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August 28, 1996

**VIA FEDERAL EXPRESS**

Ms. Blanca Bayo  
Director of Records and Reporting  
Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

RE: Petition by Subscribers of the Groveland Exchange for Extended Area Service (EAS) to the Orlando, Winter Garden and Windermere Exchanges  
Docket No. 941001-TL

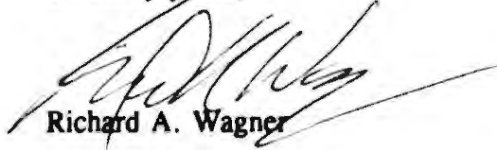
Dear Ms. Bayo:

Enclosed for filing are the original and 15 copies of Brief of Subscribers of the Groveland Exchange in the above styled docket. Also enclosed pursuant to Rule 25-22.028, Florida Administrative Code, is a diskette in Word Perfect 5.1 format.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to me at your earliest convenience.

Thank you for your assistance in this matter.

Sincerely yours,



Richard A. Wagner

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- AFP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU Shelfer
- CT \_\_\_\_\_
- EA \_\_\_\_\_
- LE 1
- LI 3
- OC \_\_\_\_\_
- RL \_\_\_\_\_
- SE 1
- W/S \_\_\_\_\_
- OTH \_\_\_\_\_

RAW:kls  
Enclosure  
cc: All parties of record (w/enclosure)

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EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER DATE  
09190 AUG 29 96  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: Petition by subscribers of  
the Groveland exchange for extended  
area service (EAS) to the Orlando,  
Winter Garden and Windermere exchanges


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DOCKET NO. 941281-TL  
ORDER NO. PSC-96-1033-PCO-TL  
ISSUED: August 8, 1996

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BRIEF OF SUBSCRIBERS OF THE GROVELAND EXCHANGE

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ATTORNEY FOR SUBSCRIBERS

DOCUMENT NUMBER DATE

09190 AUG 29 8

FPSC-RECORDS/REPORTING

Pursuant to the Order Requiring Parties To File Legal Briefs entered by the Commission on August 8, 1996 the following brief is submitted on behalf of the Subscribers of the Groveland exchange for Extended Area Service to the Orlando, Windermere and Winter Garden exchanges:

**ISSUE 1:** Does the Act prohibit BellSouth from originating EAS or ECS traffic from the routes in question?

No. The Act does however set forth certain conditions which must be met before the service requested on the routes in question can be authorized.

Section 271(b)(1) requires a Bell operating company to obtain Commission authorization prior to offering interLATA services within its region unless those services have been previously authorized. Section 271(c)(2) requires a Bell operating company to satisfy the "in-region" test by virtue of the presence of a facilities-based competitor or competitors under new Section 271(c)(1)(A) or by failure by a facilities-based competitor to request access or interconnection as required under new Section 217(c)(1)(B). Section 271(c)(1)(a) requires that the Bell operating company must have entered into one or more binding agreements under which it is providing access and interconnection to one or more competitors providing telephone exchange service to residential and business subscribers. It would appear to mean that the competitor has implemented the agreement and the competitor is operational. Section 271(c)(1)(B) appears to insure that a Bell operating company is not effectively prevented from seeking entry into the interLATA services market simply because no facilities-based competitor meets the criteria set out in 271(c)(1)(A) has sought to enter the market. A Bell operating company may seek entry under 271(c)(1)(B) at any time following ten months after the date of enactment, provided no qualifying facilities-based competitor has requested access and interconnection by the date that is six months prior to the date that the Bell operating company seek interLATA authorization.

Section 271(c)(2) of the Act sets out the specific interconnection requirements that comprise the "checklist" that a Bell operating company must satisfy as part of its entry test. Section 271(d) allows application to the Commission on a state-by-state basis.

Section 272 of the Act requires that a Bell operating company provide origination of interLATA services through a separate operating company entity that meets the requirements of Section 272(b).

**ISSUE 2: Does the Act allow BellSouth to terminate EAS or ECS traffic from the Groveland exchange?**

**Yes. Section 271(b)(4) specifically states "Nothing in this Section prohibits a Bell operating company or any of its affiliates from providing termination for interLATA services, subject to subsection (j) of this Section."**

**ISSUE 3: Can BellSouth's IXC affiliate carry EAS or ECS traffic without violating Sections 364.08, 364.09 and/or 364.10, Florida Statutes, or the Telecommunications Act of 1996?**

**Yes, provided however that whatever rates are charged between the subject points, i.e., the Groveland exchange and Orlando exchanges, would also be similar to the rates that are charged to other customers who are similarly situated. Both Sections 364.08 and 364.09 specifically acknowledge that fact. Section 364.08 provides that a company may not charge for any service a charge other than that charge applicable to the service as specified in its schedule on file and in effect at that time. This section further provides that the company may not refund, directly or indirectly, any portion of the charge or extend to any person any advantage not regularly and uniformly extended to all persons under like circumstances for like or substantially similar service. Section 364.09 prohibits the giving of a rebate or special rate from any person at a greater or lesser compensation for any service rendered than it charges to any other person for doing a like and contemporaneous service under substantially the same circumstances and conditions.**

**ISSUE 4: Can the Commission require BellSouth's ALEC affiliate to carry EAS or ECS traffic?**

**It does not appear that the Commission can order BellSouth's ALEC affiliate to carry EAS or ECS traffic. Assuming they are only certificated under Florida Statute 364.337, the Commission's regulatory oversight would be limited by Florida Statute 364.337(5).**

**ISSUE 5: How can EAS or ECS be implemented without violating either the Act or Chapter 364, Florida Statutes?**

EAS or ECS can be implemented, it would appear, only in conformity with the Act as noted above and in accordance with the terms of Florida Statute 364. However there does not appear to be any provisions in the Act or Chapter 364 that would prevent one way EAS or ECS originating in the Groveland exchange. If that is a viable option, the subscribers would still request that the docket remain open for the Commission to order balloting for two-way EAS and ECS when the conditions required by the Act have been met.


**CERTIFICATE OF SERVICE  
DOCKET NO. 941281-TL**

**I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.  
Mail this 28<sup>th</sup> day of August, 1996, to:**

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