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May 23, 1997

Bianca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. ~~97-100~~-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of Citizens' Brief. A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

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FPSC-RECORDS & REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution by City)
Commission of Haines City)
requesting extended area service)
(EAS) from Haines City exchange)
to all exchanges within Polk)
County.)
_____)

Docket No. 950699-TL
Date Filed: May 27, 1997

CITIZENS' BRIEF

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this brief.

Statement of Basic Position

A vote should be conducted to determine whether EAS should be ordered on the routes at issue in this docket. If the vote fails, ECS calling should be implemented.

Issues

Issue 1: Is there a sufficient community of interest to justify implementing EAS, as currently defined in the Commission rules, or implementing 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

Position: 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.

Discussion: The traffic studies submitted by GTE do not reflect an accurate or reliable data base for use by the Commission to determine if a sufficient community of interest exists to justify EAS on the routes at issue in this docket. While the company maintains the traffic studies at issue in this docket do not warrant either a ballot for flat rate EAS or consideration of an alternative plan, there remains as a result of the hearing, a preponderance of evidence to suggest that the traffic studies are insufficient and fail to capture the relevant traffic data.

Consider first the following exchange between Commissioner Deason and the City Manager of Haines City:

COMMISSIONER DEASON: "So it's your belief, then, that the statistics... may not be indicative of the actual community of interest between these various exchanges; is that correct?"

WITNESS DEAL: "Yes, sir. I feel very strongly about that...I think that 800,

cellular phone(s), and those who choose to use other carriers when they're calling within the county long distance may be more significant than even what I think it is; but I do believe it's a factor that I would ask this Commission to consider overall." [TR Pg 160, L23-Pg 161, L17.

In response to a question from Mr. Nettleton, Public Counsel Witness Poucher explained how AT&T traffic would not be included in the traffic study:

WITNESS POUCHER "Within the past 12 months AT&T has taken back its billing for GTE...That traffic would not appear in GTE billing records." [TR Pg 216, L17-125]

in the following response to a question from the City Attorney Nettleton, OPC Witness Poucher explained a number of methods that Heines City customers could utilize to avoid calls through GTE that would be included in the traffic study:

BY MR. NETTLETON "Are you telling me that the phone calls that these folks are telling us that they made were not counted in this study?"

WITNESS POUCHER "...I think there's several ways where you might lose traffic that's not in the study...Certainly cellular.. calling. Secondly,...alternate access vendors...traffic goes around the GTE switch. Likewise, if you had a private line or a data line, that private line data would definitely not be shown. Possibly some of the 800 calling. (and) I saw no evidence of FX traffic included in the statistics that were provided by the Company. [TR Pg 217, L9-Pg 218,

L10]

Most important, GTE's own witness admitted that the traffic studies do not include all of the traffic on the routes at issue in this docket, as demonstrated by this exchange between Commissioner Deason and Witness Robinson:

COMMISSIONER DEASON: "So then a lot of the calls that historically...would have been put over the GTE network and included in your toll study are no longer being made? They're being made by alternative means?"

WITNESS ROBINSON: "Yes, I agree with that. I agree with the person that brought that up that there's other calling that we no longer capture, and we might even capture less. So a lot of our studies, if given to you under the auspices of an older rule prior to 1995, might not be that accurate simply because they're not accurate. We don't have 100% of the marketplace anymore." [TR Pg 294, L20-Pg 295, L8]

Throughout the course of the hearing, numerous witnesses provided specific testimony regarding the methods they utilized to avoid going through GTE switching systems that would be the source of the GTE traffic study. Following are the specific inputs from Haines City citizens regarding the validity of the study:

TRAFFIC STUDY TESTIMONY

"I hope that the Commission will certainly look beyond statistics and respond to the needs of the community. [TR Pg 14, L 7-9]

"I've been on my accountants...to reduce these phone calls...also the cellular phones that we have is an additional \$500.00 on top of these." [TR Pg 22, L 13-17]

"I resorted down to getting a cell phone." [TR Pg 27, L 22-23]

"...we stock pile calls that we have to make, and we'll just wait until my husband goes to Winter Haven...and we'll just wait to make those particular calls." [TR Pg 380, L21- Pg 381, L 1]

"I can pick up my cell phone and I can call anyone in 941 and not have to bother with punching in all those numbers, so I'll do that." [TR Pg 13, L 15-18]

"If I have to go to Winter Haven I'll access a phone in Winter Haven where I don't have to pay long distance...and I'm sure that other people are the same as myself." [TR Pg 13, L 21-25]

"When I was in the hospital in Lakeland, in order to call my husband, I called my

sister and my sister would call me." [TR Pg 16, L 21-24]

"I avoid using General Telephone long distance anytime I can, even though I may only call Bartow or Lakeland, by simply dialing into the AT&T number and then dial the call for 10 cents a minute." [TR Pg 55 L14-18]

"...we put in a special line to connect us to the Lakeland store, and that's an extra cost we shouldn't have to do." [TR Pg 62 L 19-21]

COMMISSIONER DEASON: "Do you know generally if there are other businesses that have utilized similar services that you're doing?"

