

FLORIDA PUBLIC SERVICE COMMISSION  
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MEMORANDUM

September 25, 1997

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FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (WHEGINS) *RMT*  
DIVISION OF LEGAL SERVICES (CULPEPPER) *SC MCB*

RE: DOCKET NO. ~~950699~~-TL - RESOLUTION BY CITY COMMISSION OF  
HAINES CITY REQUESTING EXTENDED AREA SERVICE (EAS) FROM  
HAINES CITY EXCHANGE TO ALL EXCHANGES WITHIN POLK  
COUNTY

AGENDA: OCTOBER 7, 1997 - REGULAR AGENDA - POST HEARING  
DECISION - ISSUE 1 - REQUEST FOR ORAL ARGUMENT

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\950699TL.RCM

CASE BACKGROUND

This docket was initiated pursuant to Resolution No. 627 filed by the City Commission of Haines City on May 18, 1995, requesting extended area service (EAS) from the Haines City exchange to all exchanges located within Polk County. GTE Florida Incorporated (GTEFL or the Company) provides service to the Haines City, Lakeland, Bartow, Polk City, Mulberry, and Indian Lakes exchanges. Sprint-Florida, Inc. (Sprint) serves the Fort Meade exchange. The Haines City, Lakeland, Bartow, Polk City, Mulberry, and Indian Lakes exchanges are located in the Tampa LATA, whereas the Fort Meade exchange is located in the Fort Myers LATA. The involved parties agreed that this proceeding should be governed by Chapter 364, Florida Statutes, as it existed prior to July 1, 1995. Attachment A is a map of the involved exchanges.

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By Order No. PSC-95-1429-PCO-TL, issued November 27, 1995, the Commission required GTEFL to perform and file traffic studies on the intraLATA routes at issue in this docket. GTEFL was not ordered to conduct traffic studies on the interLATA routes, because it no longer performs billing for AT&T.

By Order No. PSC-96-0620-FOF-TL, issued May 8, 1996, the Commission denied the request for EAS from the Haines City exchange to all exchanges located within Polk County. The Commission determined that none of the routes qualified for non-optional, flat rate, two-way EAS or an alternative toll relief plan. Since the traffic data on the intraLATA routes did not indicate a community of interest, the Commission concluded that additional interLATA traffic information would not change the result.

On May 28, 1996, the City Commission of Haines City filed a protest of Order No. PSC-96-0620-FOF-TL, and requested a formal hearing.

By Order No. PSC-96-1034-PCO-TL, issued August 8, 1996, the Commission set this matter for hearing to consider community of interest factors other than traffic data.

By Order No. PSC-96-1549-PCO-TL, issued December 19, 1996, the Commission determined the issues to be resolved in this docket.

By Order No. PSC-97-0419-PHO-TL, issued on April 15, 1997, the Commission established the procedures governing the handling of confidential information, prefiled testimony and exhibits, the order of witnesses, and post hearing matters.

On April 22, 1997, the Commission held a public and technical hearing in Haines City, Florida.

At the July 15, 1997, Agenda Conference, the Office of Public Counsel (OPC) requested a deferral in order to allow the parties time to try to negotiate a settlement. The request for deferral was granted.

On September 5, 1997, OPC filed a Request to Address the Commission at the Agenda Conference. By its request, OPC seeks to allow each party five minutes to address the Commission

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regarding staff's recommendation at the October 7, 1997, agenda conference.

On September 8, 1997, GTEFL responded in opposition to OPC's request to address the Commission at the October 7, 1997, agenda conference.

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### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission grant the Office of Public Counsel's request to address the Commission regarding staff's post-hearing recommendation?

**RECOMMENDATION:** No. Commission rules prohibit participation at an Agenda Conference by persons other than Commissioners and staff on a post-hearing recommendation, unless the Commission is considering new matters related to but not addressed at the hearing. (Culpepper)

**STAFF ANALYSIS:** By its request, OPC asks that each party be allowed 5 minutes to address the Commission regarding staff's recommendation. OPC asserts that because staff sponsored no witnesses at the hearing, it has not had an opportunity to respond to the staff recommendation. OPC argues that the Commission will be better able to make a decision in this case if it hears further argument from OPC, Haines City officials, and others that OPC expects to attend the Commission's Agenda Conference.

In its September 8, 1997, response to OPC's request, GTEFL states that OPC's request should be rejected. GTEFL states that the record in this case is closed; thus, if OPC or Haines City try to introduce new information or evidence at the Agenda Conference, GTEFL's due process rights will be compromised. GTEFL asserts that post-hearing argument does not allow for cross-examination and is impermissible unless all parties to the docket agree to it. GTEFL also asserts that the Commission will not benefit from additional argument on staff's recommendation. In addition, GTEFL notes that under OPC's argument that it has not had an opportunity to address staff's recommendation, post-hearing argument would have to be granted in every case. GTEFL argues that this is not a logical approach, and that OPC has already had the opportunity to argue its views at the hearing and in post-hearing briefs.

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Rule 25-22.0021(2), Florida Administrative Code, states

When a recommendation is presented and considered in a proceeding where a hearing has been held, no person other than staff who did not testify at the hearing and the Commissioners may participate at the agenda conference. Oral or written presentation by any other person, whether by way of objection, comment, or otherwise, is not permitted, unless the Commission is considering new matters related to but not addressed at the hearing.

OPC states in its request that Haines City and its citizens were surprised that staff has not recommended toll relief for the Haines City to Bartow route. Staff notes that this issue was addressed extensively by OPC at hearing and in its post-hearing brief. See Citizens' Brief, at pages 6 - 7, 13 - 17, and 27, referencing Transcript pages 12, 15, 18, 25, 26, 40, 45, 47, 48, 49, 88, 104, 105, 109, 123, 128, 130, 135, 340, 346, 365, 367, 368, 370, and 378. Staff has reviewed and addressed this argument in this recommendation. Thus, the issue that OPC intends to address cannot be considered a new matter "related to but not addressed at the hearing." Rule 25-22.0021, Florida Administrative Code. OPC merely disagrees with staff's recommendation.

