

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by City of) DOCKET NO. 951097-TL
Fernandina Beach for extended) ORDER NO. PSC-96-0394-FOF-TL
area service (EAS) between) ISSUED: March 20, 1996
Fernandina Beach exchange and)
Jacksonville exchange.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING EXTENDED AREA SERVICE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

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). BellSouth has elected to be price regulated pursuant to Section 364.051, Florida Statutes.

We note that since this docket 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-FOF-TL, issued November 8, 1995, in Docket No. 920260-TL (BellSouth rate case). The decision in that docket is being appealed to the Florida Supreme Court by Florida Interexchange Carriers Association.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Section 364.02(2), Florida Statutes, states that basic local telecommunications service for a local exchange telecommunications company includes any EAS routes and extended calling service (ECS) 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, no new EAS or ECS applications based on the old law will be considered for those companies that have elected to be price regulated. 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. Since EAS or ECS requested after July 1, 1995 would become a non-basic service, there is no express statutory authority to require the price-regulated local exchange companies (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.

Upon consideration, the request by the City of Fernandina Beach for extended area service between the Fernandina Beach exchange and the Jacksonville Beach exchange is denied.

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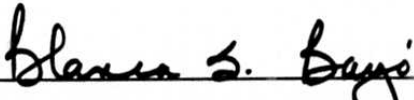
It is therefore

ORDERED by the Florida Public Service Commission that the request by the City of Fernandina Beach for extended area service between the Fernandina Beach exchange and the Jacksonville Beach exchange is hereby denied. It is further

ORDERED that this Order shall become final and effective on the date set forth below if no timely protest is filed pursuant to the requirements set forth below in the "Notice of Further Proceedings or Judicial Review." It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 20th day of March, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DLC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 10, 1996.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.