

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution by Holmes
County Board of County
Commissioners for extended area
service in Holmes County.

DOCKET NO. 870248-TL

In re: Request by Gilchrist
County Commissioners for
extended area service throughout
Gilchrist County.

DOCKET NO. 870790-TL

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 Garden, Winter
Park, East Orange, Reedy Creek,
Windermere, and Lake Buena Vista
exchanges.

DOCKET NO. 900039-TL

In re: Resolution by Bradford
County Commission requesting
extended area service within
Bradford County and between
Bradford County, Union County
and Gainesville.

DOCKET NO. 910022-TL

In re: Request by Putnam County
Board of County Commissioners
fro extended service between the
Crescent City, Hawthorne, Orange
Springs, and Melrose exchanges,
and the Palatka exchange.

DOCKET NO. 910528-TL

In re: Request by Pasco County
Board of County Commissioners
for extended service between all
Pasco County exchanges.

DOCKET NO. 910529-TL

DOCUMENT NUMBER-DATE

05677 MAY 22 88

FPSC-RECORDS/REPORTING

ORDER NO. PSC-98-0708-PHO-TL
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In re: Request for extended
area service between all
exchanges within Volusia County
by Volusia County Council.

DOCKET NO. 911185-TL

In re: Resolution by the Palm
Beach County Board of County
Commissioners for extended area
service between all exchanges in
Palm Beach County.

DOCKET NO. 921193-TL

In re: Petition by the
residents of Polo Park
requesting extended area service
(EAS) between the Haines City
exchange and the Orlando, West
Kissimmee, Lake Buena Vista,
Windermere, Reedy Creek, Winter
Park, Clermont, Winter Garden
and St. Cloud exchanges.

DOCKET NO. 930173-TL ✓
ORDER NO. PSC-98-0708-PHO-TL
ISSUED: May 22, 1998

Pursuant to Notice, a Prehearing Conference was held on May 15, 1998, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

J. Jeffry Wahlen, Esquire, Ausley & McMullen, Post Office
Box 391, Tallahassee, Florida 32302.
On behalf of ALLTEL Florida, Inc., Sprint-Florida, Inc.,
and Vista-United Telecommunications.

Nancy B. White, Esquire, and George B. Hanna, Esquire,
150 West Flagler Street, Suite 1910, Miami, Florida
33130.
On behalf of BellSouth Telecommunications, Inc.

Vicki Gordon Kaufman, Esquire, McWhirter, Reeves,
McGlothlin, Davidson, Rief and Bakas, P.A., 117 South
Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Competitive Carriers
Association.

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Kimberly Caswell, Esquire, Post Office Box 110, FLTC0007,
Tampa, Florida 33601-0110
On behalf of GTE Florida Incorporated.

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

PREHEARING ORDER

I. CASE BACKGROUND

The Commission suspended action in these dockets pending review of the impact of the Telecommunications Act of 1996 (the Act) on pending requests for interLATA extended area service (EAS) on BellSouth Telecommunications, Inc. (BellSouth) routes. There was some concern that under Section 271 of the Act, Bell operating companies (BOCs) are clearly prohibited from originating interLATA traffic until the BOCs meet certain conditions. Under Section 272 of the Act, even after it meets the requirements of Section 271, a BOC may only originate interLATA telecommunications services through a separate and independent affiliate. On November 18, 1996, the Commission staff conducted a workshop on this matter.

After thoroughly reviewing the Act, the issues presented, and the comments filed by the workshop participants, by Order No. PSC-97-0622-FOF-TL, issued May 30, 1997, the Commission determined that BellSouth should be relieved of certain requirements set forth in Order No. PSC-96-0557-FOF-TL, because of the Act's impact on BellSouth's ability to carry interLATA traffic. The Commission also ordered that Dockets Nos. 870248-TL, 870790-TL, 900039-TL, 910022-TL, 910528-TL, 910529-TL, 911185-TL, and 921193-TL, which were in various procedural stages, remain open pending a determination of whether one-way extended calling service (ECS) is feasible. By Order No. PSC-97-1462-PCO-TL and Order No. PSC-98-0585-PCO-TL, the dockets identified herein were consolidated for hearing purposes only. In this consolidated proceeding, we will consider the feasibility of one-way ECS. A hearing has been set for this consolidated proceeding on May 27, 1998.