Furthermore, staff notes that the issue of whether responses or exceptions to staff's recommendations should be allowed has been addressed by the 1st District Court of Appeal. The court's decision in Legal Environmental Assistance Foundation, Inc. v. Florida Public Service Commission, 641 So. 2d 1349 (Fla. 1st DCA 1994) upheld the Division of Administrative Hearings hearing officer's determination in Legal Environmental Assistance Foundation, Inc. v. Florida Public Service Commission, Case No. 93-2956RX, at ¶62, where the hearing officer determined that

The advisory memoranda prepared by Commission staff who do not testify at hearing are not documents which constitute proposed orders or recommended orders. They are contemplated by and consistent with Section 120.66(1)(b), Florida Statutes. The advisory memoranda are

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not matters about which exception may be taken.

In view of the fact that Commission Rule 25-22.0021(2), Florida Administrative Code, prohibits participation by anyone other than Commissioners and staff at agenda when a post-hearing recommendation is presented for consideration, and because this issue has already been thoroughly addressed at the hearing, in briefs, and in this recommendation, as well as the court's upholding of the view that staff's recommendation is not in the nature of a proposed or recommended order to which exceptions can be filed, staff recommends that OPC's Request to Address Commission at Agenda Conference be denied.

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**ISSUE 2:** Is there a sufficient community of interest to justify implementing EAS, as currently defined in the Commission rules, or implementing Extended Calling Service (ECS), or an alternative toll proposal on any of the following routes:

Haines City/Lakeland\*\*  
Haines City/Polk City  
Haines City/Bartow\*  
Haines City/Mulberry  
Haines City/Frostproof  
Haines City/Indian Lakes  
Haines City/Fort Meade

\* County seat of Polk County  
\*\* State and Federal offices serving the area

**STAFF RECOMMENDATION:** No. Based on the evidence presented in this docket, staff does not believe that a sufficient community of interest exists to justify a survey of Haines City residents to implement non-optional EAS to all exchanges within Polk County. With the exception of the Haines City/Lakeland route and Haines City/Polk City route, staff does not believe that a sufficient community of interest exists to warrant an alternative toll relief plan on any of the remaining routes. Staff notes the Haines City to Polk City route warrants toll relief to avoid leapfrogging. Specifically, staff recommends that the Commission order GTEFL to implement ECS on the Haines City/Lakeland and Haines City/Polk City routes. Residential customers should pay \$.25 per call regardless of duration, and business calls should be rated at \$.10 for the first minute and \$.06 for each additional minute. IXCs may continue to carry the same type of traffic on those routes that they are now authorized to carry. ECS should be implemented on these routes as soon as possible but not to exceed six months from the issuance of an order resulting from this recommendation. (WIGGINS)

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**POSITION OF PARTIES**

**HAINES CITY:** There is a sufficient community of interest to warrant a vote on EAS for each of the routes. If the vote fails, ECS should be implemented on each of the routes.

**OPC:** There is a sufficient community of interest to warrant a vote on EAS for each of the routes. If the vote fails, ECS should be implemented on each of the routes.

**GTEFL:** No. The Commission has already found that traffic is too low to indicate a community of interest sufficient to justify EAS or even ECS on any of these routes. There are no new facts to warrant reversing this finding, which is based on Commission rules and precedent.

**SPRINT-FLORIDA:** No. According to Ms. Harrell's exhibit, traffic on the Haines City/Fort Meade route, which is the only route involving a Sprint exchange, does not meet the messages per access line per month (M/A/M) or distribution requirement thresholds in Commission Rule 25-4.060 (3), Florida Administrative Code.

**STAFF ANALYSIS:** Haines City contended that there is a sufficient community of interest on the routes at issue to warrant balloting for non-optional EAS to all exchanges within Polk County. Of the 51 citizens that testified at the public hearing concerning community of interest factors, all of them supported the request for non-optional EAS or some alternative form of toll relief. (TR 12-156, 334-3 ) Several residents indicated that they support EAS with the full knowledge that it would require a rate increase. (Tucker TR 30; McGlashon TR 32; Carefoot TR 91; Toney-Deal TR 149-151) Additionally, numerous public witnesses asserted that they depend on the Lakeland and Bartow exchanges for their medical services, business services governmental services, and personal needs. (Carefoot TR 83; Brantley TP 71-77; Saag TR 109-118)

Haines City argued that the traffic studies provided by GTEFL were incomplete and failed to reflect the true volume of traffic being generated between Haines City and the other intra-county points at issue in this docket. (Toney-Deal TR 159-162)



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Also, several public witnesses testified that they by-pass GTEFL's toll services by using other means to complete intra-county toll calls. (Carfoot TR 83-93; Hannon TR 55-58; Toney-Deal TR 134-156; Fortin TR 350-352) For instance, witness Fie indicated that she and Mr. Fie let toll calls that they need to make stock pile until Mr. Fie goes to Winter Haven, and then they make the necessary calls. (TR 380) Another witness stated that he avoids toll charges by driving to a pay telephone located in the Winter Haven exchange about 1 mile from his home, which has toll-free calling to Lakeland and Bartow. He also asserted that he uses his cellular phone on the weekend and late night to avoid making toll calls. (McCall TR 385-386) Witness Brown stated that she makes calls from her job located in Winter Haven to avoid incurring toll charges at home in Haines City. (TR 387-388) Additionally, a number of witnesses indicated that they dial around to other long distance carriers when making intra-county toll calls. (Hannon TR 55; Poe TR 376-378; Toney-Deal TR 157-159) Consequently, Haines City argued that the traffic studies are not a true measure of the volume of traffic on the routes at issue. Haines City asserted that more emphasis should be placed on other community of interest factors, including the fact that the Haines City area is the fastest growing area in Polk County. (BR p. 4)

