

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM

January 25, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (SHELPER, WIDELL) *dt Raw*
DIVISION OF LEGAL SERVICES (CANZANO) *lh*

RE: DOCKET NO. 951097-TL - RESOLUTION BY THE CITY OF FERNANDINA BEACH FOR EXTENDED AREA SERVICE (EAS) BETWEEN THE FERNANDINA BEACH EXCHANGE THE JACKSONVILLE EXCHANGE.

DOCKET NO. 951269-TL - RESOLUTION BY CHARLOTTE COUNTY BOARD OF COMMISSIONERS FOR EXTENDED AREA SERVICE (EAS) BETWEEN PORT CHARLOTTE, ENGLEWOOD, CAPE HAZE, PUNTA GORDA, AND BOCA GRANDE EXCHANGES.

DOCKET NO. 960086-TL - RESOLUTION BY MADISON COUNTY BOARD OF COMMISSIONERS FOR EXTENDED AREA SERVICE (EAS) FROM THE CHERRY LAKE AND LEE EXCHANGES TO THE TALLAHASSEE EXCHANGE.

DOCKET NO. 960087-TL - RESOLUTION BY VOLUSIA COUNTY COUNCIL FOR EXTENDED AREA SERVICE (EAS) FROM THE ORANGE CITY EXCHANGE TO THE WINTER PARK AND ORLANDO EXCHANGES.

AGENDA: FEBRUARY 6, 1996 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\951097TL.RCM

CASE BACKGROUND

- On August 28, 1995, the City of Fernandina Beach filed Resolution 95-24 requesting extended area service (EAS) between the Fernandina Beach exchange and the Jacksonville Beach exchange. Both of these exchanges are provided service by BellSouth Telecommunications, Inc. (BellSouth) and are located in the Jacksonville LATA (local access and transport area). Attachment A is a map of the involved exchanges.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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- On October 20, 1995, the Charlotte County Board of Commissioners filed Resolution 95-219 requesting EAS between the Port Charlotte, Englewood, Cape Haze, Punta Gorda and Boca Grande exchanges. In addition, a petition has been filed by the citizens of Charlotte County with over 7,000 signatures requesting \$.25 calling between Punta Gorda, Port Charlotte, Boca Grande and Englewood. The Port Charlotte, Cape Haze, Punta Gorda and Boca Grande exchanges are provided service by United Telephone Company of Florida (United) and are located in the Fort Myers Market Area. The Englewood exchange is served by GTE Florida Incorporated (GTEFL) and is located in the Tampa Market Area. Attachment B is a map of the involved exchanges.
- On October 30, 1995, the Madison County Board of Commissioners filed Resolution 95-10-4A requesting EAS from the Cherry Lake and Lee exchanges to the Tallahassee exchange. Centel provides service to all of the exchanges involved in this request, and the exchanges are all located in the Tallahassee Market Area. Attachment C is a map of the involved area.
- On January 5, 1996, the Volusia County Council filed Resolution No. 95-298 requesting EAS from the Orange City exchange to the Winter Park and Orlando exchanges. The Orange City and Winter Park exchanges are provided service by United. The Orlando exchange is served by BellSouth. All of the exchanges in this request are located in the Orlando LATA. Attachment D is a map of the involved area.
- For local exchange companies (LECs) that elect to be price-cap regulated, Section 364.385(2), Florida Statutes (1995), provides that no new extended area service (EAS) or extended calling service (ECS) proceeding governed by the law as it existed prior to January 1, 1995, shall be initiated after July 1, 1995.
- BellSouth, GTEFL, Sprint United and Sprint Centel have elected price regulation per Section 364.051, Florida Statutes.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the following requests for extended area service:

- 1) Docket No. 951097-TL (Resolution for EAS from Fernandina Beach to the Jacksonville and Jacksonville Beach exchanges), filed August 28, 1995;
- 2) Docket No. 951269-TL (Resolution for EAS within Charlotte County), filed on October 20, 1995;
- 3) Docket No. 960086-TL (Resolution for EAS from the Cherry Lake and Lee exchanges to the Tallahassee exchange), filed October 30, 1995; and
- 4) Docket No. 960087-TL (Resolution for EAS from the Orange City exchange to the Winter Park and Orlando exchanges), filed January 5, 1996?

RECOMMENDATION: No. Requests for EAS or ECS filed after July 1, 1995 that are implemented, if any, become part of non-basic service. Since EAS or ECS requested after July 1, 1995 would become a non-basic service, there is no express statutory authority for the Commission to require the price-regulated LECs to implement EAS or ECS. Thus, whether to implement an EAS or ECS request is a decision for the price-regulated LEC rather than for the Commission.