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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

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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

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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>ISSUE NO.</u> |
|-------------------|----------------------|------------------|
| <u>DIRECT</u> | | |
| H.E. Eudy | AllTel | All issues |
| Charles M. Scobie | GTEFL | All issues |
| Sanja Powell | Sprint | All issues |
| Conrad D. Martin | BellSouth | All issues |

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V. BASIC POSITIONS

ALLTEL:

One-way ECS is appropriate only if the Company is allowed to price the service at a level that allows it to recover all of the costs associated with providing the service and the result is a meaningful toll alternative.

BELLSOUTH:

The routes at issue in these combined dockets that involve a BellSouth exchange are as follows:

| Docket Number | Route | BellSouth Exchange |
|----------------------|---|---|
| 870248-TL | Ponce DeLeon and Defuniak Springs to Graceville | Graceville |
| 870790-TL | Branford and High Springs to Trenton | Trenton |
| 900039-TL | Mt. Dora to Apopka, Orlando, Winter Garden, Winter Park, East Orange, Reedy Creek, Windermere and Lake Buena Vista | East Orange and Orlando |
| 910022-TL | Lawtey, Raiford and Starke to Gainesville | Gainesville |
| 910528-TL | Interlachen to Hawthorne and Keystone Heights; Florahome to Keystone Heights and Melrose; Orange Springs to Palatka | Hawthorne, Keystone Heights and Palatka |
| 910529-TL | Hudson to Brooksville | Brooksville |

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| Docket Number | Route | BellSouth Exchange |
|----------------------|--|---|
| 911185-TL | Orange City to Daytona Beach, New Smyrna Beach, Oak Hill, Pierson and DeLeon Springs | Daytona Beach, New Smyrna Beach, Oak Hill, Pierson and DeLeon Springs. |
| 921193-TL | Clewiston to Belle Glade | Belle Glade |
| 930235-TL | Cross City to Keaton Beach and Perry | Cross City |
| 930173-TL | Haines City to Orlando, West Kissimmee, Lake Buena Vista, Windermere, Reedy Creek, Winter Park, Clermont, Winter Garden and St. Cloud | Orlando |

Since the above-referenced routes carry interLATA traffic, BellSouth does not have any traffic data for them. In Order No. PSC-93-1168-FOF-TL, the Commission recognized that this data was not available to BellSouth and relieved it of the requirement to file traffic data on the subject routes. Without this data, BellSouth cannot take a position as to whether a sufficient community of interest exists to justify one-way extended calling service (ECS) as a method to provide toll relief for the subject routes. If the Commission determines that a sufficient community of interest does exist on the subject routes and orders that one-way ECS be provided, BellSouth may only terminate the interLATA traffic on these routes. BellSouth recommends that terminating switched access rates be utilized as the appropriate rates for terminating traffic on the routes.

FCCA:

The Telecommunications Act of 1996 prohibits discrimination among telecommunications carriers. Therefore, BellSouth must charge the same amount to any carrier for whom it terminates

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a call. In the case of ECS calls, BellSouth should charge the appropriate interconnection rate.

GTEFL:

GTEFL has just two routes involved in this proceeding--Hudson to Brooksville and Haines City to Orlando. Brooksville and Orlando are BellSouth exchanges. As a general matter, GTEFL believes that market forces should determine the appropriate services and rate levels for existing interLATA routes. However, because the Commission has previously ruled that some form of toll relief is warranted on the Hudson to Brooksville route, GTEFL is not opposed to providing extended calling service (ECS) there. Likewise, GTEFL would provide ECS on the Haines City to Orlando route if the Commission determines such relief is appropriate in this limited case. Consistent with existing interconnection agreements between GTE and BellSouth in other states, GTEFL would agree to pay BellSouth terminating switched access for traffic on these two routes. Per-minute ECS rates are probably the most appropriate approach for both business and residential customers on these routes.

SPRINT:

One-way ECS is appropriate on the routes in question if the company is allowed to price the service to recover its costs.

STAFF:

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.

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VI. ISSUES AND POSITIONS

ISSUE 1: Is one-way ECS appropriate on the routes in question?
(See Attachment A)

POSITION:

ALLTEL:

One-way ECS is appropriate only if the Company is allowed to price the service at a level that allows it to recover all of the costs associated with providing the service and the result is a meaningful toll alternative.

BELLSOUTH:

In the absence of traffic data on the subject routes, BellSouth does not have a position on whether one-way ECS is appropriate.

FCCA:

No. In a competitive market, it is not the Commission's role to require carriers to provide particular services. The Commission should refrain from requiring any more ECS discounts.