Several witnesses asserted that they use doctors and the major regional medical center located in Lakeland (Lakeland Regional Medical Center). (Snyder TR 349-351; Toney-Deal TR 155-156; Fortune TR 26; Reilly TR 25) Witness Toney-Deal stated that Haines City does have its own medical facilities, hospital, and doctors. However, the witness indicated that some of the doctors have dual practices in which they practice in Lakeland a certain number of days and Haines City a certain number of days. The witness further explained that the doctors make appointments from their Lakeland offices. She also asserted that Haines City residents depend on Lakeland medical facilities for special medical treatments, such as kidney dialysis and open heart surgery. (Toney-Deal TR 155) Witness Snyder contended that many of Haines City residents' health care providers are based in Lakeland at Watson Clinic or Lakeland Regional Medical Center. The witness stated that as a pharmacist he calls doctors for approval of prescriptions or any health care related matters for patients. These calls are long distance. He noted that he does not want to pass the extra charge on to his customers. (Snyder TR 349-350) Witness Brantley contended that a large number of

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retired Haines City residents make toll calls to physicians and clinics in Lakeland, which can be costly when living on a fixed income. (TR 72)

Numerous public witnesses asserted that it is very costly and time consuming to conduct business in the Haines City area because of long distance calling. (Burchfield TR 20-21; Savant TR 35-37; Carter TR 63-66; Poe TR 376-378) Witness Burchfield, the owner of an engineering firm, contended that his firm incurred long distance charges of \$71.52 for the month of March. He stated that this is an additional cost of doing business in the Haines City area. (TR 21) Another witness noted that Ytong Florida, a 32 million dollar manufacturing business located in Haines City, spends an extra \$150 per month on toll calls within Polk County. (Savant TR 35-36) Also, Witness Mengeling indicated that his funeral business made 443 toll calls within Polk County in March of 1997, which cost approximately \$448. (TR 342-343) Furthermore, many of the witnesses stated that the Lakeland area is a major distribution center for Polk County. They argued that businesses in Haines City depend on these companies for services and supplies. Currently, if these businesses want to contact their distributors, they are forced to make a long distance call. (Toney-Deal TR 136-137; Saag TR 109; Carefoot TR 87) Thus, Witness DeGennaro contended that long distance charges impede Haines City's economic development and create a competitive disadvantage for businesses in the community. (TR 95)

To further support Haines City's position, several local government officials agreed that there should be toll-free calling from Haines City to all exchanges within Polk County. (Toney-Deal TR 115; Storm TR 120-121; Wheeler TR 128-132) Witness Wheeler, who is the Chief of Police for Haines City, contended that communication between law enforcement agencies within Polk is a necessity. He asserted that relaying intelligence information from agency to agency sometimes requires lengthy conversations between investigators; not having EAS often hampers the communication of pertinent information. For instance, if a victim or a witness lives in another part of the county, police investigators do not have the capability of picking up the telephone and contacting them. (TR 1128-131) Witness Toney-Deal stated that various county and government agencies, such as the Sheriff's main office, the County Courthouse, the County Administration Building, and the County

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School Board Offices are located in Bartow, the county seat of Polk County. The witness argued that Haines City residents cannot call Bartow toll-free, which isolates the Haines City area from the governmental nucleus of Polk County. (TR 135-145) However, various witnesses indicated that there are 800 numbers available to call some government agencies toll-free. (Toney-Deal TR 145; Saag TR 114; Lasseigne TR 367-308) Nevertheless, witness Toney-Deal contended that the majority of the time these 800 numbers are busy. (TR 145) Additionally, witness Fortune stated that often, when citizens call the county offices they are put on hold for as long as 30 minutes. (TR 26)

In its brief, Office of Public Counsel (OPC) argued that the traffic studies submitted by GTEFL do not provide an accurate or reliable data base for the Commission to use in determining if a sufficient community of interest exists to justify EAS on the routes at issue in this docket. OPC contended that GTEFL maintains the traffic data does not warrant either a ballot for flat rate EAS or consideration of an alternative plan. OPC noted that there was sufficient public testimony at the hearing to suggest that the traffic studies are insufficient and fail to capture the relevant traffic information. (BR p.2)

OPC's witness Poucher argued that within the past 12 months AT&T has taken back its billing from GTEFL. The witness pointed out that AT&T's billing for traffic from Haines City to other locations within Polk County would not show up on GTE's billing records. He stated that there are several ways in which the studies submitted by GTEFL may be incomplete. (TR 216-220) For example, throughout the course of the hearing, numerous public witnesses indicated specific methods they use to avoid going through GTEFL's switching system that would be a source for the traffic studies. (Hannon TR 55-58; Fie TR 380; McCall TR 385-386) Witness Poucher also asserted that the studies omit traffic from alternative access vendors, FX lines, 800 calling, and private or data lines. (TR 217-218) To collaborate witness Poucher's argument, GTEFL's witness Robinson indicated that the studies may not be accurate because there is calling which GTEFL no longer captures. He asserted that GTEFL does not have 100% of the marketplace anymore. (Robinson TR 295) Consequently, witness Poucher stated, the traffic volumes, along with the community of interest testimony presented by Haines City residents, are sufficient to warrant some form of toll relief. (TR 190-194)

