

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

M E M O R A N D U M

April 24, 1997

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

FROM: DIVISION OF COMMUNICATIONS (SHELPER) *PS/S*  
DIVISION OF LEGAL SERVICES (CULPEPPER) *BC MLB*

RE: DOCKET NO. 870248-TL - RESOLUTION BY HOLMES COUNTY BOARD  
OF COUNTY COMMISSIONERS FOR EXTENDED AREA SERVICE IN  
HOLMES COUNTY.

DOCKET NO. 870790-TL - REQUEST BY GILCHRIST COUNTY  
COMMISSIONERS FOR EXTENDED AREA SERVICE THROUGHOUT  
GILCHRIST COUNTY.

DOCKET NO. 900039-TL - RESOLUTION BY THE ORLANDO COUNTY  
BOARD OF COUNTY COMMISSIONERS FOR EXTENDED AREA SERVICE  
BETWEEN THE MT. DORA EXCHANGE AND THE APOPKA, ORLANDO,  
WINTER GARDEN, WINTER PARK, EAST ORANGE, REEDY CREEK,  
WINDERMERE, AND LAKE BUENA VISTA EXCHANGES.

DOCKET NO 910022-TL - RESOLUTION BY BRADFORD COUNTY  
COMMISSION REQUESTING EXTENDED AREA SERVICE WITHIN  
BRADFORD COUNTY AND BETWEEN BRADFORD COUNTY, UNION COUNTY  
AND GAINESVILLE.

DOCKET NO. 910029-TL - REQUEST BY VOLUSIA COUNTY COUNCIL  
FOR EXTENDED AREA SERVICE BETWEEN THE SANFORD EXCHANGE  
(OSTEEN AND DELTONA) AND THE ORANGE CITY AND DELAND  
EXCHANGES.

DOCKET NO. 910528-TL - REQUEST BY PUTNAM COUNTY BOARD OF  
COUNTY COMMISSIONERS FOR EXTENDED AREA SERVICE BETWEEN  
THE CRESCENT CITY, HAWTHORNE, ORANGE SPRINGS, AND MELROSE  
EXCHANGES, AND THE PALATKA EXCHANGE.

DOCKET NO. 910529-TL - REQUEST BY PASCO COUNTY BOARD OF  
COMMISSIONERS FOR EXTENDED AREA SERVICE BETWEEN ALL PASCO  
COUNTY EXCHANGES.

DOCKET NO. 911185-TL - REQUEST FOR EXTENDED AREA SERVICE  
BETWEEN ALL EXCHANGES WITHIN VOLUSIA COUNTY BY VOLUSIA  
COUNTY COUNCIL.

DOCUMENT NUMBER-DATE

04200 APR 24 5

FPSC-RECORDS/REPORTING

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

DOCKET NO. 921193-TL - RESOLUTION BY THE PALM BEACH  
COUNTY BOARD OF COUNTY COMMISSIONERS FOR EXTENDED AREA  
SERVICE BETWEEN ALL EXCHANGES IN PALM BEACH COUNTY.

DOCKET NO. 930173-TL - PETITION BY THE RESIDENTS OF POLO  
PARK REQUESTING EXTENDED AREA SERVICE (EAS) BETWEEN THE  
HAINES CITY EXCHANGE AND THE ORLANDO, WEST KISSIMMEE,  
LAKE BUENA VISTA, WINDERMERE, REEDY CREEK, WINTER PARK,  
CLERMONT, WINTER GARDEN, AND ST. CLOUD EXCHANGES.

DOCKET NO. 930235-TL - RESOLUTION BY THE TAYLOR COUNTY  
BOARD OF COMMISSIONERS FOR COUNTYWIDE EXTENDED AREA  
SERVICE (EAS) WITHIN TAYLOR COUNTY.

DOCKET NO. ~~930235~~ TL - PETITION BY SUBSCRIBERS OF THE  
GROVELAND EXCHANGE FOR EXTENDED AREA SERVICE (EAS) TO THE  
ORLANDO, WINTER GARDEN, AND WINDERMERE EXCHANGES.

