

MEMORANDUM

APRIL 14, 1997

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CULPEPPER) *bc INB*

RE: DOCKET NO. 950699-TL - RESOLUTION BY CITY COMMISSION OF HAINES CITY REQUESTING EXTENDED AREA SERVICE (EAS) FROM HAINES CITY EXCHANGE TO ALL EXCHANGES WITHIN POLK COUNTY.

97 - 0419 - PHO

Attached is a PREHEARING ORDER, to be issued in the above-referenced docket. (Number of pages in Order - 14)

BC/anr  
Attachment  
cc: Division of Communications  
I: 950699po.bc

*SS*

**MUST GO TODAY**

*boxed  
wanted - 2/2  
1 APC  
Haines*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by City ) DOCKET NO. 950699-TL  
Commission of Haines City ) ORDER NO. PSC-97-0419-PHO-TL  
requesting extended area service ) ISSUED: April 15, 1997  
(EAS) from Haines City exchange )  
to all exchanges within Polk )  
County. )  
\_\_\_\_\_ )

Pursuant to Notice, a Prehearing Conference was held on March 31, 1997, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

Robert Nettleton, Esquire, P.O. Box 277, Haines City, Florida 33845-0277.  
On behalf of Haines City.

Charles J. Beck, Deputy Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400.  
On behalf of the Citizens of the State of Florida.

Kimberly Caswell, Esquire, Post Office Box 110, FLTC0007, Tampa, Florida 33601.  
On behalf of GTE Florida Incorporated.

J. Jeffry Wahlen, Esquire, Ausley & McMullen, Post Office Box 391, Tallahassee, FL 32302  
On behalf of Sprint-Florida, Inc.

Beth Culpepper, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Commission Staff.

**PREHEARING ORDER**

**I. CASE BACKGROUND**

On April 6, 1995, the Haines City Commission (Haines City or Haines) passed Resolution No. 627 asking the Commission to expand the local calling scope of the Haines City Exchange to include all

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FPSC-REG/PLS/REPORTING

of Polk County. On May 8, 1996, we issued Proposed Agency Action Order No. PSC-96-0620-FOF-TL denying the City's request for extended area service (EAS). On May 28, 1996, the City protested the Commission's proposed agency action and requested a formal hearing. In accordance with the Order Establishing Procedure for this Docket, Order No. PSC-96-1034-PCO-TI, a prehearing conference was conducted on March 31, 1997. The customer and technical hearing is set to be held April 22, 1997, in Haines City.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is 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 such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any 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.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must 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 the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

### III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

### IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUES</u>
<u>Direct</u>		
James C. Brantley	Haines City	1, 2, 3
George H. Carefoot	Haines City	1, 2, 3
James J. DeGennaro	Haines City	1, 2, 3
Jim Nelson	Haines City	1, 2, 3
Ben Saag	Haines City	1, 2, 3
Walcer W. Storm	Haines City	1, 2, 3
Richard Thomas Wheeler	Haines City	1, 2, 3
Elizabeth Ann Toney	Haines City	1, 2, 3, 4, 5

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUES</u>
Sharon E. Harrell	Sprint	1, 2, 3, 4, 5
<u>Direct/Rebuttal</u>		
Mr. R. Earl Poucher	OPC	1, 2, 3, 4, 5
David E. Robinson	GTEFL	1, 2, 3, 4, 5

V. BASIC POSITIONS

HAINES: Countywide extended area service should be implemented. It is warranted by the present (part of which was not counted due to cellular telephones and providers other than GTE) and potential telephone traffic. Sufficient community of interest exists and more will be created by countywide extended area service. If the vote for countywide extended area service fails then extended calling service, or an alternative proposal should be implemented.

GTEFL: The Commission has already determined, consistent with its Rules and precedent, that no extended area service (EAS) plan or other mandatory toll alternative plan is warranted in this case. (Order number PSC-96-0620-FOF-TL, May 8, 1996.) The Commission should affirm that finding and decline to order any extended calling. It should instead rely on market forces to satisfy the Haines City consumers' wishes for a larger calling scope. To this end, GTEFL is willing to offer its Local Calling Plan (LCP), which will allow customers to choose among a number of calling options. Unlike a mandatory plan, the LCP allows each customer to tailor his local telephone service to his individual calling needs. Further, no customer would be forced to pay an additive against his wishes, as is inevitably the case for customers if flat-rate EAS is ordered.

OPC: A vote should be conducted to determine whether EAS should be ordered on the routes at issue in this docket. If the vote fails, ECS calling should be implemented.