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OPC's witness Poucher contended that the traffic volumes and distribution of messages on the routes between Haines City and its sister cities in Polk County is insufficient, per se, to justify flat rate EAS balloting from Haines City to all exchanges in Polk County. However, witness Poucher asserted that in the past the Commission has ordered toll relief in other cases where the traffic volume was consistent with the traffic from Haines City to the other exchanges in Polk County. As an example, witness Poucher explained that the Commission ordered balloting for flat rate EAS for all routes in Franklin County in January of 1991, when the traffic volumes on the routes at issue ranged from .02 to 2.12 and the distribution fell short of the required standard. The witness stated that ultimately, the ballot failed, and the Commission ordered the \$.25 plan for all routes in the county. Furthermore, in November of 1992, the Commission ordered the \$.25 calling plan between Chiefland and Cedar Key and Cedar Key and Bronson in view of the fact that the calling volumes on these routes failed to meet the threshold specified by the rule. Commission made note of the fact that this decision "is consistent with our actions in similar EAS dockets with rural areas where we have ordered the \$.25 plan." (TR 180-183, 225-235) Witness Poucher noted that there is a good correlation between the Commission's philosophy in those specific cases and the situation in Haines City. (TR 241)

Sprint's witness Harrell contended that the traffic study results on the Ft. Meade to Haines City route reflect calling rates that are not sufficient to meet the M/A/M or frequency distribution requirements to qualify for flat rate, non-optional EAS or to justify implementation of any form of toll relief. (TP 167) Sprint in its brief argued that the testimony at the hearing did not show a sufficient community of interest between Haines City and Ft. Meade to justify any alternative toll relief. (BR pp.1-2)

GTEFL noted in its brief that under the Commission's EAS rules, community of interest is measured through calling data, specifically M/A/M and calling distribution. The company contended that the calling data allow the Commission to make objective and uniform decisions in EAS cases. GTEFL asserted that in accordance with Rules 25-4.057 and 25-4.060, Florida Administrative Code, the Commission has already found that the traffic studies on the routes at issue demonstrate no community

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of interest sufficient to order an EAS survey, let alone implementation of EAS. The Company argued that none of the routes under consideration in this docket meet the M/A/M requirements to qualify for non-optional, two-way, flat rate EAS. (BR p.3)

Additionally, GTEFL's witness Robinson stated that the traffic volume on these routes does not satisfy the Commission's guidelines for a mandatory alternative toll plan, such as ECS. The witness pointed out that the Commission held in Order No. PSC-96-0620-FOF-TL, issued May 8, 1996, that the calling rates on the intraLATA routes do not have sufficient calling volumes or distribution to warrant an alternative toll plan. The Commission also held that the traffic data on the routes did not indicate a community of interest. Witness Robinson asserted that the traffic statistics rule out any form of extended calling on these routes. (TR 252-256) In its brief, GTEFL noted that the Commission's ruling confirmed that objective calling data is the critical factor in evaluating EAS requests under its long-standing precedent. (BR p.3) Witness Robinson contended that the only reason this matter is again before the Commission is because Haines City protested the Commission's previously issued Order. (TR 252-256)

GTEFL further argued that Haines City and OPC would have the Commission order expanded local calling in this case, even though the traffic statistics fall far short of the requirements set forth in the Commission's rules. The Company contended that OPC appears to focus on the last subsection of the Commission's rule on community of interest considerations in Rule 25-4.060(5), Florida Administrative Code. GTEFL explained that this subsection reads "In the event that interexchange traffic patterns over any given route do not meet presubscribed community of interest qualifications, the Commission may consider other community of interest factors to warrant further proceedings." (BR p.4)

GTEFL's witness Robinson asserted that the Commission's ability to consider non-numerical community of interest factors does not mean the Commission can focus solely on those factors and simply ignore the traffic statistics. Witness Robinson contended that the Commission should be extremely cautious in departing from its rules and customs of relying heavily on traffic statistics in extended calling cases. The witness

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explained that the Commission cannot ignore the fact that the local market is now open to competition. He argued that changed market conditions cast doubt on the need for any mandatory extended calling plans. (TR 311-316) Furthermore, GTEFL asserted that mandatory regrouping with an additive, which effectively increases existing local rates, will give GTEFL's competitors further room to undercut the Company and take its customers. Also, the Company noted that it will lose its existing toll revenues. (Robinson TR 312-314)

Furthermore, witness Robinson contended, GTEFL does not believe that there has been an extraordinary showing of non-numerical community of interest factors to justify waiving Commission rules or past policies in considering extended calling requests. The witness asserted that the Commission should reject OPC witness Poucher's invitation to expand the logic from a handful of unique cases to grant mandatory toll relief in this case. He argued that nothing has changed from the issuance of the Commission's order on May 8, 1996, to warrant a reversal of the conclusion. Witness Robinson stated that the Commission should affirm its previous finding that no EAS or ECS is justified in this case. (TR 265-268, 311-316)

GTEFL's witness Robinson stated that nevertheless, Haines City residents participating in this case remain convinced that some kind of expanded local calling should be offered. In response to the residents' needs, the witness explained that GTEFL is willing to offer fully optional local calling plans (LCP). The witness indicated that GTEFL's optional plan could be implemented without regard to the Commission-established community of interest factors. He stated that with GTEFL's LCP no customer is forced to pay an extra monthly fee, as all customers would under EAS. Witness Robinson noted that LCP has four options, and there is an option for the customer to stay exactly as they are today. (TR 254-266)

Staff agrees with GTEFL and Sprint that there is not a sufficient community of interest to warrant balloting Haines City residents for non-optional EAS from Haines City to all exchanges within Polk County. Staff acknowledges that public witnesses presented valid arguments that the traffic studies submitted by GTEFL were incomplete and failed to measure the true volume and distribution of traffic generated on the routes at issue in this docket. (Toney-Deal TR 159-162) However, staff does not believe

