

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

August 22, 1996

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

FROM: DIVISION OF COMMUNICATIONS (SHELPER) *AFH*
DIVISION OF LEGAL SERVICES (CANZANO) *2 MCB*

RE: DOCKET NO. 960614-TL - RESOLUTION BY JACKSON COUNTY BOARD
OF COMMISSIONERS FOR COUNTYWIDE CALLING WITHIN JACKSON
COUNTY.

AGENDA: SEPTEMBER 3, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960614TL.RCM

CASE BACKGROUND

- On December 4, 1995, the Jackson County Board of County Commissioners filed a resolution requesting extended area service (EAS) countywide within Jackson County. The Marianna, Alford, Cottondale, Grand Ridge, Greenville, Malone and Sneads exchanges are provided service by Central Telephone Company of Florida (Centel). The Chipley (Jackson County pocket), Graceville, and Youngstown-Fountain (Jackson County pocket) exchanges are served by BellSouth Telecommunications, Inc. (BellSouth). The Altha (Jackson County pocket) exchange is provided service by the St. Joseph Telephone and Telegraph Company (St. Joe). All exchanges are located in the Panama City LATA (local access and transport area). Attachment A is a map of the exchanges involved.
- When this EAS request was originally filed, only BellSouth had filed for price regulation. By January 1996, Centel had also filed leaving St. Joe as the only rate-of-return regulated LEC involved. This was also staff's first experience at reviewing an EAS case which involved a small, rural LEC with which the Commission had authority to order EAS, and a price-regulated LEC, with which the Commission does not have statutory authority to order EAS. There were several areas of concern that staff investigated. They are: (1) traffic data would

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only be available from the small LEC into the large LECs' territory; (2) if the Commission determined that EAS or ECS was warranted, the Commission only has the authority to order the small LEC to implement EAS or ECS, which would result in one-way EAS; (3) if EAS was implemented one-way, whether the larger LECs would charge the smaller LEC to terminate its traffic; and (4) if a termination charge was determined to be appropriate, what rate would be charged to the customers for EAS or ECS.

- St. Joe subsequently has elected price regulation; therefore, this docket is being treated as an EAS request involving price-regulated LECs. Staff would note that this is the first time the Commission has reviewed an EAS case involving a small, rural LEC that elected price regulation.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the request by the Jackson County Board of Commissioners for countywide calling with Jackson County?

RECOMMENDATION: No. Any requests for EAS or ECS filed after July 1, 1995, that are implemented become part of non-basic service. Since EAS or ECS requested after July 1, 1995, would become a non-basic service, the Commission is without jurisdiction 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: The resolution in this recommendation was filed after July 1, 1995. 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 savings clause in Section 364.385(2), F.S., sets forth the situations in 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), F.S., 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 July 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 for any docket originated after July 1, 1995, there can be no new PSC-ordered EAS or ECS based on the old law. If EAS

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or ECS can be implemented after that date, it must be under the terms of the new law. It is clear that requests for EAS or ECS filed after July 1, 1995 involving a price-regulated LEC, 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, the Commission is without jurisdiction to require the price-regulated LECs to implement EAS or ECS. Accordingly, whether to implement an EAS or ECS request is a decision for the price-regulated LEC rather than for the Commission.

This recommendation is consistent with Commission action in Dockets Nos. 951097-TL (EAS between Fernandina Beach and Jacksonville), 951269-TL (EAS - Charlotte County), 960086-TL (EAS from Cherry Lake and Lee to Tallahassee), 960087-TL (EAS - Orange City to Winter Park and Orlando), 960612-TL (EAS from Punta Gorda to specific areas in Charlotte County), 960615-TL (EAS between Kingsley Lake and Middleburg and Orange Park; and EAS between Keystone Heights and Middleburg and Orange Park), 960632-TL (EAS between Lady Lake and adjacent areas of Marion County); and 960613-TL (EAS between Orange City and Orlando).

ISSUE 2: Should this docket 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.

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.

JACKSON