AGENDA: MAY 5, 1997 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\941281TL.RCM

---

#### CASE BACKGROUND

There are a number of dockets in various procedural stages that are affected by our interpretation of Sections 271 and 272 of the Telecommunications Act of 1996 (the Act), and the Act's impact on pending interLATA (local access and transport area) routes of BellSouth Telecommunications, Inc. (BellSouth). Two dockets are post-hearing (930173-TL - Polo Park and 941281-TL - Groveland), and the hearing in one docket has been postponed pending the outcome of this recommendation (930235-TL - Taylor County). As for the other dockets, the Commission ordered BellSouth to seek a waiver from the Federal Communications Commission (FCC) of the Act's interLATA requirements by Order No. PSC-96-0557-FOF-TL, issued April 25, 1996. Attachment A is a list of the ordered interLATA ECS routes.

By Order No. PSC-96-1033-PCO-TL, in Docket No. 941281-TL, issued on August 8, 1996, the Commission ordered the parties to file briefs regarding the issue of the feasibility of implementing

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

either extended area service (EAS) or extended calling service (ECS) on the Groveland to Orlando interLATA route based on Sections 271 and 272 of the Telecommunications Act of 1996 (Act) or Chapter 364, Florida Statutes. Thereafter, by Order No. PSC-96-1335-POF-TL, issued November 5, 1996, in the same docket, the Commission ordered staff to conduct a staff workshop in order to gather additional information and to allow the parties in all affected dockets the opportunity to participate. Staff conducted the workshop on November 18, 1996, and the participants were asked to file post-workshop comments. While many of the comments address the Groveland docket specifically, the issues are the same for all the pending dockets.

Prior to the workshop, the Commission was concerned that under Section 271 of the Act, Bell operating companies (BOCs) are prohibited from, at the least, originating interLATA traffic, until they meet certain conditions including completion of a "competitive checklist." Under Section 272 of the Act, even after it meets the requirements of Section 271, a Bell operating company may only originate interLATA telecommunications services through a separate and independent affiliate. For BellSouth, this would presumably be either its interexchange carrier (IXC) or alternative local exchange company (ALEC) affiliate.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

### DISCUSSION OF ISSUES

ISSUE 1: Does the Telecommunications Act of 1996 prohibit BellSouth from carrying interLATA traffic?

RECOMMENDATION: Based on the briefs, the comments filed following the workshop, and staff's interpretation of the Telecommunications Act, it appears that BellSouth cannot originate interLATA traffic; however, staff does not believe there are any prohibitions that would prevent BellSouth from terminating interLATA traffic.

### STAFF ANALYSIS:

#### Issues/Briefs/Comments

The issues and the positions of the parties and respondents, as addressed in the briefs and the post-workshop comments, are as follows:

1. Does the Telecommunications Act of 1996 prohibit BellSouth from originating EAS or ECS traffic from the routes in question?

#### BellSouth Telecommunications, Inc.

BellSouth asserts that the Act does, in fact, prohibit BellSouth from originating interLATA traffic until it has met the requirements of §271 of the Act. Once BellSouth has met those requirements, BellSouth asserts that it could then originate traffic, but only through a separate affiliate, in accordance with Section 272 of the Act. Such an affiliate would have to operate independently of BellSouth, would have to maintain separate books, records and accounts, would have to have separate officers and directors, and deal with BellSouth only on an arms-length basis. Thus, BellSouth itself still could not originate EAS or ECS traffic. BellSouth adds, however, that it could originate this traffic if the FCC were to approve moving a LATA boundary to include the exchange seeking EAS or ECS, thereby converting the traffic to intraLATA traffic.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

### Groveland Subscribers

Groveland argues that BellSouth can originate interLATA EAS or ECS service, as long as BellSouth meets the requirements of Section 271 of the Act. Groveland asserts that once BellSouth has met the requirements of Section 271, Section 272 of the Act allows BellSouth to originate interLATA service through a separate affiliate.

### Sprint

Sprint argues that all Bell operating companies appear to be prohibited by the Act from originating interLATA traffic until they meet certain conditions. Any solution for implementing an option to toll rates on interLATA routes should be presented as a non-basic calling option.