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that the arguments expressed by the public witnesses concerning the shortcomings of the traffic data were sufficient to confirm that a significant level of community of interest exists between Haines City and its sister exchanges. This was evident from the testimony of Witness Toney-Deal, the City Manager of Haines City, who stated that Haines City has its own medical clinic, hospital, schools, and professional services. (TR 135-155) Furthermore, numerous witnesses indicated that several government offices, located in Bartow the county seat, have 800 (toll-free) numbers available for Haines City residents to contact these local agencies. (Toney-Deal TR 135-155; Saag TR 114; Lasseigne TR 367-368) Additionally, both GTEFL and Sprint presented evidence that the calling volume and distribution from Haines City to the exchanges at issue do not come close to meeting the Commission's criteria for non-optional EAS. (EXH 2,7&8)

The public witnesses did express valid arguments concerning the scope of GTEFL's traffic studies. The witnesses testified that they used several means to bypass GTEFL's toll services when making local toll calls. (Carefoot TR 83-93; Hannon TR 55-58; Fortin TR 350-352) Furthermore, OPC witness Poucher reinforced Haines City's argument by asserting that the traffic studies are unreliable because within the past 12 months AT&T has taken back its billing from GTEFL. Witness Poucher also noted that the studies omit traffic from alternative access vendors, FX lines, 800 calling, and private or data lines. (TR 216-220) While staff believes that the witnesses' arguments present some uncertainties regarding the actual volume of traffic on the routes at issue, we do not believe the uncaptured traffic is sufficient to alter the conclusion regarding non-optional EAS.

Several witnesses testified that they depend on medical facilities and the regional medical center located in the Lakeland area for their health care needs. (Reilly TR 25; Fortune TR 26; Snyder TR 349-351) Haines City's witness Brantley indicated that numerous retired residents make toll calls to physicians in Lakeland, which is expensive when living on a fixed income. (TR 72) However, staff would note that Haines City has its own medical facilities, physicians and hospital. While staff understands the importance of the residents being able to call their chosen medical facilities and physicians, we do not believe this is sufficient cause to order a countywide reduction in toll rates.

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Many witnesses asserted that long distance calls are an expensive additional cost to conduct business in Haines City. (Burchfield TR 20-21; Savant TR 35-37; Carter TR 63-66; Poe TR 376-378) One witness contended that long distance charges impede Haines City's economic development and disadvantage the business community. (DeGennaro TR 95) While staff notes that long distance charges may be an additional cost for many Haines City business owners, as expressed in their testimony, staff does not believe it is the Commission's responsibility to lower the costs of private industry in the Haines City area.

Witnesses testifying on behalf of the local governments expressed a need for toll-free calling from Haines City to other exchanges located in Polk County. (Toney-Deal TR 135; Storm TR 120-121; Wheeler TR 128-132) Witness Toney-Deal contended that local government agencies and offices are located in Bartow, the county seat, and Haines City residents cannot reach them toll-free. (Toney-Deal TR 135-155) However, staff believes that the County should assume the burden of providing toll-free access to county agencies and offices for Haines City residents. We contend that the Commission should not shift the financial burden to the local exchange companies unless there is a strong showing that a significant community of interest exists from Haines City to the other exchanges at issue in this docket.

Based on the evidence, staff does not believe that a sufficient community of interest exists to ballot Haines City residents for non-optional EAS from Haines City to every other exchange located within Polk County. Of the 51 public witnesses that testified at the hearing, over 75% of them expressed concerns about calling only to Bartow and Lakeland. However, staff believe that the evidence provided by the witnesses and the traffic studies presented by GTEFL and Sprint do support some type of toll relief on the Haines City/Lakeland and Haines City/Polk City routes. Staff contends that only the Haines City/Lakeland route satisfied the M/A/M criteria for toll relief with a significant distributional factor. Staff includes the Haines City/Polk City to avoid leapfrogging. We believe that only these routes should receive some type of toll relief. Therefore, staff recommends that the Commission order GTEFL to implement ECS between the Haines City/Lakeland and the Haines City/Polk City exchanges. Residential customers should pay \$.25 per call regardless of duration, and business calls should be rated at \$.10 for the first minute and \$.06 for each additional



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minute. IXCs may continue to carry the same type of traffic on those routes that they are now authorized to carry. ECS should be implemented on these routes as soon as possible, but not to exceed six months from the issuance of an order resulting from this recommendation. Staff does not believe the evidence presented by any of the parties supports toll relief on the other routes at issue in this docket.

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**ISSUE 3:** What other community of interest factors should be considered in determining if either EAS, ECS, or an alternative toll plan should be implemented?

**STAFF RECOMMENDATION:** Other community of interest factors may include location of schools, fire and police departments, medical and emergency facilities, access to local government, location of workplace, and access to goods and services, such as shopping centers and location of social activities (theater, sports, etc).  
(WIGGINS)

**POSITION OF PARTIES**

**HAINES CITY:** Yes, there are other community of interest factors which include, but are not limited to, (1) Governmental Services, (2) Medical Services, (3) Professional Services, (4) Commerce, (5) Employment, (6) Transportation, (7) Social Interaction, (8) Schools, (9) County wide Calling, and (10) Natural Barriers.

**GTEFL:** The Commission's Rules and precedent do not contemplate reliance solely on non-numerical criteria to determine community of interest. Only if traffic data are adequate may the Commission consider, in addition, factors such as location of schools, shopping areas, medical facilities, and the like.

**OPC:** Yes, there are other community of interest factors. Exhibit REP-1 set forth ten specific community of interest factors: (1) Governmental Services, (2) Medical Services, (3) Professional Services, (4) Commerce, (5) Employment, (6) Transportation, (7) Social Interaction, (8) Schools, (9) Countywide Calling, and (10) Natural Barriers.