STAFF ANALYSIS: Since July 1, 1995, the Commission has received four requests for EAS which involve LECs that have elected price regulation. On August 28, 1995, the City of Fernandina Beach filed Resolution 95-24 (Docket No. 951097-TL) requesting extended area service (EAS) from the Fernandina Beach exchange to the Jacksonville and Jacksonville Beach exchanges. On October 20, 1995, the Charlotte County Board of Commissioners filed Resolution 95-219 (Docket No. 951269-TL) requesting EAS between the Port Charlotte, Englewood, Cape Haze, Punta Gorda and Boca Grande exchanges. In addition, a petition has been filed by the citizens of Charlotte County with over 7,000 signatures requesting \$.25 calling between Punta Gorda, Port Charlotte, Boca Grande and Englewood. On October 30, 1995, the Madison County Board of Commissioners filed Resolution 95-10-4A (Docket No. 960086-TL) requesting EAS from the Cherry Lake and Lee exchanges to the Tallahassee exchange. Also, on January 5, 1996, the Volusia County Council filed Resolution No. 95-298 (Docket No. 960087-TL) requesting EAS from the Orange City exchange to the Winter Park and Orlando exchanges.

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It should be noted that since Docket No. 951097-TL was opened, extended calling service (ECS) was implemented on the Fernandina Beach/Jacksonville and Fernandina Beach/Fort George routes. See Order No. PSC-95-1391-POF-TL, issued November 8, 1995, in Docket No. 920260-TL (BellSouth rate case). The Commission's decision in that docket is being appealed by Florida Interexchange Carriers Association. Also, the Boca Grande/Englewood route is being considered for an interLATA alternative toll plan in Docket No. 930172-TL, which is scheduled for the February 20, 1996 agenda conference. There are no EAS requests prior to July 1, 1995 pending on the remaining routes.

Section 364.02(2), Florida Statutes, states that basic local telecommunications service for a local exchange telecommunications company includes any extended area service (EAS) routes, and extended calling service in existence or ordered by the Commission on or before July 1, 1995. The saving clauses in Section 364.385(2) set forth the situations for which the old law rather than the new law is applied. Specifically, it provides that all applications for EAS or ECS pending before the Commission on March 1, 1995, shall be governed by the law as it existed prior to July 1, 1995, and that upon approval, the EAS or ECS routes shall be considered basic services.

Resolutions and petitions requesting EAS or ECS filed after July 1, 1995 are problematic in light of the revisions to Chapter 364, Florida Statutes. Section 364.385(2) also provides that

Proceedings including judicial review pending on July 1, 1995, shall be governed by the law as it existed prior to the date on which this section becomes a law. No new proceedings governed by the law as it existed prior to January 1, 1995, shall be initiated after July 1, 1995. Any administrative adjudicatory proceeding which has not progressed to the stage of a hearing by July 1, 1995, may, with the consent of all parties and the commission, be conducted in accordance with the law as it existed prior to January 1, 1996.

Thus, based upon the revisions to Chapter 364, it is staff's position that after July 1, 1995, there can be no new EAS or ECS applications based on the old law; whatever EAS or ECS that can be implemented after that date must be under the terms of the new law. It is clear that requests for EAS or ECS filed after July 1, 1995 that are implemented, if any, become part of non-basic service. Staff believes that since EAS or ECS requested after July 1, 1995 would become a non-basic service, there is no express statutory authority for the Commission to require the price-regulated LECs to

