BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by the City Council, City of Clermont, for toll free calling (extended area service) between Clermont and the Apopka, Lake Buena Vista, Reedy Creek, Orlando, Windermere, Winter Garden and Winter Park exchanges	DOCKET NO. 891339-TL
In re: Petition of SOUTHERN BELL TELEPHONE and TELEGRAPH COMPANY for rate stabilization and implementation orders and other relief	DOCKET NO. 880069-TL ORDER NO. 24144 ISSUED: 2/22/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
BETTY EASLEY
FRANK S. MESSERSMITH
MICHAEL McK. WILSON

ORDER REQUIRING IMPLEMENTATION OF EXTENDED AREA SERVICE

BY THE COMMISSION:

This docket was initiated pursuant to a resolution filed with this Commission by the City of Clermont on November 27, 1989. The resolution requested that we consider requiring implementation of extended area service (EAS) between the Clermont exchange and the Apopka, Lake Buena Vista, Orlando, Reedy Creek, Windermere, Winter Garden, and Winter Park exchanges. All of these exchanges are served by United Telephone Company of Florida (United), except for the Orlando exchange which is served by Southern Bell Telephone and Telegraph Company (Southern Bell) and the Lake Buena Vista exchange which is served by Vista-United Telecommunications (Vista-United). The Clermont exchange is located in the Gainesville LATA (local access transport area) while the remaining exchanges are located in the Orlando LATA. By Order No. 22608, issued February 27, 1990, we directed the three companies to conduct traffic studies on these routes. Because all of the routes are interLATA, Southern Bell, United, and Vista-United requested and were granted confidential treatment of the traffic data along these routes.

By Order No. 23433, issued September 5, 1990, we proposed requiring United to survey the Clermont subscribers under the 25/25 plan with regrouping for flat-rate, two-way, nonoptional calling between Clermont and the Orlando, Lake Buena Vista, Reedy Creek, Windermere, and Winter Garden exchanges. This action became final on September 27, 1990, as reflected in Order No. 23564, issued October 2, 1990.

In accordance with our directive, United began the process of surveying the Clermont subscribers. United mailed ballots to all Clermont customers shown in their database, a total of over 7000 customers. However, many of the ballots were invalid because those ballots were mailed to previous customers who are no longer subscribers in the Clermont area. United later determined that there were only 6607 customers of record at this time. Thus, the number of ballots which were correctly sent out was 6607.

Additionally, there was a problem with the survey letter itself. The letter stated "... a simple majority of customers responding to the survey must vote to approve the increased local service rates." (emphasis added) However, Rule 25-4.063(5)(a), Florida Administrative Code, states that in order for a survey to pass, "[f]ifty-one (51%) percent of all subscribers in each exchange required to be surveyed vote favorably." The difference is that the letter stated that the number of votes constituting a majority would be based upon the number of respondents. The Rule, on the other hand, states that the number of votes constituting a majority will be based upon the number of eligible voters. Our Staff approved the survey letter and failed to note that the letter was in error on this point.

The results of the survey are as follows:

	NUMBER	PERCENT
Ballots Mailed	6607	100.00%
Ballots Returned	4603	69.67%
Ballots Not Returned	2004	30.33%
For EAS	2734	41.38%
Against EAS	1796	27.18%
Invalid	73	1.11%

As shown above, the survey did not pass under Rule 25-4.063(5)(a) which requires a majority of all eligible voters to vote favorably in order for the survey to pass. If the basis for passage of the survey was as stated in the survey letter, then the survey would have passed.

A second method by which a survey may pass is described by Rule 25-4.063(5)(b). This Rule states that a survey will pass if "[s]ixty (60%) percent of the respondents in each exchange vote favorably and at least seventy (70%) percent of all subscribers in each exchange required to be surveyed respond." Under this Rule, 4625 ballots would have been required to be returned with 2775 of those ballots voting "yes" for the survey to pass. 4603 ballots

were returned with 2734 of those ballots voting "yes." Thus, 21 more ballots returned would have been required, and 41 more ballots voting "yes" would have been required for the survey to pass.

Rule 25-4.063(5)(b) states that if "[s]ixty (60%) percent of the respondents in each exchange vote favorably and at least seventy (70%) percent of all subscribers in each exchange required to be surveyed respond" then the survey will have passed. This means that at least forty-two percent (42%) (equivalent to 60% of 70%) of the ballots must be favorable. Under this Rule, the survey failed to pass by a margin of less than two-thirds of one percent (41.38% vs. 42%). In light of the very close margin in this case, we find it appropriate to waive Rule 25-4.063 and consider the survey to have passed. We note that the two problems discussed above could have slanted the survey. Even so, such a slant would have favored failure of the survey, not passage. In our view, a resurvey under these circumstances would only yield an even higher favorable outcome, at considerable additional cost to the Company. Accordingly, we shall consider the survey to have passed.