**SPRINT-FLORIDA:** Additional community of interest factors often considered are the location of schools, fire/police departments, medical/emergency facilities and county governments. When these factors are considered, the community of interest between Haines City and Ft. Meade is not strong enough to warrant any alternative form of toll relief.

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**STAFF ANALYSIS:** In its brief, Haines City contended that it was clear from the testimony of its residents that there is a perception of isolation and unfairness caused mainly by the lack of convenient, inexpensive communication with governmental services available to the rest of the County without toll charges. (Haines City BR p.5) Haines City argued that, without question, all of the prefiled testimony presented on behalf of its residents and virtually all of the public testimony in favor of EAS stated reasons that establish a sufficient community of interest. (TR 12-162, TR 334-392)

As illustrated at length in Issue 2, Haines City residents believe there are numerous factors that have demonstrated a significant community of interest between the Haines City exchange and the other exchanges located within the County. To name a few: the location of medical facilities, workplace, goods and services, and commerce.

OPC noted in its brief that Rule 25-4.060(5), Florida Administrative Code, states "In the event that interexchange traffic patterns over any given route do not meet presubscribed community of interest qualifications, the Commission may consider other community of interest factors to warrant further proceedings." OPC contended that the rules contemplate that the Commission may order a ballot for flat-rate EAS either automatically, when the thresholds established in 25-4.060(3)(a) are met, or when other community of interest factors are considered as stated above. (OPC BR pp.12-13)

OPC's witness Poucher asserted that no single factor or formula can be identified that would enable regulators to easily determine when there is sufficient community of interest between exchanges to justify EAS. The witness contended that each case will have a different set of facts. He stated that the Commission has discretion to implement EAS plans that are consistent with the public interest and non-discriminatory to all users. (TR 179)

Sprint's witness Harrell argued that there are some factors often mentioned by subscribers desiring EAS. Such factors may include the location of schools, fire/police departments, medical emergency facilities, and county government. (TR 167-168)

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Witness Harrell contended that the Fort Meade exchange currently has EAS to Bartow, which is the county seat, and Lakeland, where the state and federal offices serving this area are located. She asserted that schools and medical facilities are also located within the Fort Meade exchange; therefore, the traditional community of interest factors do not support alternative toll relief for this route. (TR 167-168)

GTEFL asserted that other community of interest factors may include, for instance, location of school district boundaries, major shopping areas, medical services, large plants or offices, and natural neighborhood boundaries not coincident with exchange boundaries. (Robinson TR 255)

GTEFL's witness Robinson indicated that numerical calling statistics are the critical part of the EAS or ECS inquiry. The witness contended that GTEFL believes the Commission rules contemplate consideration of these anecdotal and unmeasurable elements only in conjunction with traffic data, not as a stand alone reason for pursuing an EAS or ECS request. He argued that the Company is not aware of any instances where the Commission used solely subjective community of interest evidence to grant toll relief. (TR 254-256)

Based on the arguments, staff believes that other community of interest factors may include location of schools, fire and police departments, medical and emergency facilities, access to local government, location of workplace, and access to goods and services, such as shopping centers and social activities (theater, sports, etc).

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**ISSUE 4:** If a sufficient community of interest is found on any of these routes, what is the economic impact of each plan on the customer and the company (summarized in chart form and discuss in detail)?

- A) EAS with 25/25 plan and regrouping;
- B) Alternative toll plan;
- C) ECS; and
- D) Other (specify)

**STAFF RECOMMENDATION:**

A) If the Commission denies staff's recommendation in Issue 2 and determines that EAS is warranted, the 25/25 plan with regrouping is calculated by adding twenty-five percent (25%) of the rate group schedule for the number of access lines to be newly included in the exchange's calling scope. The regrouping additive is the difference in rates between the exchange's original rate group and the new rate group into which the exchange will fall with its expanded calling scope.

B) The evidence presented does not support an alternative toll plan.

C) Under ECS, residential customers should pay \$.25 per call regardless of duration, and business calls should be rated at \$.10 for the first minute and \$.06 for each additional minute.

D) The evidence presented does not support any other toll relief plans.

Staff notes that the revenue impact data for (A) and (C) were provided under confidential cover. **(WIGGINS)**

**POSITION OF PARTIES**

**HAINES CITY:** Existing toll rates inhibit economic development along the routes. EAS or ECS will have a positive economic impact on the community.

**GTEFL:** It is impossible to determine the economic impact of any mandatory plan. GTEFL no longer has a local exchange monopoly.

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Although EAS and ECS calls will be local, they won't foreclose competition. Since GTE does not know how many customers it will retain, it cannot calculate revenue impact.

**OPC:** Existing toll rates inhibit economic development along the routes. EAS or ECS will have a positive economic impact on the community.

**SPRINT-FLORIDA:**

a) If flat-rate, non-optional EAS is ordered, the Fort Meade Exchange would be regrouped from Rate Group 3 to Rate Group 4, thus incurring an increase in their basic local service rate.

b) There would be a loss of access revenue and an increase in local service revenues, resulting in an estimated annual revenue in local service revenue, resulting in an estimated annual revenue gain of \$133,000, which does not reflect the additional costs incurred for facilities that will need to be installed or leased from an IXC, or other administrative costs.

c) Based on the monthly calling volume reflected in the traffic studies, the estimated annual revenue impact to the Company would be a loss of \$5,400, which does not reflect the additional costs incurred for facilities that will need to be installed or leased from an IXC, or other administrative costs.

