

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

NOVEMBER 14, 1996

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

FROM: DIVISION OF COMMUNICATIONS (O'PRY, SHELPER) WDH/PA
DIVISION OF LEGAL SERVICES (KEATING) WCE MCB

RE: DOCKET NO. 961266-TL - REQUEST BY RITA BENZ AND CITY OF
LAUREL HILL FOR EXTENDED AREA SERVICE (EAS) COUNTYWIDE IN
OKALOOSA COUNTY.

AGENDA: NOVEMBER 26, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961266TL.RCM

CASE BACKGROUND

- On September 1, 1996, Ms. Rita Benz filed a request for extended area service (EAS) between exchanges in Okaloosa County that do not have the \$.25 calling plan. The Laurel Hill exchange is served by the Florala Telephone Company (Florala) and the Baker, Destin, Fort Walton Beach, Shalimar and Valpariso exchanges are served by Central Telephone Company of Florida (Centel). All exchanges are located in the Pensacola LATA (local access and transport area). Attachment A is a map of the exchanges involved.
- On October 18, 1996, the City of Laurel Hill filed a request for toll-free calling service to Fort Walton Beach, Shalimar and the other exchanges in south Okaloosa County.
- Centel and Florala are both price regulated local exchange companies (LECs).

DOCUMENT NUMBER-DATE

12110 NOV 14 1996

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the request by the City of Laurel Hill for toll-free calling within Okaloosa County, or alternatively, the request by Ms. Rita Benz for the \$.25 plan between the Laurel Hill exchange and the Baker, Destin, Fort Walton Beach, Shalimar, and Valpariso exchanges?

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 requests addressed in this recommendation were 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.

Docket No. 961266-TL
November 14, 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 companies that have elected price-regulation. Centel and Florida opted for price-regulation, effective January 2, 1996 and June 25, 1996, respectively (Docket 960075-TL, Order No. PSC-96-032-FOF-TL and Docket No. 960766-TL, Order No. PSC-96-1108-FOF-TL). 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), 960614-TL (Countywide calling within Jackson County), and 961155-TL (EAS from Calhoun County exchanges to the Tallahassee exchange).

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.

OKALOOSA

