

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Lake Mary City) DOCKET NO. 910762-TL
Commission for extended area) ORDER NO. PSC-92-0992-FOF-TL
service from the Sanford and) ISSUED: 09/15/92
Geneva exchanges to the Orlando)
and Apopka exchanges.)
_____)

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

Pursuant to notice, a public hearing was held in this docket on May 13, 1992, in Lake Mary, Florida, and on May 15, 1992, in Tallahassee, Florida.

APPEARANCES:

DAVID B. ERWIN, Esquire, Young, van Assenderp, Varnadoe & Benton, P.A., Post Office Box 1833, Tallahassee, FL 32302-1833
On behalf of the City of Lake Mary, the City of Sanford, and Seminole County.

DAVID M. FALGOUST, Esquire, 4300 Southern Bell Center, 675 West Peachtree Street, N.E., Atlanta, GA 30375, and J. PHILLIP CARVER, Esquire, c/o Marshall M. Criser III, 150 South Monroe Street, Suite 400, Tallahassee, FL 32301-1556
On behalf of Southern Bell Telephone and Telegraph Company.

ALAN N. BERG, Esquire, Post Office Box 5000, Altamonte Springs, FL 32716-5000
On behalf of United Telephone Company of Florida.

JACK SHREVE, Esquire, Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, FL 32399-1400
On behalf of the Citizens of the State of Florida.

ANGELA B. GREEN, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399-0863
On behalf of the Commission Staff.

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WILLIAM E. WYROUGH, JR., Esquire, Florida Public Service
Commission, 101 East Gaines Street, Tallahassee, FL
32399-0862
On behalf of the Commissioners.

FINAL ORDER

BY THE COMMISSION:

I. BACKGROUND

This docket was initiated pursuant to Resolution No. 91-376 filed with this Commission by the City Commission of the City of Lake Mary. The resolution requested that we consider requiring implementation of extended area service (EAS) from the Sanford and Geneva exchanges (Seminole County) to the Orlando and Apopka exchanges (Orange County). Resolution No. 91-212 by the Seminole County Board of County Commissioners and Resolution No. 91-1605 by the City Commission of the City of Sanford have also been filed with this Commission and made the same request. The Apopka exchange is served by United Telephone Company of Florida (United), while the Geneva, Orlando, and Sanford exchanges are served by Southern Bell Telephone and Telegraph Company (Southern Bell).

By Order No. 25031, issued September 9, 1991, the companies were directed to perform traffic studies between these exchanges to determine whether a sufficient community of interest exists, pursuant to Rule 25-4.060, Florida Administrative Code. The companies were required to prepare and submit these studies to us within 60 days of the issuance of Order No. 25031, making the studies due by November 8, 1991.

On December 10, 1991, United filed a Motion for Extension of Time requesting an extension on filing the study until December 18, 1991. By Order No. 25507, issued December 19, 1991, we granted United's request. Subsequently, both companies filed the requested traffic studies.

Following analysis of this data, our staff filed a recommendation for consideration at the February 4, 1992, Agenda Conference. The recommendation suggested that we require Southern Bell to survey its customers in the Sanford and Geneva exchanges for implementation of non-optional, flat rate, two-way, toll free calling to and from Orlando under the 25/25 plan with regrouping. Representatives of the Lake Mary area appeared in opposition to our staff's proposed calling plan.

Upon consideration of the staff recommendation, we found it appropriate to proceed directly to hearing in this matter. We believed that holding a hearing would be the most expeditious way to reach a resolution that is reasonable and appropriate, and that meets the needs of the greatest number of customers. Our Order on Prehearing Procedure, Order No. PSC-92-0101-PCO-TL, issued March 25, 1992, set forth the procedures to be used and the issues to be resolved through the hearing process.

The hearing in this matter was held on May 13, 1992, in Lake Mary, Florida. The hearing was divided into two phases: the first phase to take the testimony of citizens concerning their toll calling needs; the second phase to receive testimony and exhibits from the parties. Due to time constraints, the hearing in Lake Mary was adjourned at the end of the day and reconvened in Tallahassee, Florida, on May 15, 1992, by agreement of the parties.