**STAFF ANALYSIS:** In its brief, Haines City contended that the economic impact would be more favorable to GTEFL to receive regrouping income from the Haines City area customers, rather than to invite competition from cellular phones, e-mail, and other long distance providers. Haines City asserts that it may be years, if not decades, before there will be another local franchised provider. Haines City stated that countywide calling would benefit GTEFL by giving it the lion's share of calls within the county, with payment being made monthly for that countywide access. (Haines City BR pp.6-7)

OPC stated, in its brief, that flat rate EAS or ECS would help alleviate the hardships created by the existing toll routes. (OPC BR p.36)

Sprint's witness Harrell stated that based on the monthly calling volume reflected in the traffic study, the estimated

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annual revenue impact of ECS to the Company would be a loss of approximately \$5,460, if there is no stimulation on the route. The witness contended a 50% stimulation, which is consistent with the factor used by Southern Bell in Docket No. 920200-TL, would result in a revenue loss of approximately \$3,855. She asserted that these amounts do not reflect the additional costs for facilities that would be required to carry the traffic, or other administrative costs associated with the implementation of the toll alternative. (Harrell TR 168-169; EXH 3)

GTEFL's witness Robinson stated that the company believes the Commission's rules do not contemplate ordering EAS or an alternative plan without some grounding of community of interest in the traffic data. The witness asserted that the responses to options a, b, and c assume that the Commission can develop an acceptable way of reliably measuring community of interest in the absence of any numerical showing of community of interest. (TR 256)

Witness Robinson contended that under GTEFL's local calling plan (LCP), option d, no customer is forced to pay an extra monthly fee as all customers would be under EAS. The witness explained that the plan has multiple options, including an option for the customer to stay exactly as they are today. (TR 255-275) The LCP options are as follows:

**BASIC CALLING:** The customer pays a reduced local access line rate and all local calls, including calls to their home exchange (Haines City), as well as those to their current and expanded local calling area, are billed at optional local measured usage rates on a per minute basis. The R1 rate for this option is estimated to be between \$7.00 and \$7.50, while the B1 rate would be between \$18.00 and \$19.00. (TR 258-260)

**COMMUNITY CALLING:** The customer pays a slightly reduced local access line rate and has flat rate calling to his home exchange only. All other local calls within the current and expanded local calling area are billed at local measured usage rates. The R1 estimate would be between \$10.00 and \$10.50. B1 customers would not be offered this option. (TR 258-260)

**COMMUNITY PLUS:** The customer pays a higher rate for local access in comparison to his current flat rate service. He has flat rate calling to his home exchange and selected nearby exchanges while

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all other local calls in the expanded local calling area are billed at local measured usage rates. These selected exchanges are generally those to which customers currently enjoy flat-rate EAS. In the Haines City example, the exchanges would be Haines City, Winter Haven and Lake Wales. The R1 estimate would be between \$33.00 and \$36.00. (TR 258-260)

**PREMIUM CALLING:** The customer pays a premium flat rate and may make an unlimited number of calls, without regard to duration, to all exchanges within the current and the expanded local calling area. The R1 estimate would be between \$35.00 and \$40.00. This option would not be available to business customers. (TR 258-260)

GTEFL's witness Robinson contended that the local measured rates for LCP are six cents per minute for all local calls to five rate bands, which go out to 40 miles. The witness asserted that the rates bands currently reflected in GTEFL's local tariff under LCP for the Englewood and North Port exchanges would apply. (TR 259-260)

In order for the Commission to consider implementation of option (d), staff points out that it would need firm rates for each of the various options. Staff notes that the rate ranges provided by GTEFL are not price specific, which hinders the Commission's consideration of the feasibility of this option.

If the Commission denies staff's recommendation in Issue 2 and determines that balloting for EAS is appropriate, the 25/25 plan with regrouping is calculated by adding twenty-five percent (25%) of the rate group schedule for the number of access lines to be newly included in the exchange's calling scope. The regrouping additive is the difference in rates between the exchange's original rate group and the new rate group into which the exchange will fall with its expanded calling scope. However, under the 25/25 plan Sprint and GTEFL explain that their revenues would increase. (EXH 1,3,7 & 9) Staff supports the 25/25 plan with regrouping as proposed by Sprint and GTEFL, if the Commission denies staff's recommendation in Issue 2.

If the Commission determines that ECS is appropriate, staff believes that residential customers should pay \$.25 per message regardless of duration, and business call should be rated at \$.10 for the first minute and \$.06 for each additional minute.



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Staff does not support the alternative plan (option D) offered by GTEFL called LCP. Based on the evidence presented by the Company, staff is unable to determine the economic impact of option D.

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**ISSUE 5:** Should subscribers be required to pay an additive as a prerequisite to implementation of EAS? If so, how much of a payment is required and how long should it last?

**RECOMMENDATION:** Yes. If the Commission denies staff's recommendation in Issue 2 and determines that the Haines City subscribers should be balloted for EAS, the subscribers should be required to pay an additive. Specifically, the subscribers should be balloted under the 25/25 plan with regrouping. The 25/25 plan should remain in effect for no more than 4 years, after which time this additive should be removed. If EC<sup>2</sup> is determined to be appropriate, no additive is needed. (WIGGINS)

**POSITION OF PARTIES**

**HAINES CITY:** The Commission should put countywide flat rate EAS to a vote. Any increase should last no more than 4 years.

**GTEFL:** Yes. An additive for all subscribers is historical prerequisite to EAS implementation. There is no evidence in the record about how long the additive should last.

**OPC:** The Commission should put flat rate EAS to a vote. In addition to regrouping, a modest surcharge to replace a portion of lost toll revenues should last no more than 4 years.

**SPRINT-FLORIDA:** The Haines City/Fort Meade route does not meet the Commission requirements for any form of toll relief. However, should the Commission determine that EAS is appropriate, the 25/25 Plan with Regrouping should be ordered.