SPRINT: Sprint's basic position is that the calling patterns on the route in this docket involving a Sprint exchange do not meet the Commission requirements to qualify for

balloting for flat-rate, nonoptional EAS, nor are they close enough to warrant any alternative form of toll relief.

**STAFF:** No position at this time.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

#### VI. ISSUES AND POSITIONS

**ISSUE 1:** Is there a sufficient community of interest to justify implementing EAS, as currently defined in the Commission rules, or implementing ECS, or an alternative toll proposal on any of the following routes:

Haines City/Lakeland\*\*  
Haines City/Polk City  
Haines City/Bartow\*  
Haines City/Mulberry  
Haines City/Frostproof  
Haines City/Indian Lakes  
Haines City/Fort Meade

\* County seat of Polk County

\*\* State and Federal offices serving the area

#### POSITION

**HAINES1** There is a sufficient community of interest to warrant a vote on EAS for each of the routes. If the vote fails, ECS should be implemented on each of the routes.

**GTEFL1** No. The Commission already found, in its Order number PSC-96-0620-FOF-TL, that its Rules and precedent do not justify implementing flat-rate EAS or another mandatory toll alternative (such as extended calling service (ECS)), on the routes at issue. There is no good reason to alter this finding. While no mandatory toll alternative is warranted, GTEFL is willing to implement a fully optional LCP, which is a market-based toll alternative that will satisfy customers' diverse local calling needs.

**OPC:** There is a sufficient community of interest to warrant a vote on EAS for each of the routes. If the vote fails, ECS should be implemented on each of the routes.

**SPRINT:** No. Commission Rule 25-4.060(3) states that a sufficient community of interest exists when the calling rate exceeds three Messages per Access Line per Month (M/A/Mo) and 50% of the subscribers in the exchange make two or more calls per month. Traffic on the Haines City/Fort Meade route, which is the only route involving a Sprint exchange, does not meet either criteria.

**STAFF:** No position at this time.

**ISSUE 2:** What other community of interest factors should be considered in determining if either EAS, ECS, or an alternative toll plan should be implemented?

**POSITION**

**HAINES:** Yes, there are other community of interest factors which include, but are not limited to:

- 1) Governmental Services
- 2) Medical Services
- 3) Professional Services
- 4) Commerce
- 5) Employment
- 6) Transportation
- 7) Social Interaction
- 8) Schools
- 9) Countywide Calling
- 10) Natural Barriers

**GTEFL:** Traffic statistics are the critical part of an EAS or ECS inquiry. The Commission's Rules and precedent in this subject area do not contemplate reliance solely on non-numerical community of interest factors. Only if calling statistics indicate some threshold showing of community of interest should the Commission consider non-quantifiable community of interest factors. GTEFL supposes that these might include location of school district boundaries, medical facilities, and shopping areas.



**QPC:** Yes, there are other community of interest factors. Exhibit REP-1 sets forth ten specific community of interest factors:

- 1) Governmental Services
- 2) Medical Services
- 3) Professional Services
- 4) Commerce
- 5) Employment
- 6) Transportation
- 7) Social Interaction
- 8) Schools
- 9) Countywide Calling
- 10) Natural Barriers

**SPRINT:** Additional community of interest factors often included are the location of schools, fire/police departments, medical/emergency facilities and county governments. The Fort Meade exchange currently has EAS to Bartow, which is the County Seat, and Lakeland, where the State and medical facilities are also located within the Fort Meade Exchange, therefore, these traditional community of interest are not applicable to this 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) Alternative toll plan
- C) ECS; and
- D) Other (specify)

**POSITION**

**HAINES:** Existing toll rates inhibit economic development along the routes. EAS or ECS will have a positive economic impact on the community.

**GTEFL:** As explained above, GTEFL does not believe it is appropriate for the Commission to ignore the traffic data in assessing community of interest. These data in this case do not indicate a community of interest sufficient to impose a mandatory plan. As such, the following

observations assume that the Commission develops some reliable way of measuring community of interest in absence of any numerical showing. For alternatives A-C, GTEFL cannot determine what the financial impact on the customer would be. Only the individual customer could determine whether he would gain or lose money under any of these alternatives. Assuming GTEFL's LCP is implemented under option D, however, no customer would be forced to take any plan that would not save him money. With regard to economic impact of the listed alternatives on GTEFL, GTEFL has not done any specific calculations. GTEFL points out that assessments of financial impact have been complicated by the fact that the local exchange market is now open to competition. Past assumptions (e.g., that EAS would foreclose toll competition) are no longer true, and financial harm to GTEFL from a mandatory plan is more likely, as is harm to competition in general.

**OPC:** Existing toll rates inhibit economic development along the routes. EAS or ECS will have a positive economic impact on the community.