II. COMMUNITY OF INTEREST

The City of Lake Mary asserts that there is a sufficient community of interest on the Sanford/Orlando route to justify implementing nonoptional, flat rate, two-way, toll free calling (traditional EAS), while the community of interest on the Sanford/Apopka route is only sufficient to justify implementation an alternative toll relief plan. Southern Bell's position is that there is not a sufficient community of interest on any of the routes in this docket. United states that there is only a minimal community of interest on the Apopka to Sanford and Apopka to Geneva routes.

Southern Bell believes that the calling rate between exchanges is one indicator of the degree of community of interest between two exchanges, while the call distribution is another. In addition, according to Southern Bell, some intangible factors often mentioned by customers desiring EAS which could be considered for determining levels of community of interest include the location of schools, fire/police departments, medical/emergency facilities, and county offices. Lake Mary agrees that factors other than calling volume and call distribution can and should be considered in making a determination as to whether a sufficient community of interest exists to warrant EAS. United states, however, that it has not identified any community of interest factors which would justify a change in the local calling scope of its Apopka exchange.

Rule 25-4.060(2) provides that a preliminary showing that a sufficient degree of community of interest exists to warrant further proceedings will be found to exist where there is a two-way

calling rate of two messages per main and equivalent main station per month (M/M/M) or higher, with at least 50% of the exchange subscribers making one or more calls per month. Alternately, a one-way calling rate of three M/M/Ms or higher, with at least 50% of the exchange subscribers making two or more calls per month is sufficient, if the petitioning exchange is less than half the size of the exchange to which EAS is sought (with size measured by the number of access lines per exchange). Given the provisions of this Rule, we find that calling rate and call distribution are only one factor to be considered, although they should be given considerable weight. We also believe it is appropriate to consider the so-called "intangible factors" noted by Southern Bell, although we find the list provided to be illustrative only. Other factors may be appropriate to recognize, based upon the unique facts and circumstances in any given case.

Officials from all of the affected units of local government (with the exception of Geneva) appeared at the hearing and spoke to the need for toll free calling in the area. The Mayors of Apopka, Lake Mary, and Sanford, as well as a representative of the Mayor of Orlando, addressed the several communities' need for toll relief. The Chairman of the Seminole County Commission, speaking on behalf of the entire Seminole community (which includes Geneva), stressed the fact that Seminole County is a progressive suburban county, rapidly urbanizing, and an integral part of the metropolis called Orlando and Central Florida. Several state legislators also spoke in favor of the requested toll relief.

Thirty five other public witnesses testified in support of the toll relief request. The President of the Economic Development Commission of Mid-Florida noted that the Metropolitan Statistical Area (MSA) encompasses Seminole, Osceola, and Orange Counties (as well as Lake County, which has just been added) and that Seminole County has been marketed to the world as a business location in Metro Orlando. Representatives from area Chambers of Commerce lent support to this testimony. A Lake Mary contractor voiced his need to call Orlando daily and stated that sometimes he would go two miles down the road, to where the calls are local, to use a pay telephone, rather than have to pay toll rates. Two current Lake Mary City Commissioners and a former mayor discussed the mandatory MarketReachsm plan for business and described their community as not in the "lucky customer zone," the lucky customer zone being one of those areas with flat-rate, toll free calling to Orlando. Representatives of the medical community, as well as numerous small business interests, also testified in support of the request. Both the Finance Director and City Manager, City of Lake Mary, testified in support of toll free calling, as well as to their displeasure with the MarketReachsm plan.

Lake Mary's witness Spearman views this EAS proceeding as extremely important to the overall development of the area. Spearman believes Sanford should have nonoptional, flat rate, two-way calling with Orlando at no additional charge. Spearman also believes that Lake Mary must recognize its community of interest with Apopka.

United's witness Reynolds limited his testimony and exhibits to calling between United's Apopka exchange and Southern Bell's Geneva and Sanford exchanges. United does not believe a sufficient community of interest exists between Apopka and either Geneva or Sanford, as demonstrated by the traffic studies. The call volume is 1.75 messages per access line per month, with 21% of the customers making two or more calls, on the Apopka to Sanford route. The call volume is only .05 messages per access line per month, with only one percent of the customers making two or more calls, on the Apopka to Geneva route. The calling rates in the reverse direction, to Apopka from Geneva and Sanford, are also extremely low. Geneva to Apopka messages per access line per month are .43, with 7.12% of the customers making 2 or more calls. On the Sanford to Apopka route, the calling rate per access line per month is .64, with 9.01% making two or more calls. All of these calling rates and volumes are well below the threshold of Rule 25-4.060.

