

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request by Volusia) DOCKET NO. 930035-TL
County Council to move the Lake) ORDER NO. PSC-95-0969-FOF-TL
Ashby Community from the Sanford) ISSUED: August 9, 1995
exchange into the New Smyrna)
Beach exchange.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SOUTHERN BELL'S PROPOSAL TO ELIMINATE ADDITIVE

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.

By Order No. PSC-92-0982-FOF-TL in Docket No. 911185-TL, issued September 11, 1992, we ordered the implementation of the \$.25 plan countywide within Volusia County. However, because of restrictions preventing BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) from carrying traffic over a LATA (local access transport area) boundary, several routes could not be implemented until the U.S. District Court granted a waiver. One of the routes pending implementation is the Sanford/New Smyrna Beach route. At this time, no decision has been made regarding these routes.

On December 2, 1992, the Volusia County Council filed a request to survey the Lake Ashby area to determine whether the community was in favor of moving from the Sanford exchange, primarily located in Seminole County, to the New Smyrna Beach exchange, which is located in Volusia County.

By Order No. PSC-93-1701-FOF-TL, issued November 24, 1993, we required Southern Bell to ballot the 170 Lake Ashby customers to determine if they would be in favor of moving from the Sanford

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exchange into the New Smyrna Beach exchange with an additive of \$3.38 per month for a period of ten years. We used the same guidelines for balloting as those we use for extended area service (EAS). Rule 25-4.063(6), Florida Administrative Code, requires a majority of all respondents in each exchange to vote favorably and that at least 40% of all ballots sent must be returned. Based on Rule 25-4.063(6), the survey passed since 51.67% of the ballots returned were in favor of changing the exchange service area from Sanford to New Smyrna Beach.

By Order No. PSC-94-1025-FOF-TL, we approved the boundary change, which is to be implemented no later than August 23, 1995. The boundary change was based on the results of the survey and is consistent with Order No. PSC-93-1701-FOF-TL.

On June 13, 1995, Southern Bell sent notices to its Lake Ashby customers informing them that they would be transferred from the Sanford exchange into the New Smyrna Beach exchange on July 19, 1995, pursuant to a Commission order. The notice provided the Lake Ashby customers their new telephone numbers, new rates and a brief explanation of the change in calling scope. In its notice, Southern Bell erroneously stated that residential customers would receive a \$1.10 decrease in rates instead of a \$3.38 additive in rates.

On July 5, 1995, Southern Bell filed a request to eliminate the \$3.38 monthly additive associated with the boundary change. The Company stated that this proposal was in the interest of customer relations.

By removing the \$3.38 additive, which was to be imposed for ten years, the Lake Ashby customers will pay the same rates as they currently pay in the Sanford exchange. Even though there is a difference in the rate group between the Sanford and New Smyrna Beach exchanges, the Lake Ashby customers' rates will not change from the rates they are paying in the Sanford exchange. When we calculated the cost recovery, we included the difference in rates between Sanford and New Smyrna Beach as part of the cost recovery.

We do not oppose Southern Bell's proposal to eliminate the additive. However, we had concerns about the misstated rates in the notice. The Company has assured us that this error was an oversight and that steps have been taken to ensure that this does not happen again.

We find that Southern Bell's proposal to not recover these revenues in the interest of customer relations is appropriate. The boundary change being made in this case is unique. There are no

prior cases dealing with a customer initiated boundary change in the context of solving EAS question. It is also unlikely that this situation can be repeated in the future in light of the statutory revisions to Chapter 364 and the introduction of competition into the local market. Thus, we approve Southern Bell's proposal to remove the \$3.38 additive effective on August 8, 1995, and Order No. PSC-94-1025-FOF-TL shall be modified accordingly.

Since the boundary change is currently scheduled to be implemented no later than August 23, 1995, we find, based on Rule 25-22.029(2), Florida Administrative Code, that it is appropriate to shorten the protest period to 14 days to allow sufficient time for Southern Bell to implement the correct rates upon implementation of the boundary change.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby approve Southern Bell's proposal to eliminate the \$3.38 additive for the Lake Ashby customers effective on August 8, 1995. It is further

ORDERED Order No. PSC-94-1025-FOF-TL shall be modified accordingly. It is further

ORDERED that this Order shall become final and effective unless a timely protest is filed within 14 days of the date of issuance of this Order in accordance with the requirements set forth below. It is further

ORDERED that in the event this Order becomes final, this Docket should be closed.

By ORDER of the Florida Public Service Commission, this 9th day of August, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DLC

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 23, 1995.

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 substantially 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.