

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition of Embarq Florida, Incorporated and AT&T Florida to transfer portions of AT&T Florida's certificated area to Embarq, and to amend certificates.

DOCKET NO. 080131-TL
ORDER NO. PSC-08-0425-PAA-TL
ISSUED: June 26, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING JOINT PETITION OF
EMBARQ FLORIDA, INCORPORATED AND AT&T FLORIDA TO TRANSFER
PORTIONS OF AT&T FLORIDA'S CERTIFICATED AREA

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Background

On February 28, 2008, Embarq Florida, Incorporated (Embarq) and BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T) filed, as required by Rule 25-4.005, Florida Administrative Code (F. A. C.), a notice of intent to file a joint petition seeking approval to transfer a portion of AT&T's territory to Embarq. The two incumbent local exchange carriers (ILECs) filed their joint petition on May 1, 2008.

The territory at issue consists of approximately 90 lots (including partial lots) in the Provenance development in Seminole County. The area to be transferred is currently in AT&T's Oviedo Exchange. The current ILEC boundary line divides the planned development and individual lots. No subscribers currently live in the area to be transferred and the single family lots are currently owned by the developer. The transfer of this territory to the Embarq Winter Park Exchange will place the entire development in Embarq's territory, where the majority of the present planned lots are located, and make the provision of service more easily administered by one ILEC and less confusing for future customers.

We are vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes.

DOCUMENT NUMBER-DATE

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II. Discussion

The joint petition filed by Embarq and AT&T requests that approximately 90 lots in a planned development be moved from the AT&T Oviedo Exchange to the Embarq Winter Park Exchange, thereby placing all lots and portions of lots in the development into the same exchange. All future customers in the subdivision will then be purchasing service under the same Embarq General Subscriber Services Tariff.

In compliance with Rule 25-4.005, F. A. C., the joint petition states that neither AT&T nor Embarq hold any deposits or deposit interest since there are no customers in the subject territory; that there are no pending applications for service at this time (all lots to be transferred are currently owned by the developer); and that no financial exchange has been or will be given for the transfer of the territory in question.

Rule 25-4.005, F. A. C., requires that a notice of intent be provided to the Public Counsel and the governing bodies of any affected municipalities or counties, in addition to this Commission. The rule also requires the publication of a notice in an area newspaper on two separate occasions, at least two weeks prior to filing the joint petition. A sworn affidavit stating that the notice of intent was properly provided to the required officials was included with the joint petition, as were copies of the legal advertisements.

We find that the companies' request is in the public interest and would eliminate future confusion in providing service in the subdivision, such as which ILEC is the appropriate local service provider and what repair service, calling scopes, and rates apply.

Accordingly, we approve the joint petition to modify the exchange boundaries of AT&T's Oviedo Exchange and Embarq's Winter Park Exchange

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Petition filed by Embarq and AT&T for approval of a territorial agreement to modify the Winter Park Exchange and the Oviedo Exchange boundaries and to amend the companies' local exchange certificates is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall be closed administratively upon the filing of tariffs, within 60 days of the issuance of the consummating order, by Embarq and AT&T reflecting the changes in the exchange boundaries.

By ORDER of the Florida Public Service Commission this 26th day of June, 2008.



ANN COLE
Commission Clerk

(S E A L)

HFM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 17, 2008.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.