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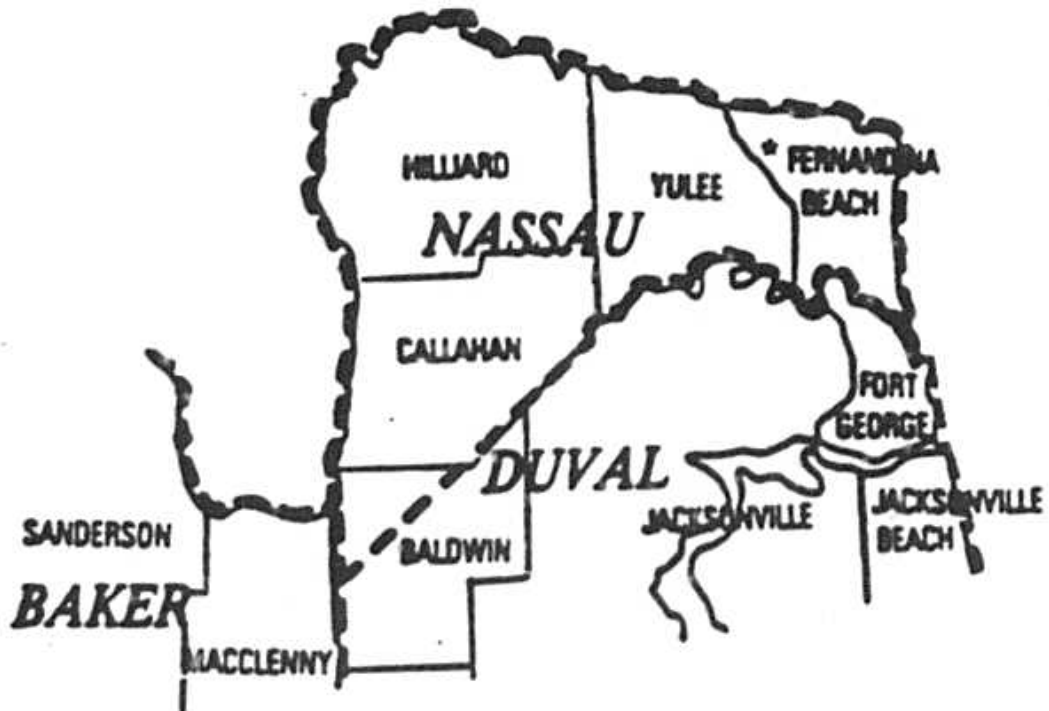
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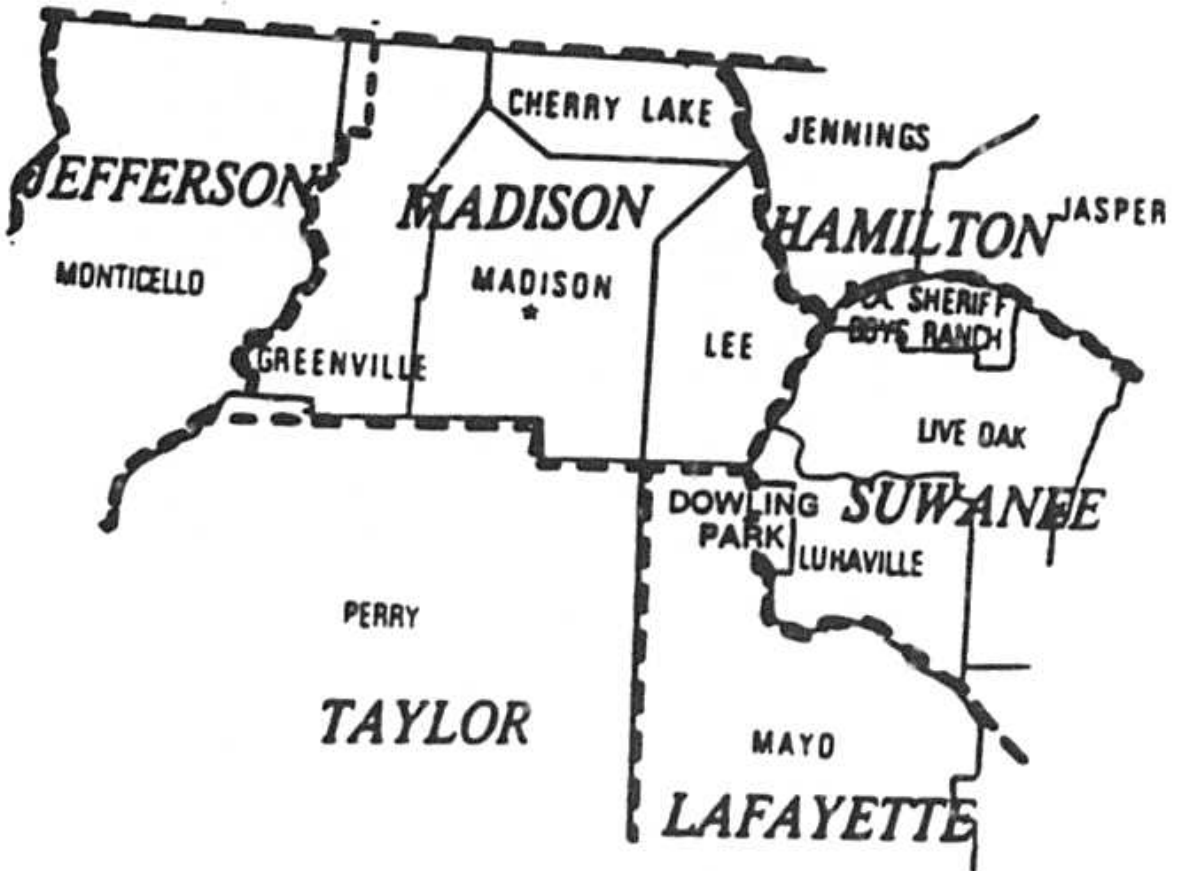
ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes, if no person whose substantial interests are affected files a protest within 21 days of the issuance date of the order from this recommendation, the order shall become final. A protest of the decision in one docket does not prevent the decision in the other dockets from becoming final.

STAFF ANALYSIS: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the order from this recommendation, the order shall become final. A protest of the decision in one docket does not prevent the decision in the other dockets from becoming final.

NASSAU





CHARLOTTE