### Florida Interexchange Carriers Association (FIXCA)

FIXCA believes that the Act clearly prohibits BellSouth from originating interLATA service. FIXCA states that BellSouth is prohibited from originating such traffic until BellSouth meets numerous conditions set forth in the Act, and the FCC grants BellSouth the authority to originate interLATA service. At this time, FIXCA notes that BellSouth has not been granted this authority.

FIXCA further asserts that the exceptions for providing interLATA service set forth in Section 271 of the Act do not apply to EAS/ECS situations. FIXCA also states that even when BellSouth is granted interLATA authority, it will only be able to provide service through a separate affiliate. FIXCA argues that such a separate structure is not in place; thus, BellSouth could not originate the traffic.

2. Does the Telecommunications Act of 1996 allow BellSouth to terminate EAS or ECS traffic from the Groveland exchange?

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

BellSouth Telecommunications, Inc.

BellSouth does believe that it can terminate interLATA EAS or ECS traffic. BellSouth states, however, that while the Act does not affect its ability to terminate the interLATA traffic, the Act might require BellSouth to charge terminating access charges to the LEC originating the call. BellSouth states that Section 202 of the Act prohibits BellSouth from unjustly or unreasonably discriminating in charges. BellSouth argues that since an IXC can compete on an EAS or ECS route, if BellSouth were to charge the IXC a terminating charge, but not the originating LEC, an argument could be made that BellSouth was unreasonably discriminating in the application of its access charges. BellSouth states, however, that the Commission has historically allowed EAS even though customers ultimately are treated differently; as a result, BellSouth questions whether the same rationale could sustain charging different terminating access rates. BellSouth adds that terminating access rates would likely apply to one-way ECS as well.

Groveland Subscribers

Groveland believes that nothing in the Act prohibits BellSouth or its affiliates from providing termination of interLATA services.

FIXCA

FIXCA argues that BellSouth can terminate interLATA EAS and ECS traffic. FIXCA asserts, however, that the question remains as to what BellSouth must charge the originating LEC for terminating the call. FIXCA argues that BellSouth should not be permitted to discriminate in the application of its termination charge; thus, BellSouth must charge the originating LEC the same amount BellSouth would charge an IXC to terminate a call.

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?

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

BellSouth Telecommunications, Inc.

BellSouth also believes that its IXC could carry the EAS or ECS traffic without violating Sections 364.08, 364.09, and/or 364.10, Florida Statutes. BellSouth explains that allowing EAS for one person but not another is not a violation of the cited statutes. To illustrate, BellSouth states that when the Commission approves an EAS or ECS route, similarly situated persons are treated differently. The Commission can, however, order EAS if it finds that the requirements for approval set forth in Rule 25-4.058, Florida Administrative Code, have been met. Although there are no Commission rules governing ECS routes, BellSouth states that the Commission has developed standards for determining the propriety of ECS routes, as set forth in Order PSC-95-1391-FOF-TL, issued in Docket No. 920260, on November 8, 1995. The standards set forth in that Order apply equally to any community seeking EAS or ECS. BellSouth further explains that if one person lives in a community with EAS to a certain city and a second person lives in a community that requests EAS to the same city, then the two people are similarly situated if the second person's community meets the standards for EAS. If, however, the second community does not meet the standards for EAS, then the two people are not similarly situated. Thus, allowing EAS for one customer but not another does not violate the requirements of Sections 364.08 and 364.09 that subscribers in substantially the same circumstances be treated the same. Similarly, BellSouth argues that the implementation of EAS does not violate Section 364.10, Florida Statutes, because EAS does not give any person or community undue or unreasonable advantage over another. BellSouth adds that either it or its IXC affiliate can carry traffic for EAS or ECS routes, as long as similarly situated customers are treated alike.

