

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of) DOCKET NO. 920076-TL
Rule 25-4.040, F.A.C., regarding) ORDER NO. PSC-92-0080-FOF-TL
provision of directories to sub-) ISSUED: 3/19/92
scribers in the Stuart exchange,))
by SOUTHERN BELL TELEPHONE AND))
TELEGRAPH COMPANY.))
_____))

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER REGARDING POSTPONEMENT
OF PROVISION OF DIRECTORIES

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Docket No. 900913-TL was opened in response to a petition filed 11/8/90 by Indiantown residents requesting implementation of EAS between the Indiantown and Stuart exchanges. The Indiantown exchange is served by Indiantown Telephone System, Inc. (Indiantown Telephone) and the Stuart exchange is served by Southern Bell Telephone and Telegraph Company (Southern Bell). Both of the exchanges are located in the Southeast LATA. The EAS docket was closed with an implementation order. This docket was opened as a result of a January 22, 1992, Motion for Waiver of Rule 25-4.040(2), Florida Administrative Code, by Southern Bell. The Rule concerns distribution of directories when EAS is granted.

Order No. 23878, issued 12/13/90 required the companies to conduct traffic studies. Order No. 24607 issued 6/3/91 required Indiantown Telephone to survey its subscribers on the 25/25 plan. Order No. 25241, issued 10/22/91 required the companies to implement flat-rate EAS with a 25/25 additive placed on Indiantown Telephone subscribers and no change in rates for Stuart subscribers. EAS was to be implemented by October 22, 1992.

The Rule which is at issue provides that: "When expanded calling scopes are involved, as with Extended Area Service, each

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subscriber shall be provided with directory listings for all published telephone numbers within the local service area." (Rule 25-4.040(2), Florida Administrative Code). This generally has been interpreted to mean that new, expanded, directory listings must be furnished to customers at the time that EAS is implemented. Usually, LECs implementing flat-rate EAS time the implementation date to coincide with the regularly scheduled publication date of new directories.

In this case, Indiantown Telephone has requested Southern Bell to implement EAS between Stuart and Indiantown, on an expedited basis, by April 1, 1992. If Southern Bell were to implement EAS by April 1, 1992, in order to comply with the Rule at issue, Southern Bell would be required to publish and distribute special interim listings of Indiantown subscribers for the 41,00 Stuart customers. The normal directory delivery date is June 1992, for these same customers.

Southern Bell claims that there would be an additional expense of \$200,000 to publish and distribute separate listings of Indiantown subscribers three months early. Southern Bell requests that the Rule requirement be waived for a period of three months. This would allow the company to honor the request to implement EAS by April 1, 1992, without facing the additional expenses associated with early publication and distribution of Indiantown listings.

The Company claims that the regularly scheduled directory publication date cannot be changed for several reasons. The primary reason is that any change would affect the publication date of other directories which are scheduled to be published before the Stuart directory. In addition, the directory closing date, and yellow pages advertising would be affected by any schedule change.

We find that it is appropriate for directory listings to be made available at the time flat-rate EAS is implemented. This is particularly true where there are a large number of customers who can be expected to take advantage of EAS, or where customers will be faced with an increase in their rates. However, neither situation is true of the Stuart subscribers. The Indiantown EAS docket was driven by a request from Indiantown subscribers. The calling patterns were skewed in one direction, from Indiantown to Stuart. Indiantown subscribers had a substantial community of interest with Stuart based on calling rates of over 11 M/M/M with 57% of customers making two or more calls. Only the Indiantown subscribers were surveyed, subject to an increase in their rates. Indiantown Telephone will be providing Stuart listings to Indiantown subscribers at the time EAS is implemented.

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Stuart subscribers, on the other hand, have little community of interest with Indiantown, based on calling rates of less than 1 M/M/M with only 6% of customers making two or more calls. Stuart subscribers will face no increase associated with EAS to Indiantown.

Because the community of interest is from Indiantown to Stuart, and not the reverse, and because listings for Indiantown subscribers will be available to Stuart subscribers from directory assistance, we find that it is reasonable to temporarily waive the directory requirement for Southern Bell, until the regularly scheduled publishing date to produce and distribute new directories. We find that the benefit to Indiantown subscribers of implementing the service three months early clearly outweighs any harm to Stuart subscribers from not having listings immediately available. Rule 25-4.002(2), Florida Administrative Code provides for temporary exemption from rules where immediate compliance creates unusual hardship or unreasonable difficulty. Upon review, we waive Rule 25-4.040(2), Florida Administrative Code for the requested three months.

This docket shall be closed at the end of the proposed agency action protest period if no timely protest is filed.

Therefore, it is

ORDERED by the Florida Public Service Commission that Southern Bell's Motion for Waiver of Rule 25-4.040(2), Florida Administrative Code is hereby granted. The waiver is limited to a period of three months. It is further

ORDERED that this docket shall be closed at the end of the proposed agency action protest period if no timely protest is filed.

By ORDER of the Florida Public Service Commission, this 19th day of MARCH, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CWM

by: Kay J. Lynn
Chief, Bureau of Records

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on

4/9/92

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.