

MEMORANDUM

April 11, 1995

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (PIERSON) *Rp*
RE: DOCKET NO. 941281-TL - PETITION BY SUBSCRIBERS OF THE
GROVELAND EXCHANGE FOR EXTENDED AREA SERVICE (EAS) TO THE
ORLANDO, WINTER GARDEN, AND WINDERMERE EXCHANGES.

0508-PHC

Attached is a PREHEARING ORDER, to be issued in the
above-referenced. (Number of pages in Order - 10)

RJP
Attachment
cc: Division of Communications
I: 941281po.RJP

3/1

MUST GO TODAY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by subscribers) DOCKET NO. 941281-TL
of the Groveland exchange for) ORDER NO. PSC-96-0508-PHO-TL
extended area service (EAS) to) ISSUED: April 12, 1996
the Orlando, Winter Garden, and)
Windermere exchanges.)
_____)

Pursuant to Notice, a Prehearing Conference was held on April 4, 1996, before Commissioner Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

Richard A. Wagner, Esquire, 304 East Colonial Drive,
Orlando, Florida 32801
On behalf of the Subscribers of the Groveland Exchange

Robert G. Beatty, Esquire, J. Phillip Carver, Esquire,
c/o Nancy H. Sims, 150 South Monroe Street, Suite 400,
Tallahassee, Florida 32302
On behalf of BellSouth Telecommunications, Inc.

Lee L. Willis, Esquire, J. Jeffrey Wahlen, Esquire,
Macfarlane, Ausley, Ferguson & McMullen, P. O. Box 391,
Tallahassee, Florida 32302.
On behalf of United Telephone Company of Florida

Robert J. Pierson, Esquire, Florida Public Service
Commission, Gerald L. Gunter Building, 2540 Shumard Oak
Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff (Staff)

PREHEARING ORDER

I. CASE BACKGROUND

This docket was initiated pursuant to a petition by the subscribers of the Groveland exchange (Subscribers) for EAS to the Orlando exchange. The Winter Garden and Windermere exchanges were included to prevent "leapfrogging." The Groveland, Windermere, and Winter Garden exchanges are served by United Telephone Company of Florida (United), and the Orlando exchange is served by BellSouth Telecommunications, Inc. (BellSouth). The Groveland exchange is located in the Gainesville local access transport area (LATA). The

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Winter Garden, Windermere and Orlando exchanges are located in the Orlando LATA.

By Order No. PSC-95-0080-PCO-TL, issued January 17, 1995, we ordered United and BellSouth to conduct traffic studies on the proposed EAS routes in this docket. By Order No. PSC-95-0596-FOF-TL, issued May 11, 1995, we granted BellSouth's motion for modification of Order No. PSC-95-0080-PCO-TL, and relieved it of the requirement to file traffic data on its interLATA routes.

Under Rule 25-4.060(3), Florida Administrative Code, a calling rate of at least three messages per access line per month (MAMs) is required in cases where the petitioning exchange contains less than half the number of access lines as the exchange to which EAS is desired. The rule further requires that at least 50 percent of the subscribers in the petitioning exchange make two or more calls per month to the larger exchange to qualify for flat-rate, two-way, nonoptional EAS.

The routes in this docket did not meet the requirements set forth in Rule 25-4.060(3), Florida Administrative Code, for flat rate, two-way nonoptional EAS. The Groveland/Orlando route did meet the MAM requirement, however, it failed to meet the distribution requirement. Since the distribution was close to qualifying, United was asked to provide traffic data for a different period. The results were essentially the same.

Since the routes were close to qualifying for EAS, in accordance with Rule 25-4.040(5), Florida Administrative Code, this Commission set this matter for a formal hearing on its own motion. The purpose of the hearing is to determine whether toll relief is warranted and what, if any, other community of interest factors should be considered in our decision whether to implement EAS or an alternative toll relief plan.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Any information provided pursuant to a discovery request for which confidential classification has been requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on the request, or upon return of the information to the owner of the information. If no ruling has been made on the request for confidential classification, and the information has not been used in the proceeding, the material shall be returned expeditiously to its owner. If the material has been determined to be confidential, and was not entered into the record

of the proceeding, it shall be returned to its owner within the time periods set forth in Section 364.183, Florida Statutes.

If it becomes necessary to use confidential information during the hearing, the following procedures shall be observed:

- A. Any party wishing to use proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- B. Failure to comply with the above requirement shall constitute grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- C. When confidential information is used in the hearing, parties shall have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine confidential material that is not subject to an order granting confidential classification may be provided a copy, subject to a protective agreement with the owner of the material.
- D. Counsel and witnesses shall avoid verbalizing confidential information in any way which would compromise its confidential nature. Therefore, confidential information should be presented by written exhibit when reasonably practicable.
- E. At the conclusion of that portion of the hearing that involves confidential information, all confidential materials shall be returned to their owner. If confidential material has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. POST-HEARING PROCEDURE

Under Rule 25-22.056(3), Florida Administrative Code, each party must file a post-hearing statement of issues and positions, which shall clearly state the party's position on each issue, in no more than fifty words per issue, set off with asterisks. If a party's position has not changed since issuance of the prehearing order, that party may restate its prehearing position; however, if

its prehearing position is longer than fifty words, it must reduce it to no more than fifty words.