GTEFL:

As a general matter, market forces can best determine the services and rates to be offered customers on particular routes, including those at issue. However, because the Commission has already determined that some form of Commission-mandated toll relief is warranted on the Hudson to Brooksville routes, GTEFL would not oppose providing ECS there. Likewise, GTEFL would agree to provide ECS on the Haines City to Orlando route if the Commission determines this kind of plan is appropriate in the limited case of this already-existing docket.

SPRINT:

One-way ECS is appropriate on the routes in question if the company is allowed to price the service to recover its costs.

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STAFF:

Staff has no position at this time.

ISSUE 2: If one-way ECS is appropriate, what rate, if any, should BellSouth charge to terminate ECS interLATA traffic for all carriers?

POSITION:

ALLTEL:

No position at this time.

BELLSOUTH:

BellSouth recommends that terminating switched access rates be utilized as the appropriate rates for terminating traffic on the subject routes.

FCCA:

If the Commission requires one-way ECS, the Commission should require BellSouth to charge interconnection rates for termination of the ECS calls.

GTEFL:

Consistent with previously executed interconnection agreements in other states where both GTE and BellSouth operate, GTEFL would agree to pay BellSouth terminating switched access for the traffic on the two routes at issue.

SPRINT:

BellSouth should charge IXCs and LECs the same interLATA terminating access rates.

STAFF:

Staff has no position at this time.

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ISSUE 3: If one-way ECS is ordered on the routes in question and a termination charge is deemed appropriate, what economic impact will this have on the originating LECs?

POSITION:

ALLTEL:

If the rate design and levels for the one-way ECS service are set properly, there should be no economic impact on ALLTEL as the originating LEC. However, to avoid an adverse economic impact on the originating LEC, the Commission must set the end-user rate for the one-way ECS service at a level sufficient to cover all of the costs of the service, including the related terminating charges, if any.

BELLSOUTH:

BellSouth does not have sufficient information to take a position on the economic impact that one-way ECS with a termination charge would have on the originating LECs.

FCCA:

No position.

GTEFL:

This question requires a comparison between the status quo--where GTEFL receives originating access from an interexchange carrier (IXC)--and the ECS scenario where GTEFL receives usage revenues and/or message charges from end users. This comparison is very difficult because call duration data are unavailable to GTEFL for the proposed routes, which are today interLATA. In addition, the rates that end users will pay as a result of this docket are, as yet, unsettled. For instance, a move toward measured rates (rather than the typical flat-rate ECS charge) has been suggested for residential customers. Also, GTEFL has recommended that, if residential customers continue to pay flat-rate ECS charges, the per-message charge should be \$.30.

Nevertheless, for the sake of answering this question, GTEFL will assume a residential call duration of 5 minutes and a

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flat-rate ECS charge of \$.30. Compared to this thirty-cent charge, access revenues would be \$.256. On the business side, assuming a 2.5 minute call duration, GTEFL would receive just over \$.128 per message in access revenues compared to \$.19 per message under the usage-sensitive ECS rate structure.

SPRINT:

BellSouth's charge for terminating calls will have a negative impact on Sprint's revenue of approximately \$21,000.

STAFF:

Staff has no position at this time.

ISSUE 4: If one-way ECS is appropriate, what rate structure and rate levels should the LECs charge?

POSITION:

ALLTEL:

ALLTEL would propose a rate design that is similar to the rate design used for business customers under the Commission's traditional 10 cent/6 cent plan, except with higher rates as necessary to cover the costs of providing the service.

BELLSOUTH:

BellSouth does not have sufficient information to take a position on the rate structure and rate levels that should be utilized by the originating LECs.

FCCA:

See Issue 2.

GTEFL:

A usage-sensitive rate structure for both business and residential users (as recommended by Sprint and AllTel) is probably the best approach. This is because the per-minute costs on the ECS routes terminating in a BellSouth exchange are about four times greater than routes terminating in other

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GTEFL exchanges. Usage-based charges would, in addition, be competitively neutral and alleviate concerns about inter-carrier arbitrage.

SPRINT:

Sprint recommends a minute per use (usage sensitive) rate structure at levels that allow Sprint to cover the costs of providing the service.

STAFF:

Staff has no position at this time.