Witness Morris' Exhibit 1, Map 1, delineates the Sanford/Lake Mary area with the proposed beltway which is partially built and scheduled to be completed sometime later in this decade. However, the beltway, when completed, will not bring the Apopka exchange closer to the Geneva and Sanford exchanges since they are separated by the Wekiva River, the Wekiva State Park, the Wekiva Reserve, and the Wekiva Swamp. As witness Cimerman noted, the proposed beltway, which has not been funded and will not be completed for several years, will be a toll road and will not negate existing barriers between these exchanges.

We find that the calling rates and call distribution on the Sanford/Apopka and Sanford/Geneva routes do not demonstrate a sufficient community of interest to justify EAS or any alternative toll relief plan. These levels are well below what staff witness Cimerman believes should be considered for any toll alternative plan. Had the routes been intracounty or had there been clear community of interest factors other than calling volume, then perhaps the \$.25 plan would be appropriate. However, neither rationale applies to these routes. Apopka is in Orange County and currently has calling to and from Orlando, its county seat. Apopka's community of interest would be Orlando, rather than Geneva or Sanford.

The Southern Bell intracompany routes, Geneva/Orlando and Sanford/Orlando, do qualify under the Rule, if one assumes, as advocated by witness Cimerman, that the customers subscribing to premium flat rate EOEAS on the Geneva and Sanford to Orlando routes, and MarketReachsm, make two or more calls per month. Using this assumption, the calling rates and distribution on each route are as follows:

CALLING RATES AND DISTRIBUTION		
Route	M/M/M	% 2 or more calls
Geneva/Orlando	6.03	62
Orlando/Geneva	.04	.72
Sanford/Orlando	8.21	55
Orlando/Sanford	.89	10

We find the witness' assumption to be reasonable, and therefore, based upon the calling rates and call distribution, find that the Geneva/Orlando and Sanford/Orlando routes qualify for customer surveys for nonoptional, flat rate, two-way, toll free calling, under the calling plan discussed below.

No other community of interest factors need to be considered on the Sanford/Orlando and Geneva/Orlando routes since the calling volume requirements for a customer survey have been met. No unusual community of interest factors or demographic considerations exist on the Sanford/Apopka and Geneva/Apopka routes, as discussed in detail above.

III. CALLING PLAN AND RATE

Having determined that the Sanford/Orlando and Geneva/Orlando routes qualify for nonoptional, flat rate, two-way, toll free calling, we next must determine the appropriate calling plan and rate that should apply. In reaching our decision, we considered a number of different calling plans.

Lake Mary believes that all of the optional plans (EOEAS and MarketReachsm) should be terminated and replaced with two-way, flat rate, nonoptional EAS, with a charge for regrouping only. Any other additive is inappropriate in their eyes. They believe they should be treated like all of the other surrounding exchanges that

received EAS with Orlando for regrouping only between 1957 and 1983.

Southern Bell's witness Soto does not believe the calling rates on any of the routes qualify for EAS. However, if we were to require EAS, Southern Bell would prefer an optional calling plan similar to GTE Florida Incorporated's (GTEFL's) Extended Calling Service (ECS) plan on the Sanford/Orlando (excluding Lake Mary wire center) and Geneva/Orlando routes.

Staff witness Cimerman advocated the 25/25 plan with regrouping for the Sanford/Orlando and Geneva/Orlando routes. Cimerman states that we should be consistent and treat this case like we have all recent EAS requests in which the calling volumes were sufficient to warrant consideration of nonoptional, flat rate, two-way, toll free calling. In all such cases, we have approved surveys on the 25/25 plan with regrouping. We agree with this witness and shall order the 25/25 plan with regrouping on these routes.

The subscriber's rates in both the Geneva and Sanford exchanges under the 25/25 plan with regrouping shall be as follows:

GENEVA AND SANFORD RATES UNDER 25/25 WITH REGROUPING				
Class of Service	Current Rate	25/25 Additive	Regroup Additive	New Rate
R1	\$ 9.50	\$ 2.45	\$.80	\$ 12.75
B1	25.75	6.65	2.25	34.65
PBX	57.86	14.93	4.95	77.74

The regrouping rates are calculated by adding 290,289 access lines of the Orlando exchange to the current calling scope in the Sanford (238,177) and Geneva (222,200) exchanges. The new calling scope totals are 528,466 and 512,489, respectively, which regroups both exchanges from current rate group 7 to rate group 10.