A party's statement of issues and positions, brief, and proposed findings of fact and conclusions of law, if any, shall together total no more than sixty pages. A copy of each of these documents must also be filed on a computer diskette in word-processing format. See Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. After a witness has taken the stand and affirmed the correctness of his or her prefiled testimony, it shall be inserted into the record, subject to objection. All exhibits attached to a witness' testimony shall also be identified at that time. Cross examination exhibits may be identified at the proper time. After all parties and Staff have had the opportunity to object to an exhibit, it may be moved into the record. Witnesses are reminded that, during cross-examination, questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues Nos.</u>
Carroll L. Fulmer	Subscribers	1, 2, 6
Welton G. Cadwell	Subscribers	1, 2, 6
Alvin B. Jackson, Jr.	Subscribers	1, 2, 6
Bob Hayden*	Subscribers	1, 2, 6
Ted Williams*	Subscribers	1, 2, 6
Tim Peters	Subscribers	1, 2, 6
Wayne Turner	Subscribers	1, 2, 6
Gary Williams*	Subscribers	1, 2, 6
Otto Wright	Subscribers	1, 2, 6

<u>Witness</u>	<u>Appearing For</u>	<u>Issues Nos.</u>
Doris Thompson*	Subscribers	1, 2, 6
Albert K. Smith	Subscribers	1, 2, 6
Cole Whitaker	Subscribers	1, 2, 6
Joseph A. Stanley, Jr.*	BellSouth	All
Sharon E. Harrell	United	All

(* Note: The parties have stipulated that the testimony of these witnesses will be placed into the record without their having to appear.

VI. BASIC POSITIONS

SUBSCRIBERS: The proximity and the community of interest between the Groveland exchange and the Orlando, Winter Garden and Windermere exchanges justify implementing EAS for those exchanges. The subscribers believe that the telephone calls between the Groveland Exchange and the Orlando, Winter Garden and Windermere exchanges should not be toll or long distance calls.

BELLSOUTH: The only route at issue in this docket that involves a BellSouth exchange is Groveland to Orlando; Orlando is a BellSouth exchange. Because this is an interLATA route, BellSouth has no traffic data. Without this data, BellSouth cannot take a position as to whether a sufficient community of interest exists to justify nonoptional flat-rate EAS. BellSouth believes that, if the Commission determines that an alternative toll plan is appropriate, then the modified ECS (MECS) plan discussed in the Staff Workshop held on January 23, 1996, is the best alternative.

UNITED: The calling patterns on the routes in this docket do not meet the existing Commission requirements to qualify for flat-rate, nonoptional EAS, but do support the implementation of an Extended Calling Service (ECS) plan.

STAFF: There is not a sufficient community of interest to justify surveying for nonoptional EAS as defined in the Commission's rules. There appears to be a sufficient community of interest to justify an alternative toll plan between Groveland and Orlando; however, to avoid "leap-frogging," Windermere and Winter Garden should be included.

VII. ISSUES AND POSITIONS

ISSUE 1: Is there a sufficient community of interest from the Groveland exchange to the Orlando, Winter Garden, and Windermere exchanges to justify surveying for nonoptional EAS as defined in the Commission's rules, or implementing an alternative interLATA toll plan?

POSITIONS:

SUBSCRIBERS: The subscribers of the Groveland exchange believe that there are sufficient community of interest factors to implement nonoptional EAS.

BELLSOUTH: BellSouth has no position as to whether non-optional, flat rate EAS is appropriate. In the absence of traffic data, BellSouth can reach no conclusion as to whether a community of interest exists. If the Commission orders an alternative plan, BellSouth believes that the MECS Plan would be the most appropriate alternative.

UNITED: No. Rule 25-4.060(3), Florida Administrative Code, states that a sufficient community of interest exists when the calling rate exceeds three MAMs and fifty percent of the subscribers in the exchange make two or more calls per month. Traffic on the Groveland to Orlando route satisfied the MAM criteria, but fell short of the distribution requirement.

STAFF: There is not a sufficient community of interest to justify surveying for nonoptional EAS as defined in the Commission's rules. There appears to be a sufficient community of interest to justify an alternative toll plan between Groveland and

Orlando; however, to avoid "leap-frogging," Windermere and Winter Garden should be included.

ISSUE 2: What other community of interest factors should be considered in determining if either an optional or nonoptional toll alternative should be implemented on these routes?

