

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for countywide) DOCKET NO. 961266-TL
extended area service (EAS) in) ORDER NO. PSC-96-1536-FOF-TL
Okaloosa County by Rita Benz.) ISSUED: December 17, 1996
_____)

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 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). Centel and Florala are both price regulated local exchange companies (LECs). 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.

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.

DOCUMENT NUMBER-DATE

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FFSC-RECORDS/REPORTING

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), Florida Statutes 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), Florida Statutes 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 our opinion 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. Since EAS or ECS requested after July 1, 1995, would become a non-basic service, we do not have 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.

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This decision 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).

Upon consideration, the request for EAS 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 Valparaiso exchanges is denied.

Based on the foregoing, it is

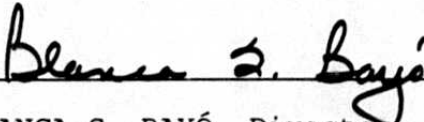
ORDERED by the Florida Public Service Commission that the request by the City of Laurel Hill for toll-free calling within Okaloosa County, or alternatively, the request by Ms. Rita Benz for the \$.25 plan between the Laurel Hill exchange and the Baker, Destin, Fort Walton Beach, Shalimar, and Valparaiso exchanges 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 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.

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By ORDER of the Florida Public Service Commission, this 17th
day of December, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

KMP

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.

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 January 7, 1997.

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.