WITNESS CARTER: Well, there's quite a few...listed here in Haines City, because they can dial Bartow direct...they can dial Lakeland...They don't have to go through the long distance system...It's not something new." [TR Pg 65 L 19-Pg 66 L 8]

"The one family is in Auburndale, so we can call them and they can call Lakeland and it's not a toll charge for them, or they can call Bartow...so that Auburndale people are...our liaison between everybody else and the congregation." [TR Pg 354, L6-15]

"I have figured a way to get out of the toll free by there is a number that I can call through the Public Defender's office, and they will eventually after three or four

exchanges connect me with the main courthouse switchboard. So my phone bill does not accurately reflect what it costs me to call." [TR Pg. 368, L3-8]

"My husband works for the Polk County Sheriff's Office and that's long distance if I need to get a hold of him...If I need to get a hold of him, I beep him, and then if he's...in Lakeland, he'll have Bartow Sheriff's Office patch him through to me." [TR Pg 370, L23-Pg 371, L4]

"Our home office has instituted an 800 number...None of my calls will reflect on any of my GTE bills...because any intraLATA calls, we go through MCI. So you will not see us calling on my bill whatsoever. We make between 20 to 30 calls to our home office in Mulberry. We also make calls to our...appliance servicers in Lakeland. [TR Pg 376, L18-Pg 377, L3]

"One thing...I have noticed...I wonder how many people hold back on making calls that they would have normally made...I make about 10 calls a day sometimes to Bartow. I have to dial about 15 numbers because of an LD access code to get through." [TR Pg 381, L25-Pg 382, L16]

"There's a number of ways that I make phone calls to Lakeland and/or Bartow that I doubt GTE records will reflect. I'll save up a lot (of) calls and make them on the weekend through a cell phone when it doesn't cost me anything." [TR Pg 385, L13-

L19]

"...if I'm at a friend's house, I'll use a calling card where I dial an 800 number and go through rather than it appearing on their phone bill." [TR Pg 386, L10-L14]

"Your statistics won't reflect my phone calls either, because...I work in Winter Haven, and whenever I have to call...to Lakeland or to Bartow, I call from my job so I don't have to pay." [TR Pg 387, L21-L25]

"We use a cell phone and, we have the weekend calling. Other people that I have talked to as constituents have called Winter Haven and had relays done to Lakeland. I had a sister in Auburndale and she would relay a message...or connect us up where we could talk to the kids in Lakeland without a toll charge on it." [TR Pg 395, L14-Pg 396, L5]

THE COMMISSION SHOULD TAKE INTO CONSIDERATION THE HIGH RATE OF GROWTH THAT HAINES CITY IS EXPERIENCING WHEN IT EVALUATES THE TRAFFIC STUDY AND MAKES ITS COMMUNITY OF INTEREST DETERMINATION

Both public witnesses and area witnesses who prefiled testimony placed a great deal of emphasis on the high rate of growth that the Haines City area is now experiencing. The growth rate of the area would have a significant impact on the Commission's consideration of the traffic data submitted by GTE. The GTE study was

made in 1995 and recent growth is, therefore, excluded.

Haines City witness Brantley testified that 11 of the sixteen new companies locating in Polk County in the last 24 months have located in the N.E. quadrant (Haines City) [TR Pg 71, L22-L24]. It is unlikely that this additional growth would be captured in a 1995 traffic study.

Even more important than the traffic study data (which is admittedly flawed), is the impact that future growth in the area will have on the local citizens. Increased growth will simply accelerate the need for local telecommunications access beyond the existing calling scope of the Haines City exchange, as shown by the testimony of Haines City Witness Deal:

"Haines City is statistically the fastest growing area of Polk County. Therefore, the communities of interest not only exist but will continue to intensify in their importance over the coming years." [TR Pg 135, L21-23]

Haines City witnesses provided convincing evidence demonstrating that the area growth is accelerating and that the impact of this growth is eliminating the past isolation and bringing the county together into a "singular community."