We note that our Staff received many telephone calls concerning this docket. With one exception, every call was in favor of the proposed EAS. Most callers were concerned that the erroneous information in the survey letter may have either swayed the vote, or, if nothing else, changed their expectations of the possible outcome. Most callers claimed that because the letter stated that the survey would pass if "a simple majority of customers responding to the survey" voted in favor of the proposal and because the number of "yes" votes (2734) was clearly greater than the number of "no" votes (1796), the survey should have passed. Again, we believe that because the survey vote was so close and the survey process had the problems previously discussed, it is appropriate for us to consider the survey to have passed.

It should be noted that the one caller who was against the proposal claimed to represent approximately 100 other Clermont subscribers. The caller's reason for arguing against the proposal was that the increase in residential rates ($4.79) was substantial for those subscribers on fixed incomes. Specifically, the caller stated that he, and the other subscribers which he represented, were all on fixed incomes and could not afford the proposed increase. The caller expressed concern that some users of the network may be forced to disconnect their service if the increase were approved. He further remarked that it was his belief that the reason there were no other callers against the proposal was the fact that it is a toll call from Clermont to Tallahassee. When advised of our toll-free number, he stated that he and others were

aware of the toll-free number, but that it seemed to be busy every time someone called.

We share this caller's concern that the increase is substantial for those on fixed incomes; however, we find that the community as a whole is desirous of this service and that the economic development of the community will be enhanced by toll-free calling to the Orlando area. This finding is based not only on the survey results, but also on the fact that the two most vigorous supporters of this proposal have been the City of Clermont and the South Lake Development Council. In the case of the City of Clermont, it is the elected representatives of the community who have expressed their strong desire that toll-free calling to the Orlando area become a reality.

Clermont subscribers were surveyed for the EAS plan at the following rates:

SERVICE CLASS	Present	25/25 Additive	Regrouping	Total Additive	New Rates
R-1	$ 7.67	$ 2.49	$ 2.30	$ 4.79	$12.46
B-1	$17.95	$ 5.81	$ 5.27	$11.08	$29.03
PBX	$46.92	$11.73	$10.55	$22.28	$58.65

We have recently, however, approved new local exchange rates in Docket No. 891239-TL. Although the new local rates are higher, the total additive to the local rates for Clermont subscribers and the new rates once the additives are applied are lower than the rates at which the Clermont subscribers were surveyed. Accordingly, the new rates shall be applied. The new rates for this EAS plan are as follows:

SERVICE CLASS	Approved	25/25 Additive	Regrouping	Total Additive	New Rates
R-1	$ 7.95	$ 2.36	$ 1.50	$ 3.86	$11.81
B-1	$18.65	$ 5.55	$ 3.55	$ 9.10	$27.75
PBX	$37.35	$11.10	$ 7.05	$18.15	$55.50

United, Southern Bell, and Vista-United shall immediately take the necessary steps to implement flat-rate, two-way nonoptional EAS between the Clermont exchange and the Orlando, Lake Buena Vista, Reedy Creek, Windermere, and Winter Garden exchanges at the rates shown above. This calling plan shall be implemented as soon as

possible, but no later than twelve months from the date of the this Order. Southern Bell shall petition Judge Greene for a waiver of the Modified Final Judgment in order to carry this interLATA traffic.

In Docket No. 880069-TL, we set aside $10,000,000 for 1990 for EAS implementation. See Order No. 20162 as amended by Order No. 21055. Southern Bell shall file the revenue impact with its tariff revision implementing the Orlando to Clermont route (the only route in this docket served by Southern Bell). The revenue impact shall be applied to the monies set aside in Docket No. 880069-TL for EAS. The revenue impact shall be applied to the 1991 monies set aside for EAS provided implementation is prior to January 1, 1992; otherwise, it shall be applied to the 1992 monies.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Southern Bell Telephone and Telegraph Company, United Telephone Company of Florida, and Vista-United Telecommunications shall implement an extended area service plan that complies with the terms and conditions specified herein. It is further

ORDERED that we have waived Rule 25-4.063, Florida Administrative Code, for the reasons set forth herein. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall immediately begin action to obtain a waiver of the Modified Final Judgment to implement the calling plan described herein. It is further

ORDERED that Docket No. 891339-TL is hereby closed. It is further

ORDERED that Docket No. 880069-TL shall remain open.

By ORDER of the Florida Public Service Commission, this 22nd day of FEBRUARY, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

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Commissioner Messersmith dissented from the vote to consider the survey to have passed and would have resurveyed the Clermont subscribers.

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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.