BellSouth further asserts that while its IXC affiliate can carry the EAS or ECS traffic, only BellSouth as the LEC, is subject to carrier of last resort obligations pertaining to that traffic. BellSouth explains that pursuant to Section 364.385, Florida Statutes, an EAS or ECS route pending before March 1, 1995, shall be considered a basic service upon approval. Pursuant to Section 364.025(1), Florida Statutes, a LEC, as carrier of last resort, must offer basic local service to customers requesting it. BellSouth argues, however, that since an IXC does not have such obligations to serve, the Commission could not require it to provide EAS or ECS, although the affiliate could elect to do so. Regardless, BellSouth states that the Act does not prohibit a BellSouth IXC affiliate from carrying EAS or ECS traffic.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

### Groveland Subscribers

Groveland believes BellSouth's IXC affiliate can carry EAS or ECS traffic without violating the Act or Florida Statutes. Groveland asserts, however, that the rates charged between points must be the same as rates charged in similar circumstances.

### FIXCA

FIXCA states that the cited statutory provisions relate to nondiscrimination and were enacted to ensure that similarly situated persons are treated the same way. FIXCA argues that the only way for a BellSouth IXC affiliate to provide EAS or ECS on routes in compliance with these provisions is for BellSouth to charge its affiliate the same price for originating and terminating access that BellSouth charges any other provider. Otherwise, FIXCA asserts that the nondiscrimination provisions would be violated.

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

### BellSouth Telecommunications, Inc.

BellSouth does not believe that the Commission can require BellSouth's ALEC affiliate to carry EAS or ECS traffic because the Commission has no specific authority to treat BellSouth's ALEC affiliate differently than other ALECs. Moreover, BellSouth states that it does not believe that it would even be required to form a separate affiliate in order to operate as an ALEC since BellSouth currently holds an ALEC certificate. BellSouth asserts that nothing in the Florida Statutes or the Commission's rules requires it to form a separate affiliate to act as an ALEC. Furthermore, BellSouth states that this issue assumes that a separate BellSouth affiliate ALEC would compete within BellSouth's territory when the certificate allows BellSouth to compete outside its franchise territory.

Notwithstanding its argument that it need not form a separate ALEC affiliate, BellSouth asserts that even if it did, the Commission could not require that affiliate to carry EAS and ECS traffic. BellSouth argues that it has carrier of last resort obligations until January 1, 2000, in accordance with Section 364.025(5), Florida Statutes. After that date, any ALEC could



DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

choose to be the carrier of last resort in a particular area. BellSouth argues, however, that nothing in Chapter 364 allows the Commission to require any ALEC, even a BellSouth affiliate, to be the carrier of last resort. BellSouth argues that the Commission's limited regulatory oversight over ALECs is not expanded simply because the ALEC is a BellSouth affiliate.

#### Groveland Subscribers

Groveland does not believe that the Commission can order BellSouth's ALEC affiliate to carry EAS or ECS traffic, as the Commission's oversight over ALECs is limited to that set forth in Chapter 364.

#### FIXCA

FIXCA does not believe that the Commission can order BellSouth's ALEC affiliate to carry EAS or ECS service. FIXCA argues that both the Act and the 1995 revision to Chapter 364 envision a new market in which competition will replace regulation. In this new market, FIXCA argues that the Commission's role will not be to require carriers to provide particular services; rather it will be the carrier's role to determine what services and packages of services it should provide in order to remain competitive. FIXCA notes that the one exception to the Commission's inability to require carriers to provide certain services may be found in Section 364.337, Florida Statutes. Therein, ALECs may be required to provide operator services, 911 services, and relay services for the hearing impaired. FIXCA argues that these are the only services the Commission can require an ALEC to provide. Thus, the Commission cannot order an ALEC to carry EAS or ECS traffic.

5. How can EAS or ECS be implemented without violating either the Telecommunications Act of 1996 or Chapter 364, Florida Statutes?

#### BellSouth Telecommunications, Inc.

BellSouth does not believe that Chapter 364, Florida Statutes, prohibits them from implementing interLATA EAS or ECS. BellSouth argues, however, that it cannot implement EAS or ECS

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

without violating the Act unless the FCC approves a LATA boundary modification, thereby bringing the entire route into the same LATA. BellSouth states, however, that it can find no procedure in the Act for requesting a modification of a LATA boundary. Furthermore, BellSouth states that changing a LATA boundary would change the calling scope for the entire area which could deprive the community of ECS benefits.

