Order No. PSC-93-1701-FOF-TL, we find it appropriate that Southern Bell change the Lake Ashby service area from the Sanford exchange to the New Smyrna Beach exchange. This conversion shall occur as soon as possible and not exceed twelve months from the date that this Order becomes final.

Based on the foregoing, it is

ORDERED that the Sanford exchange be moved into the New Smyrna Beach exchange in accordance with Orders No. PSC-93-1701-FOF-TL and PSC-94-0184-FOF-TL, and pursuant to results of the customer survey explained in the body of this order. It is further

ORDERED that this docket is closed. This docket will remain on monitor status until Southern Bell files the appropriate tariffs.

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DOCKET NO. 930035-TL  
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By ORDER of the Florida Public Service Commission, this 23rd  
day of August, 1994.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

SHS

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.