**STAFF ANALYSIS:** The appropriateness of an additive was discussed extensively by all parties in Issue 4. Staff believes that all of the parties agree that an additive is appropriate for EAS. If the Commission denies staff's recommendation in Issue 2 and determines that Haines City subscribers should be balloted for EAS, staff agrees with Sprint and GTEFL that the subscribers should pay an additive under the 25/25 plan with regrouping. The 25/25 additive is calculated by adding twenty-five percent (25%) of the rate for the rate group schedule for the number of access lines to be newly included in the exchange's calling scope. The

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regrouping additive is the difference in rates between the exchange's original rate group and the new rate group into which the exchange will fall with its expanded calling scope. (Harrel TR 169, GTE BR pp.20-23) Haines City states in its brief that the additive should last no more than 4 years. (Haines City BR pp.7-8) Staff believes that the 25/25 plan should remain in effect for no more than 4 years, after which time the additive should be removed. We believe that 4 years is sufficient for Sprint and GTEFL to recover their lost toll revenues without overly burdening the customers. Staff believes that 4 years is adequate time for the companies to find other avenues to recover lost revenues.

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**ISSUE 6:** If a sufficient community of interest is found, what are the appropriate rates and charges for the plan to be implemented on these routes or route?

**RECOMMENDATION:** If EAS is determined to be appropriate, staff recommends that the rates be determined under the 25/25 plan with regrouping as outlined in Tables A and B. Haines City subscribers should be surveyed within 45 days of the date the order from this recommendation becomes final. GTEFL should submit the newspaper advertisement for staff's review prior to publication. The survey letter and ballot should be submitted to staff for review prior to distribution to its customers. Additionally, GTEFL should provide staff with a copy of the published newspaper advertisement and the dates run. However, if the Commission determines that ECS should be implemented, staff believes that residential customers should pay \$.25 per message regardless of duration, and business calls should be rated at \$.10 for the first minute and \$.06 for each additional minute. IXCs may continue to carry the same type of traffic on those routes that they are now authorized to carry. ECS should be implemented on these routes as soon as possible but not to exceed six months from the issuance of an order resulting from this recommendation. (WIGGINS)

#### **POSITION OF PARTIES**

**HAINES CITY:** The 25/25 plan for EAS can be calculated from existing rates. ECS would not change local rates.

**GTEFL:** Rates for LAS or ECS must be calculated to assure that GTEFL will not lose revenue under any such mandatory plan. GTEFL's LCP does not require the Commission to order any specific rates. GTEFL will set rates based on revenue neutrality.

**OPC:** For flat rate EAS, there should be regrouping. If necessary, a modest additional surcharge to replace a portion of lost toll revenues should last no more than 4 years. GTE's proposal is inappropriate.

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**SPRINT-FLORIDA:** If the Commission finds that a sufficient community of interest exists, Extended Calling Service should be ordered.

**STAFF ANALYSIS:** The appropriateness of an additive was discussed extensively by all parties in Issue 5. Staff contends if the Commission determines that Haines City subscribers should be balloted for EAS, staff believes that the subscribers should be balloted for EAS under the 25/25 plan as proposed by the companies. GTEFL asserted the appropriate rates and charges should be determined under the 25/25 plan. (GTEFL BR p.23) However, Sprint contended that if the Commission determines that a sufficient community of interest exists, ECS should be implemented. (Sprint BR p.5) Haines City stated in its brief that ECS would not change its local rates. (Haines City BR p.8)

If the Commission determines that EAS is appropriate, staff recommends that the rates be determined under the 25/25 plan with regrouping. The proposed rates are as follows:

**TABLE A**

HAINES CITY (RG-3)	PRESENT RATE	25/25 ADDITIVE	REGROUPING	TOTAL ADDITIVE	NEW RATE
R-1	\$10.86	\$2.72	\$ .50	\$3.22	\$14.08
B-1	\$27.45	\$6.86	\$1.25	\$8.11	\$35.56
PBX	\$49.60	\$12.40	\$1.25	\$13.65	\$63.25

**TABLE B**

HAINES CITY (POINC 427) (RG-2)	PRESENT RATE	25/25 ADDITIVE	REGROUPING	TOTAL ADDITIVE	NEW RATE
R-1	\$10.41	\$2.72	\$ .95	\$3.67	\$14.08
B-1	\$26.45	\$6.86	\$2.45	\$9.31	\$35.76
PBX	\$48.40	\$12.40	\$2.45	\$14.85	\$63.25

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If EAS is determined to be appropriate, Haines City subscribers should be surveyed within 45 days of the date the order from this recommendation becomes final. GTEFL should submit the newspaper advertisement for staff's review prior to publication. The survey letter and ballot should be submitted to staff for review prior to distribution to its customers. Additionally, GTEFL should provide staff with a copy of the published newspaper advertisement and the dates run. However, if the Commission determines that ECS should be implemented, staff believes that residential customers should pay \$.25 per message regardless of duration, and business calls should be rated at \$.10 for the first minute and \$.06 for each additional minute. IXC's may continue to carry the same type of traffic on those routes that they are now authorized to carry. ECS should be implemented on these routes as soon as possible but not to exceed six months from the issuance of an order resulting from this recommendation.

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**ISSUE 7:** Should this docket be closed?

**STAFF RECOMMENDATION:** If the Commission determines that the Haines City subscribers should be balloted for EAS, then this docket should remain open pending the outcome of the ballot. If the Commission determines that ECS is appropriate, then this docket should be closed. In addition, if the Commission denies staff's recommendation in Issue 2 and further determines that no toll relief should be granted, this docket should be closed.  
**(CULPEPPER)**

**STAFF ANALYSIS:** If the Commission determines that the Haines City subscribers should be balloted for EAS, then this docket should remain open pending the outcome of the ballot. If the Commission determines that ECS is appropriate, then this docket should be closed. In addition, if the Commission denies staff's recommendation in Issue 2 and further determines that no toll relief should be granted, this docket should be closed.