The 25/25 additive is calculated by determining the number of access lines in the Orlando exchange (290,289). This number of additional access lines is applied to Southern Bell's rate group schedule to determine the applicable rate group and rates which, for Orlando, is Rate Group 8: \$ 9.80 (R1); \$26.60 (B1); and \$59.73 (PBX). The 25/25 additive is 25% of the rate group of the newly added exchange or \$2.45, \$6.65, and \$14.93, respectively.

IV. REMOVAL OF ADDITIVE IN FUTURE

The subscribers in the Lake Mary area believe that they have been singled out for different treatment because they are the only community in the Orlando metropolitan area that cannot call Orlando toll free. Only since 1989 have they been able to subscribe to optional plans, EOEAS, and MarketReachSM. Lake Mary's witness Spearman summed up the viewpoint of many subscribers when he said, "We believe that we have already paid enough to buy into the privilege of having two-way, flat rate, nonoptional EAS." We cannot agree with this witness, however, because we believe that the Lake Mary subscribers have benefitted from these plans, since they paid lower rates than they otherwise would have paid.

We stated above that we believe the appropriate plan for the Geneva/Orlando and the Sanford/Orlando routes is the 25/25 plan with regrouping. This is the plan we have ordered in all recent cases when calling levels meet our EAS rule requirements.

Part of the rationale for the 25/25 additive is that the customers who benefit from the additional calling scope will pay at least some part of the added costs/lost revenues for a period of time. From a local exchange company's (LEC's) perspective, EAS has two basic areas which affect the company's bottom line - the lost revenues (with associated offsets) from having toll convert to local calling; and the added costs associated with the additional facilities required with the additional calling. For many years, we have waived the portions of our rules regarding full recovery of costs, recognizing that recovery of all costs, while providing customers the needed additional calling at reasonable rates, is virtually impossible. However, we have also recognized that the beneficiaries of EAS should cover some portion of the company's costs/lost revenues, for at least some period of time.

As to how long the additive should remain in effect, staff witness Cimerman recommended a period of at least two years following implementation, or until Southern Bell's next earnings review, whichever comes later. We do not agree. We are not presently willing to set a fixed time period. Rather, we believe it is appropriate to address any change in this rate differential at some future proceeding. Subscribers in the Havana and Milton exchanges paid a 25/25 additive from June and September of 1987 until December, 1990, a period of nearly three and one-half years. Subscribers in the Century exchange are currently paying a 25/25 additive with regrouping and have been paying it for nearly two years, while Yulee subscribers have been paying it for almost two and one-half years. Accordingly, we will address removal of the additive at some future proceeding, to be determined at that time.

V. COST RECOVERY AND REVENUE IMPACT

The economic impact to Southern Bell under the plan we have authorized is \$607,345 annually, as reflected in the following table:

SOUTHERN BELL ANNUAL ECONOMIC IMPACT	
	Sanford & Geneva to Orlando
Losses	
Annual Costs of Add'l. Switching Investment	\$ 24,647.00
Directory Costs	114,153.00
Net Toll Revenue Loss	2,618,720.00
Net MarketReach Revenue Loss	216,280.00
FX Revenue Loss	115,440.00
Total Losses	3,089,240.00
Gains	
Regrouping Revenues	\$ 564,766.00
EAS Additives Revenues	1,611,628.00
Misc. Savings	305,501.00
Total Gains	2,481,895.00
Net Economic Impact	(\$607,345.00)

The above chart was developed from data provided by Southern Bell's witness Soto.

Lake Mary advocates a charge for regrouping only and its initial position was that any additional costs not recovered through regrouping should be recovered from the monies set aside in Southern Bell's Rate Stabilization Docket (Docket No. 880069-TL). However, since those funds have been ordered to be refunded to the general body of ratepayers, the ratepayers have received an "EAS dividend," according to Lake Mary, which more than covers the cost of implementing EAS for regrouping only. Southern Bell, on the other hand, asks to recover full costs including switching investment, trunk facilities, annual charges, directory costs, leasing costs, and toll and FX revenue reductions.