#### Groveland Subscribers

Groveland states that EAS or ECS can only be implemented as it argues in the previous issues. Groveland asserts, however, that nothing appears to prohibit one-way EAS or ECS.

#### Sprint

Sprint believes that one-way calling, implemented by the LEC with the exchange requesting toll relief, is an available calling option. Sprint states that the customers could be offered a flat or measured/message rate calling option and the originating LEC would continue to pay terminating access on the calls. Sprint notes that GTE Florida has offered similar plans in other EAS cases.

Sprint further argues that changing a LATA boundary would only create problems in the future. Sprint states that the boundary must rest somewhere; moving it would only raise the same issues in a future case.

#### FIXCA

FIXCA asserts that the only way that interLATA EAS or ECS can be implemented on BellSouth routes is if access charges are equal so that incumbents and their affiliates are not able to squeeze competitors out of the market.

FIXCA further states that one proposed solution, one-way EAS or ECS, presents some problems. First, it is confusing for customers because two people on the same call will pay different charges. Also, one-way EAS requires that BellSouth charge all carriers the same amount to terminate a call.

FIXCA notes that the true problem exhibited in these dockets is not BellSouth's inability to carry interLATA calls.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

FIXCA argues that the problem is, in fact, BellSouth's high access charges.

### General Comments

In addition to the comments on the issues recited above, ALLTEL filed the following general comments.

ALLTEL states that while interLATA toll relief is technically feasible on the routes in question, none of the routes meet the Commission's requirements for toll relief, nor do they exhibit the necessary community of interest.

ALLTEL also argues that implementing EAS or ECS will possibly result in decreased earnings for the company. This potential loss, along with revenue losses likely to result from changes in the law, introduction of intraLATA presubscription, reductions in access charges, etc., may ultimately lead ALLTEL to seek rate relief.

ALLTEL also suggests that any plan to implement EAS or ECS should be based on minutes of use. ALLTEL asserts that currently its network is being tied up by Internet users for little or no compensation. ALLTEL believes that this trend should be taken into account so that ALLTEL's regulated ratepayers do not bear an unnecessary burden.

ALLTEL also asserts that it would have to build facilities, at great expense, to provide EAS or ECS on the routes in question. Furthermore, ALLTEL will lose revenue from access charges. In addition, for one-way service, ALLTEL will have to pay BellSouth terminating access charges resulting in further losses for ALLTEL. Finally, ALLTEL asserts that it will have to restructure its billing system for these routes at an additional cost to ALLTEL.

### Staff

Staff believes that while BellSouth appears to be allowed to terminate interLATA traffic, it is clearly prohibited from originating interLATA traffic. Furthermore, staff believes that if BellSouth terminates interLATA traffic it would have to charge the same terminating fee that it charges IXCs. As such, the originating carrier would suffer two losses - one from the loss of

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

the toll revenue and the other from the payment of the terminating access charge.

Staff believes that BellSouth's IXC affiliate could carry either EAS or ECS traffic without running afoul of Sections 364.08, 364.09, and/or 364.10, Florida Statutes. However, staff does not believe BellSouth's IXC affiliate should be required to carry the traffic because the implementation of EAS or ECS on these routes would be as a basic service. Pursuant to Section 364.385(2), only LECs are required, as the carrier of last resort, to provide basic service to all customers. In addition, the IXC affiliate would have to pay originating and terminating access charges as would any other IXC. As for BellSouth's ALEC affiliate, staff does not believe the Commission should require the ALEC affiliate to implement either an EAS or ECS plan.

Based on the briefs, the comments filed following the workshop, and staff's interpretation of the Telecommunications Act, it appears that BellSouth cannot originate interLATA traffic; however, staff does not believe there are any prohibitions that would prevent BellSouth from terminating interLATA traffic.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
 900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
 AND 921193-TL  
 DATE: APRIL 24, 1997

**ISSUE 2:** Should Order No. PSC-96-0557-FOF-TL, which ordered ECS on the interLATA BellSouth routes involved in this recommendation and required BellSouth to seek approval from the FCC to carry interLATA traffic on these routes, be modified as outlined below?