"I believe the...Commission should consider the growth of Haines City and how

much the potential growth could be accelerated by the addition of extended area or extended calling service to the greater Haines City area." [TR Pg 141, L20-23]

"Haines City is the fastest growing area in Polk County. Because of its growth, Haines City is losing its isolation from the rest of the County. It will allow Haines City to become a center of commerce." [TR Pg 82, L25-Pg 83, L16]

"So it (Polk County) is obviously going to continue to grow, and this Commission can wait until the growth is all in place and then respond, or it can make a decision to respond ahead of time; and my hope and trust is that you will be proactive and respond ahead of time." [TR Pg 13, L 6-10]

"And this area is growing so fast...and our medical facilities are needed very much in Lakeland... and having to call long distance.. is ridiculous. [TR Pg 26, L 16-21]

"I urge you to look at extended service for this community, which, as others have said, is rapidly growing...and we do need to service them in a proper manner." [TR Pg 33, L 11-16]

"One of the reasons that we came here was because of the growth that's been mentioned in the central Florida area..." [TR Pg 35, L 15-17] "Polk County is growing and changing into a more...of a singular community." [TR Pg 36, L 17-18]

GTE's TRAFFIC STUDIES DO NOT COMPLY WITH COMMISSION RULES

Since Lakeland is significantly larger than Haines City, PSC Rule 25-4.060(3)(a) applies. This rule states "On any given route between two exchanges, when the petitioning exchange has less than half the number of access lines as the larger exchange, studies of one-way traffic originating in the smaller exchange may be used, in which case the community of interest qualification will require a calling rate of three (3) or more (M/A/M) with at least (50%) percent of the exchange subscribers making two or more calls." The evidence submitted in this docket does not allow the Commission to determine if Haines City calling rates exceed this threshold.

All other exchanges in Polk County included in the request for EAS are smaller than Haines City and rule 25-4.060(3) states "A preliminary showing that a sufficient degree of community of interest between exchanges, sufficient to warrant further proceedings, will be considered to exist when the combined two-way calling rate over each interexchange route under consideration equals or exceeds two (2) messages per access line and equivalent access line per month (M/A/M) and fifty (50%) or more of the subscribers in the exchanges involved make one or more calls per month..." Thus, standard in paragraph (3) applies for all routes except Haines City to Lakeland. A cursory review of the GTE traffic study clearly reveals that GTE failed to provide a two-way traffic study and the Commission is unable to determine from the study presented by the Company whether the traffic thresholds required by the rule have been

exceeded or not.

Issue 2: What other community of interest factors should be considered in determining if either EAS, ECS, or an alternative toll plan should be implemented?

Position: 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.

Discussion: Rule 25-4.060(5) states "In the event that the interexchange traffic study patterns over any given route do not meet prescribed community of interest qualifications, the Commission may consider other community of interest factors to warrant further proceedings."

GTE witness Robinson repeatedly argues that "it would violate the Commission's own rules to approve flat rate EAS where the traffic volumes have not met the traffic criteria set forth in the Commission's rules." [TR Pg 317, L15-L18] [TR Pg 320, L3-4] [TR Pg 321, L13] [TR Pg 321, L-19] [TR Pg 321, L-22]

GTE witness Robinson also posits a new regulatory theory that suggests the

EAS criteria in the rule listed from (1) to (5) are stated in rank order and the paragraph (5) is the least important. [TR Pg 320, L1-4] Public Counsel has been unable to discover any basis for this novel theory of rulemaking.

Witness Robinson appears to also be of the opinion that in the paragraph of Rule 25-4.060(5) the words "to warrant further proceedings" do not mean that it would be within the rules to allow a ballot for flat rate EAS if the traffic volumes fails to meet the thresholds in paragraphs (3) or (3)(a). However, the identical language "to warrant further proceedings" is found in paragraph (3), which is the basis for PSC approval of ballots when the thresholds are met.

Clearly, the rules contemplate that the Commission may order a ballot for flat rate EAS either automatically when the thresholds established in paragraphs (3) and (3)(a) are met, and also when other community of interest factors are considered as stated in paragraph (5).

In his direct testimony, OPC witness Poucher described the most relevant Community of Interest factors that the Commission should consider in this docket. These factors are listed below, along with the specific testimony from Haines City witnesses who appeared at the hearings.