- SPRINT:**
- a) Should the Commission determine that flat-rate, nonoptional EAS is warranted, the Fort Meade Exchange would be regrouped from Rate Group 3 to Rate Group 4, thus incurring an increase in their basic local service rate.
  - b) The impact to the Company would result in a loss of access revenue and an increase in local service revenues, resulting in an estimated annual revenue gain of \$133,000, which does not reflect the additional costs incurred for facilities that will need to be installed or leased from an IXC, or other administrative costs.
  - c) 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 the Company would be a loss of \$5,400. These dollars do not reflect the additional costs incurred for facilities that will need to be installed or leased from an IXC, or other administrative costs.

**STAFF:** No position at this time.

**ISSUE 4:** Should subscribers be required to pay an additive as a prerequisite to implementation of EAS? If so, how much of a payment is required and how long should it last?

**POSITION**

**HAINES:** The Commission should put the 25/25 plan to a vote. Any increase should last no more than 4 years.

**GTEFL:** Yes. Customers are typically required to pay a higher rate for mandatory local area expansion. The level of increase for an exchange would likely depend on factors such as the scope of the expansion and the revenue loss and expense gain calculations (to the extent they can be done). If mandatory expansion is ordered through EAS, an additive will continue indefinitely.

**OPC:** The Commission should put the 25/25 plan to a vote. Any increase should last no more than 4 years.

**SPRINT:** The Haines City/Fort Meade route does not meet the Commission requirements for any form of toll relief. However, should the Commission determine that EAS is appropriate, the 25/25 Plan with Regrouping should be ordered.

**STAFF:** No position at this time.

**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 or route?

**POSITION**

**HAINES:** The 25/25 plan for EAS can be calculated from existing rates. ECS would not change local rates.

**GTEFL:** For EAS with 25/25 plan and regrouping, the rates would be determined under the existing 25/25 formula. No message charges would be assessed. For a mandatory ECS plan, the rate would be \$.25 per call for residence and \$.04 per call completed, and \$.06 per minute for business. Balloting customers to determine levels of acceptance would demonstrate whether the rates were appropriate in the sense that customers would agree to pay them and they would cover GTE's costs. For the optional LCPs, rates and charges would be set to cover

costs and to ensure customers attractive calling options that best fit their needs.

**OPC:** The 25/25 plan for EAS can be calculated from existing rates. ECS would not change local rates.

**SPRINT:** If the Commission finds that a sufficient community of interest exists, Extended Calling Service should be ordered.

**STAFF:** No position at this time.

VII. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I.D. NO.</u>	<u>DESCRIPTION</u>
R. Earl Poucher	OPC	_____ (REP-1)	Community of Interest Standards for Extended Area Service
		_____ (REP-2)	Holmes, Jackson, Okaloosa Walton County ECS
		_____ (REP-3)	Franklin County EAS/ECS
		_____ (REP-4)	Mount Dora ECS
		_____ (REP-5)	Gilchrist County ECS
		_____ (REP-6)	Gulf County ECS
		_____ (REP-7)	Bradford County ECS
		_____ (REP-8)	Glendale/Paxton ECS
		_____ (REP-9)	Putnam County ECS

<u>WITNESS</u>	<u>PROFFERED BY:</u>	<u>I. D. NO.</u>	<u>DESCRIPTION</u>		
R. L. Poucher	OPC	<u>(REP-10)</u>	St. Johns County ECS		
		<u>(REP-11)</u>	St. Augustine/ Green Cove Springs ECS		
		<u>(REP-12)</u>	Levy County ECS		
		<u>(REP-13)</u>	Vernon/ Bonifay Westville ECS		
		<u>(REP-14)</u>	Pocket Area Dockets		
		<u>(REP-14a)</u>	Liberty County Dockets		
		<u>(REP-15)</u>	ECS is Most Appropriate		
		<u>(REP-16)</u>	ECS is Best Alternative		
		<u>(REP-17)</u>	Tampa Bay ECS		
		<u>(REP-18)</u>	PSC Countywide Decision		
		<u>(REP-19)</u>	ECS is Best Method		
		Sharon E. Harrell	Sprint	<u>(SEH-1)</u>	Confidential

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

VIII. PROPOSED STIPULATIONS

None.

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IX. PENDING MOTIONS

None.

It is therefore,

ORDERED by Commissioner J. Terry Deason, 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 J. Terry Deason, as Prehearing Officer, this 15th day of April, 1997.



J. Terry Deason, Commissioner  
and Prehearing Officer

( S E A L )

BC

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 25-22.038(2), 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 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.