VII. EXHIBIT LIST

| <u>WITNESS</u> | <u>PROFFERED BY</u> | <u>I.D. NUMBER</u> | <u>DESCRIPTION</u> |
|----------------------|-------------------------|--------------------|--------------------|
| H.E. Eudy | AllTel | (_____) HEE-1 | Composite Exhibit |
| Charles M. Scobie | GTEFL | (_____) CMS-1 | Economic Impact |

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

VIII. STIPULATION

At the prehearing conference, GTEFL, Sprint, BellSouth, ALLTEL, and FCCA, reached a stipulation that the testimony, amended testimony, and exhibits of the witnesses could be moved into the record without objection. The parties also agreed to waive cross-examination of the witnesses. In addition, the parties asked that they be allowed to brief the issues, in lieu of proceeding with the May 27, 1998, hearing. At the request of Commission staff, the parties agreed to include in their briefs proposed rates to be charged to the end-use customers and an analysis of their costs of providing service to the customers with and without stimulation.

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IX. RULINGS

At the prehearing conference, Vista-United asked that it be allowed to withdraw from this proceeding because it does not have any routes at issue. I acknowledged Vista-United's withdrawal.


Also, I permitted BellSouth to amend the testimony of its witness, Conrad Martin, and Sprint to amend the testimony of its witness, Sanja Powell.

Finally, I approve the parties' stipulation set forth in Section VIII. In view of that stipulation, the parties are excused from attendance at the May 27, 1998, hearing. The hearing will be convened on May 27, 1998, solely for the purpose of acknowledging the parties' stipulation, identifying the exhibits for the record, and entering the exhibits and testimony into the record. The parties shall submit briefs on the issues by June 17, 1998. They shall include in their briefs proposed rates to be charged to the end-use customers and an analysis of their costs of providing service to the customers with and without stimulation.

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 22nd day of May, 1998.



J. Terry Deason, Commissioner
and Prehearing Officer

(S E A L)
BK

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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 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.

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| Attachment A | | | |
|------------------|------------------|------------|---------------------------------------|
| FROM | TO | DOCKET NO. | LOCAL EXCHANGE COMPANY (IES) INVOLVED |
| Graceville | Ponce de Leon | 870248-TL | Centel and BellSouth |
| Graceville | DeFuniak Springs | 870248-TL | Centel and BellSouth |
| Sanford | DeLand | 910029-TL | BellSouth |
| Mt. Dora | Orlando | 900039-TL | United and BellSouth |
| Trenton | Branford | 870790-TL | BellSouth and ALLTEL |
| Trenton | High Springs | 870790-TL | BellSouth and ALLTEL |
| Lawtey | Gainesville | 910022-TL | Centel and BellSouth |
| Raiford | Gainesville | 910022-TL | ALLTEL and BellSouth |
| Starke | Gainesville | 910022-TL | Centel and BellSouth |
| Hawthorne | Interlachen | 910528-TL | BellSouth and ALLTEL |
| Hawthorne | Palatka | 910528-TL | BellSouth and ALLTEL |
| Keystone Heights | Palatka | 910528-TL | BellSouth |
| Keystone Heights | Interlachen | 910528-TL | BellSouth and ALLTEL |
| Keystone Heights | Florahome | 910528-TL | BellSouth and ALLTEL |
| Melrose | Palatka | 910528-TL | ALLTEL and BellSouth |

| Attachment A | | | |
|----------------|----------------|------------|---------------------------------------|
| FROM | TO | DOCKET NO. | LOCAL EXCHANGE COMPANY (IES) INVOLVED |
| Orange Springs | Palatka | 910528-TL | ALLTEL and BellSouth |
| Hudson | Brooksville | 910529-TL | GTEFL and BellSouth |
| DeBary | Daytona Beach | 911185-TL | BellSouth |
| DeBary | New Smyrna Bch | 911185-TL | BellSouth |
| DeBary | DeLeon Springs | 911185-TL | BellSouth |
| DeBary | Oak Hill | 911185-TL | BellSouth |
| DeBary | Pierson | 911185-TL | BellSouth |
| Orange City | Daytona Beach | 911185-TL | United and BellSouth |
| Orange City | New Smyrna Bch | 911185-TL | United and BellSouth |
| Orange City | Oak Hill | 911185-TL | United and BellSouth |
| Orange City | Pierson | 911185-TL | United and BellSouth |
| Orange City | DeLeon Springs | 911185-TL | United and BellSouth |
| Sanford | Daytona Beach | 911185-TL | BellSouth |
| Sanford | DeLeon Springs | 911185-TL | BellSouth |
| Sanford | New Smyrna Bch | 911185-TL | BellSouth |
| Sanford | Oak Hill | 911185-TL | BellSouth |
| Sanford | Pierson | 911185-TL | BellSouth |
| Clewiston | Belle Glade | 921193-TL | United and BellSouth |