POSITIONS:

SUBSCRIBERS: There are additional community of interest factors which we believe should be considered. Factors such as employees who work for businesses which are located in the Groveland Exchange but who live in the Orlando, Winter Garden and Windermere exchange areas; in addition there are people in Groveland who utilize doctors, hospital and other services located in the Orlando, Winter Garden and Windermere exchange which presently require toll calls. Also businesses located in the Groveland exchange or considering location in the Groveland exchange either are doing business or contemplate doing business with other businesses, suppliers, professionals, etc. in the Orlando, Winter Garden and Windermere exchange areas; likewise businesses in the Orlando, Winter Garden and Windermere exchanges have a need to provide their services to businesses and persons in the Groveland exchange. There are also people residing in the Groveland exchange who have other family members, i.e., mothers, fathers, children, grandchildren, located within the Orlando, Winter Garden and Windermere exchanges. The elimination of the current toll charge in favor of Extended Area Service would facilitate communication both for businesses and individuals.

BELLSOUTH: BellSouth has no position.

UNITED: Additional community of interest factors often included are the location of schools, fire/police departments, medical/emergency facilities, and county government. All of these factors in the Groveland exchange are located in Lake County and can be accessed toll free. Therefore, these traditional community of interest factors are not

applicable for the implementation of flat-rate, nonoptional EAS on the Groveland to Orlando route.

STAFF: No position at this time.

ISSUE 3: If a sufficient community of interest is found on any of these routes, what is the economic impact of each plan on the customer and the company (summarize in chart form and discuss in detail)?

- a) EAS with 25/25 plan and regrouping;
- b) InterLATA toll alternative plan; and
- c) Other (specify)

POSITIONS:

SUBSCRIBERS: No position.

BELLSOUTH: Each plan would have some economic impact on BellSouth because the company would have to incur costs to provide facilities to implement any plan. BellSouth does not, however, have the data necessary to quantify these costs.

UNITED:

- a) Subscribers in the Groveland exchange would be charged an additive to their basic monthly rate, and would be regrouped to United's rate group 6, which would result in an increase in the basic monthly rate. The estimated annual revenue impact to United would be \$58,728, which does not reflect the additional costs incurred for facilities that will need to be installed or leased from an interexchange carrier, or other administrative costs.

- b) The implementation of ECS impacts only those customers making the calls. Based on the monthly calling volume reflected in the traffic studies, the estimated annual revenue impact to United would be a loss of \$85,000. As with the implementation of EAS, this loss does not reflect the additional costs for facilities or other administrative costs.

STAFF: No position at this time.

ISSUE 4: Should subscribers be required to pay an additive as a prerequisite to surveying for extended area service or an alternative interLATA toll plan? If so, how much of an additive is required and how long should it last?

POSITIONS:

SUBSCRIBERS: No position.

BELLSOUTH: BellSouth has no position.

UNITED: Yes. If the Commission orders flat-rate, nonoptional EAS, it should order the 25/25 plan with regrouping.

STAFF: If the Commission determines that EAS is appropriate, an additive should be included for purposes of surveying customers. No position on how long the additive should be in place.

ISSUE 5: If a sufficient community of interest is found, what are the appropriate rates and charges for the plan to be implemented on these routes?

POSITIONS:

SUBSCRIBERS: No position.

BELLSOUTH: BellSouth has no position.

UNITED: The appropriate rates would be the 25/25 plan with regrouping.

STAFF: No position at this time.

ISSUE 6: If extended area service or an alternative interLATA toll plan is determined to be appropriate, should the customers be surveyed?

POSITIONS:

SUBSCRIBERS: Yes.

BELLSOUTH: Yes. Customers should be surveyed regarding any proposed plan.

UNITED: Yes. If a nonoptional plan is determined to be appropriate, the subscribers should be surveyed. All subscribers should have a voice in the implementation of such a plan since all subscribers will pay for the plan if implemented.

STAFF: If the Commission determines that EAS with an additive is appropriate, the subscribers should be surveyed. If the Commission determines that an alternative toll plan is appropriate, no survey is required.

VIII. EXHIBIT LIST

<u>Witness</u>	<u>For</u>	<u>ID No.</u>	<u>Description</u>
Fulmer	Subscribers	CLF-1	Map of Groveland, Orlando, Winter Garden and Windermere exchanges together with a list of those area exchanges.
Cadwell	Subscribers	WGC-1	Resolution of the Board of County Commissioners of Lake County, Florida.
Harrell	United	SEH-1	Unidentified (composite).
Harrell	United	SEH-2	United's traffic study, filed April 18, 1995 (Document No. 03811-95 - <u>Confidential</u>).

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

IX. STIPULATIONS

The parties have stipulated that the testimony of witnesses Bob Hayden, Ted Williams, Gary Williams, Doris Thompson, and Joseph A Stanley, Jr., will be placed in the record without their having to appear.

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It is therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 12th day of April, 1996.



JULIA L. JOHNSON, Commissioner and
Prehearing Officer

(S E A L)

RJP

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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial

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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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.