- a) Delete the requirement that orders BellSouth to seek FCC approval to carry interLATA traffic.
- b) Relieve BellSouth of the requirement to implement BellSouth-to-BellSouth interLATA routes as listed in Table A.
- c) Relieve BellSouth of the requirement to originate ECS on the routes listed in Table B.

**RECOMMENDATION:**

- a) Yes. Based on the Commission's interpretation of the Telecommunications Act, BellSouth cannot originate interLATA traffic. Staff, therefore, recommends that this requirement be deleted.
- b) Yes. Because of federal prohibitions, BellSouth should be relieved of the requirements to implement BellSouth-to-BellSouth interLATA ECS on the routes listed in Table A.

**TABLE A**

FROM	TO	DOCKET NO.	LOCAL EXCHANGE COMPANY INVOLVED
Sanford	Deland	910029-TL	BellSouth
Palatka	Hawthorne	910029-TL	BellSouth
Keystone Heights	Palatka	910528-TL	BellSouth
DeBary	Daytona Beach	911185-TL	BellSouth
DeBary	New Smyrna Bch	911185-TL	BellSouth
DeBary	DeLeon Springs	911185-TL	BellSouth
DeBary	Oak Hill	911185-TL	BellSouth
DeBary	Pierson	911185-TL	BellSouth
Sanford	Daytona Beach	911185-TL	BellSouth

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
 900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
 AND 921193-TL

DATE: APRIL 24, 1997

Sanford	DeLeon Springs	911185-TL	BellSouth
Sanford	New Smyrna Bch	911185-TL	BellSouth
Sanford	Oak Hill	911185-TL	BellSouth
Sanford	Pierson	911185-TL	BellSouth

c) Yes. Because of federal prohibitions, BellSouth should be relieved of the requirements to originate ECS on the routes listed in Table B.

TABLE B

FROM	TO	DOCKET NO.	LOCAL EXCHANGE COMPANY (IES) INVOLVED
Graceville	Ponce DeLeon	870248-TL	Sprint and BellSouth
Graceville	Defuniak Springs	870248-TL	Sprint and BellSouth
Mt. Dora	Orlando	900039-TL	Sprint and BellSouth
Branford	Trenton	870790-TL	ALLTEL and BellSouth
High Springs	Trenton	870790-TL	ALLTEL and BellSouth
Lawtey	Gainesville	910022-TL	Sprint and BellSouth
Raiford	Gainesville	910022-TL	ALLTEL and BellSouth
Starke	Gainesville	910022-TL	Sprint and BellSouth
Interlachen	Hawthorne	910528-TL	ALLTEL and BellSouth
Interlachen	Keystone Heights	910528-TL	ALLTEL and BellSouth
Florahome	Keystone Heights	910528-TL	ALLTEL and BellSouth
Melrose	Palatka	910528-TL	ALLTEL and BellSouth

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
 900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
 AND 921193-TL  
 DATE: APRIL 24, 1997

Orange Springs	Palatka	910528-TL	ALLTEL and BellSouth
Hudson	Brooksville	910529-TL	GTEFL and BellSouth
Orange City	Daytona Beach	911185-TL	Sprint and BellSouth
Orange City	New Smyrna Bch	911185-Tl	Sprint and BellSouth
Orange City	Oak Hill	911185-Tl	Sprint and BellSouth
Orange City	Pierson	911185-Tl	Sprint and BellSouth
Orange City	DeLeon Springs	911185-TL	Sprint and BellSouth
Clewiston	Belle Glade	921193-TL	Sprint and BellSouth

**STAFF ANALYSIS:**

a) Based on the briefs, the comments filed, and staff's interpretation of the Act, it appears that BellSouth cannot now originate interLATA traffic. Even after the requirements of the competitive checklist have been satisfied, Section 272 states that BellSouth can only originate interLATA traffic through a separate and independent affiliate. (47 U.S.C. §272) Therefore, BellSouth, in its capacity as a local exchange company (LEC), will still be unable to originate EAS or ECS traffic.