We do not agree with either party. As noted by witness Cimerman, in virtually all EAS dockets for which cost information has been submitted, it has been shown that full cost recovery would result in unacceptably high rates to customers. For example, for the EAS we have ordered in this docket, full cost recovery would require additives of \$4.08 (R1), \$11.18 (B1), and \$24.97 (PBX). On the other hand, as we stated above, we believe that the beneficiaries of EAS should cover some of the costs and lost revenues.

Accordingly, Southern Bell shall not be permitted to recover its full costs, but shall be allowed to recover the 25/25 additive and regrouping. These are the available and appropriate revenue sources to offset the costs of implementing nonoptional, flat rate, two-way, toll free calling between Geneva and Orlando and Sanford and Orlando. Any additional revenue loss should be recovered from the general body of ratepayers in Southern Bell's next earnings review. In light of this determination, we find it appropriate to waive Rule 25-4.062, Florida Administrative Code, providing for full cost recovery.

VI. CUSTOMER SURVEY

Lake Mary's position is that there is no need to survey subscribers for a regrouping charge only, but if there was to be a vote, the survey should be decided by a simple majority of those responding. Southern Bell believes we should follow the letter of Rule 25-4.063, Florida Administrative Code, which requires a favorable vote from 51% of all eligible subscribers (not just respondents) in order for the survey to pass.

Staff witness Cimerman advocates that subscribers in the Geneva and Sanford exchanges should be separately surveyed for EAS to and from the Orlando exchange. He further believes that we should waive Rule 25-4.063, and interpret the 51% requirement to mean a simple majority of eligible subscribers (50% plus one vote) as sufficient for passage of the respective surveys. We agree and shall so require. In addition, Southern Bell shall be required to obtain our staff's approval of the explanatory survey letters and ballots prior to their mailing. The surveys should begin within thirty days of the date of this order. In the event one or both surveys fail to receive a majority vote, staff shall file the results of the surveys, along with a recommendation for appropriate action at that time.

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VII. EXISTING CALLING PLANS

Lake Mary would like to see nonoptional, flat rate, two-way EAS implemented for regrouping only and the EOEAS and MarketReachsm plans terminated. Southern Bell would like to continue the MarketReachsm plan until its scheduled expiration in March, 1993. In lieu of the EOEAS plan in effect from Geneva to Orlando and from Sanford (except the Lake Mary wire center) to Orlando, Southern Bell advocates an ECS plan.

We have determined that the customers in Sanford and Geneva shall be surveyed for implementation of the 25/25 plan with regrouping to and from the Orlando exchange. The results of the surveys will be reported to us by our staff through the recommendation process. We believe the best time to decide what action should be taken on the existing calling plans is at the time the survey results are reported to us. Accordingly, we find it appropriate to defer our decision on this issue until that time.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every finding set forth herein is approved in every respect. It is further

ORDERED Resolution No. 91-376 filed with this Commission by the City Commission of the City of Lake Mary is hereby approved to the extent set forth herein. It is further

ORDERED Resolution No. 91-212 filed with this Commission by the Seminole County Board of County Commissioners is hereby approved to the extent set forth herein. It is further

ORDERED Resolution No. 91-1605 filed with this Commission by the City Commission of the City of Sanford is hereby approved to the extent set forth herein. It is further

ORDERED that Southern Bell Telephone and Telegraph Company shall, within 30 days of the date of this Order, separately survey its subscribers in the Sanford and Geneva exchanges for implementation of a flat rate, two-way, nonoptional, extended area service plan that complies with the terms and conditions outlined in the body of this Order. It is further

ORDERED that if the survey passes, the calling plan described herein shall be implemented by Southern Bell Telephone and Telegraph Company in accordance with our order on survey approval. It is further

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ORDERED that Southern Bell Telephone and Telegraph Company shall submit its survey letters and ballots to our staff for approval prior to their distribution. It is further

ORDERED that certain rules as discussed herein have been waived for the reasons set forth in the body of this Order. It is further

ORDERED that the additive developed for the calling plan described herein shall remain in effect until some future proceeding and not for a date certain. It is further

ORDERED that the revenue impact of our calling plan and cost recovery shall be in accordance with the decisions set forth herein. It is further

ORDERED that our decision on the appropriate action to take with respect to the existing calling plans shall be made at the time we review the results of the customer surveys. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 15th day of September, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

by: Kay Hagan
Chief, Bureau of Records

Commissioner Easley dissented from the decision to address removal of the additive at some future proceeding.

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