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

SEPTEMBER 26, 1996

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

FROM: DIVISION OF COMMUNICATIONS (SHELPER) *CRAB*
DIVISION OF LEGAL SERVICES (CANZANO) *KNB*

RE: DOCKET NO. 961155-TL - RESOLUTION BY CALHOUN COUNTY
COMMISSION FOR EXTENDED AREA SERVICE (EAS) FROM CALHOUN
COUNTY (ALTHA, BLOUNTSTOWN, AND WEWAHITCHKA EXCHANGES) TO
THE TALLAHASSEE EXCHANGE.

AGENDA: OCTOBER 8, 1996 - REGULAR AGENDA - PROPOSED AGENCY ACTION
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961155TL.RCM

CASE BACKGROUND

- On April 25, 1996, the Calhoun County Board of County Commissioners filed a resolution requesting extended area service (EAS) from Calhoun County (Altha, Blountstown, and Wewahitchka exchanges) to the Tallahassee exchange. The Altha, Blountstown, and Wewahitchka exchanges are provided service by St. Joseph Telephone Company (St. Joe). The Tallahassee exchange is served by Central Telephone Company of Florida (Centel). 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, Centel had elected price regulation but not St. Joe. This EAS request involved a small, rural LEC with which the Commission had authority to order EAS and a price regulated LEC, for whom 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 only be available from the little LEC into the large LEC; (2) if the Commission determined that EAS or ECS was warranted, the Commission only has the authority to order the small LEC to carry, which would result in one-way EAS; (3) if EAS was implemented one-way, would the larger LEC

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 961155-TL
DATE: SEPTEMBER 26, 1996

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.

DOCKET NO. 961155-TL
DATE: SEPTEMBER 26, 1996

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the request by the Calhoun County Commission for EAS from Calhoun County to the Tallahassee exchange?

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 for

DOCKET NO. 961155-TL
DATE: SEPTEMBER 26, 1996

companies that have elected price-regulation. If EAS 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, 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 960614-TL (Countywide calling within Jackson County).

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.