Therefore, staff recommends that the requirement ordering BellSouth to seek FCC approval to carry interLATA traffic be deleted since the Act specifically prohibits BellSouth (the LEC) from originating interLATA traffic.

b) As stated in the previous analysis, BellSouth itself is prohibited under the Act from originating interLATA traffic. Comments were filed and also discussed in Issue 1 regarding requiring BellSouth's interexchange carrier (IXC) or alternative local exchange carrier (ALEC) to originate the ordered ECS interLATA BellSouth routes. However, while staff believes that BellSouth's IXC or ALEC affiliate could carry ECS traffic without running afoul of the Florida Statutes, staff does not believe the

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

Commission should require either affiliate to do so. ECS on these routes would be considered basic service. Pursuant to Section 364.385 (2), Florida Statutes, only LECs are required, as the carrier of last resort, to provide basic service to all customers. In addition, the IXC or ALEC would have to pay access or interconnection charges as would any other carrier to terminate this traffic.

For the interLATA routes listed in Table B, BellSouth would be the sole provider of service, both originating and terminating; therefore, there is no possibility of one-way ECS. Based on the requirements of the Act, BellSouth (the LEC) is prohibited from originating interLATA traffic. It also appears that the Commission does not have the authority to require an IXC or ALEC to carry the ordered interLATA ECS traffic. Therefore, staff sees no other option but to relieve BellSouth of the requirements to implement BellSouth-to-BellSouth interLATA routes as listed in Table A.

c) As discussed, BellSouth is prohibited from originating interLATA traffic. Therefore, BellSouth should be relieved of the requirement to originate interLATA ECS on the routes listed in Table B.



DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

**ISSUE 3:** Should the Commission set for hearing, on its own motion, the dockets with routes listed in Table B to determine if one-way ECS is feasible?

**RECOMMENDATION:** Yes. The Commission should set for hearing on its own motion the dockets with routes listed in Table B to determine if one-way ECS is feasible.

**STAFF ANALYSIS:** The remaining routes in Table B involve various LECs in addition to BellSouth. While it is not possible to order and implement two-way interLATA ECS because of federal prohibitions against BellSouth, staff believes it may be possible to implement one-way ECS. BellSouth states in its brief and staff agrees that the Act does not affect BellSouth's ability to terminate interLATA traffic. (47 U.S.C. §271(b)(4)) However, even if BellSouth can terminate interLATA traffic, it cannot make any unjust or unreasonable discrimination in termination charges. (47 U.S.C. §202(a)) Therefore, unless BellSouth charges terminating access rates to the LEC originating the interLATA ECS call, BellSouth states it might face an argument that it is unjustly discriminating in the application of its access charges.

Since one-way ECS was not a consideration in any of the routes or dockets listed in Table B, there is no way for staff to determine its feasibility and the economic impact on the LECs. In order to obtain this information and any other pertinent data, staff recommends that the Commission should set this matter for hearing. Once a decision is made regarding one-way ECS, staff will prepare a recommendation for the Commission's review.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

**ISSUE 4:** Should the Commission defer the hearing in Docket No. 930235-TL (Taylor County) until the Commission determines if one-way EAS or ECS is feasible?

**RECOMMENDATION:** Yes. The hearing for Docket No. 930235-TL should be postponed until the Commission determines if one-way EAS or ECS is feasible.

**STAFF ANALYSIS:** The Commission initially set Taylor County (Docket No. 930235-TL) for hearing because BellSouth was unable to provide interLATA traffic data from its exchange to the other Taylor County exchanges. The Commission determined that additional community of interest factors should be obtained to determine if toll relief was warranted. However, staff believes the hearings (especially the customer hearings) should be postponed until the Commission determines if one-way EAS or ECS is feasible. It seems unreasonable to hear public testimony if there is no possible solution.

**ISSUE 5:** Should the Commission postpone any post-hearing decisions in Docket Nos. 930173-TL (Polo Park) and 941281-TL (Groveland) until the Commission determines if one-way interLATA EAS or ECS is feasible?

**RECOMMENDATION:** Yes. The Commission should postpone any post-hearing decisions in Docket Nos. 930173-TL and 941281-TL until the Commission determines if one-way interLATA EAS or ECS is feasible.

**STAFF ANALYSIS:** The Polo Park (Docket No. 930173-TL) and Groveland (Docket No. 941281-TL) dockets are post-hearing and have interLATA routes involving BellSouth. Staff recommends postponing any decision on these dockets until the Commission determines if one-way EAS or ECS is feasible. Once the Commission makes its determination, staff will prepare a recommendation for the Commission's review.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
AND 921193-TL  
DATE: APRIL 24, 1997

**ISSUE 6:** Should these dockets be closed?

**RECOMMENDATION:** Docket No. 910029-TL should be closed. The other dockets in this recommendation should remain open pending the outcome of the hearing.

**STAFF ANALYSIS:** Docket No. 910029-TL should be closed. The other dockets in this recommendation should remain open pending the outcome of the hearing.

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
 900039-TL, 910022-TL, 910029-TL, 910528-TL, 9105.9-TL, 911185-TL,  
 AND 921193-TL  
 DATE: APRIL 24, 1997

**ATTACHMENT A**

FROM	TO	DOCKET NO.	LOCAL EXCHANGE COMPANY (IES) INVOLVED
Graceville	Ponce DeLeon	870248-TL	Sprint and BellSouth
Graceville	Defuniak Springs	870248-TL	Sprint and BellSouth
Sanford	Deland	910029-TL	BellSouth
Mt. Dora	Orlando	900039-TL	Sprint and BellSouth
Branford	Trenton	870790-TL	ALLTEL and BellSouth
High Springs	Trenton	870790-TL	ALLTEL and BellSouth
Lawtey	Gainesville	910022-TL	Sprint and BellSouth
Raiford	Gainesville	910022-TL	ALLTEL and BellSouth
Starke	Gainesville	910022-TL	Sprint and BellSouth
Interlachen	Hawthorne	910528-TL	ALLTEL and BellSouth
Palatka	Hawthorne	910528-TL	ALLTEL and BellSouth
Keystone Heights	Palatka	910528-TL	BellSouth
Interlachen	Keystone Heights	910528-TL	BellSouth and ALLTEL
Florahome	Keystone Heights	910528-TL	BellSouth and ALLTEL
Melrose	Palatka	910528-TL	ALLTEL and BellSouth
Orange Springs	Palatka	910528-TL	ALLTEL and BellSouth
Hudson	Brooksville	910529-TL	GTEFL and BellSouth
DeBary	Daytona Beach	911185-TL	BellSouth

DOCKET NO. 941281-TL, 930173-TL, 930235-TL, 870248-TL, 870790-TL,  
 900039-TL, 910022-TL, 910029-TL, 910528-TL, 910529-TL, 911185-TL,  
 AND 921193-TL  
 DATE: APRIL 24, 1997

DeBary	New Smyrna Bch	911185-TL	BellSouth
DeBary	DeLeon Springs	911185-TL	BellSouth
DeBary	Oak Hill	911185-TL	BellSouth
DeBary	Pierson	911185-TL	BellSouth
Orange City	Daytona Beach	911185-TL	Sprint and BellSouth
Orange City	New Smyrna Bch	911185-TL	Sprint and BellSouth
Orange City	Oak Hill	911185-TL	Sprint and BellSouth
Orange City	Pierson	911185-TL	Sprint and BellSouth
Orange City	DeLeon Springs	911185-TL	Sprint and BellSouth
Sanford	Daytona Beach	911185-TL	BellSouth
Sanford	DeLeon Springs	911185-TL	BellSouth
Sanford	New Smyrna Bch	911185-TL	BellSouth
Sanford	Oak Hill	911185-TL	BellSouth
Sanford	Pierson	911185-TL	BellSouth
Clewiston	Belle Glade	921193-TL	Sprint and BellSouth