GOVERNMENTAL SERVICES

"Located within Bartow is the County Administration Building, the Polk County Courthouse, the Polk County School Board Offices, the Polk County Sheriff's Main Office, and the main office of all Polk County Constitutional officers. In order for the citizens of this City to call Bartow, they must use long distance." [TR Pg 135, L25-Pg 136, L4]

"...can't even reach the county seat without it being a long distance call." [TR Pg 12, L 19-20]

"We can't even call the county seat unless we are long distance" [TR Pg 15, L25-Pg 16, L 1]

"I think it's very unfair to live in a county that you have to have a long distance call to the county seat." [TR Pg 18, L 8-10]

"...it's unbelievable that you have to pay a toll to call the county seat." [tr Pg 25, L 6-7]

"We, too, feel like it's very unfair to not be able to reach our county seat." [TR Pg 26, L 9-10]

"...Our county seat is Bartow. We have extra charges, it seems, every time we

make a phone call." [TR Pg 40, L 15-18]

"..a lot of the coordination is with our Polk County visitors and convention bureau which, in fact, is located in Bartow." [TR Pg 45 L 3-5] "...we coordinate with our county government; and to do that...once again that's a toll call to Bartow." [TR Pg 45 L 15-18]

"My main concern is for emergency services. In our day-to-day activities we are constantly communicating with our fire departments and other government agencies, especially in Bartow..." [TR Pg 47 L 9-15]

"It would be beneficial." [TR Pg 340, L9]

"Has calls to Bartow frequent' and would rather pay a flat rate." [TR Pg 340, L 13-18]

"Under the current service we have been denied access to our county government, services and business of our choice and communications by our computers without paying extra charges or choice." [TR Pg 346, L6-9]

"I have to call down to child support to see where the check is...and you're on hold for sometime 10 minutes...but each call is long distance. If I need a vital statistic record, that's Bartow. That's long distance. I also pay taxes in Bartow...If I have a

question about that, that's a long distance call." [TR Pg 365, L3-8].

"I'm an attorney. I have the occasion to call Bartow probably eight to ten times a day..." [TR Pg 367, L20-25]

"Polk County is a single governmental subdivision as far as the governmental county is concerned, yet the telephone service is fragmented." [TR Pg 88, L5-L8]

"The Main Street office frequently receives visitors who need governmental services from county offices...Reaching all of these offices are long distance." [TR Pg 109, L23-25]

"(I)n Polk County...23.4% of the...citizens are 60-plus years old, and...most are on a fixed income...and about 22% of those are low to moderate income,...who are being hurt the worst by the telephone bills they have to pay...if you are a frail, elderly person,...you need to make those calls to be in contact with the outside world...You also need...in home service(s). Most of those services either originate in Bartow or Lakeland." [TR Pg 123, L5-123]

"Law enforcement services are impacted greatly...Due to the present restriction on telephone service...not having extended area service often hampers the sharing of necessary information." [TR Pg 128, L22-Pg 129, L5]

"I believe that if the extended area service (is granted) to include all of Polk County, it would cause a greater sharing of information between agencies dealing with criminals." [TR Pg 130, L2-4]

"When emergency services are needed, that they're needed as expeditiously as possible. And to eliminate the long distance calling is only going to benefit in that expeditious call." [TR Pg 47 L 18-22]

"...we have to network with a lot of other social...agencies, within Polk County; and from our point...it is a long distance call...So we rise today in definite support of the flat rate." [TR Pg 48 L 25-Pg 49 L 22]

"I'd just like to note that there is a benefit to the extended area service being offered...is that of public safety in the form of our efficiency in our communications. Right now it's rather complicated sometimes to coordinate with counties during emergencies...these long distance calls...can be cumbersome and time consuming in trying to get through." [TR Pg 378, L20-Pg 379. L-6]

MEDICAL SERVICES

"A large number of residents living in the area have medical needs outside the area. [TR Pg 70, L14-115]

"The City of Lakeland...has many doctors offices, a regional hospital, and a major medical clinic. Due to the dynamics of the greater Haines City area population, many medical related activities transpire." [TR Pg 136, L14-L17]

"When I was in the hospital in Lakeland, in order to call my husband I called my sister and my sister would call me. I just don't think it's right." [TR Pg 18, L 21-24]

"It is placing hardship on these seniors having to make these long distance calls...a lot of them are ...medical appointments in Lakeland." [TR Pg 38, L 12-17]

"...like everyone else here our doctors are in Lakeland." [TR Pg 40, L 15-17]

"Many of our health care providers for this area are based in Lakeland, either at the Lakeland Regional Hospital or at the Watson Clinic. So as a pharmacist, if you are in Haines City and I have to call the doctor for an okay on a prescription or any service as far as the health care of this patient, it's a long distance call to Bartow, to Lakeland, to Polk City and to Mulberry." [TR Pg 349 L24-Pg 350 L6]

"(My daughter) has an ears, nose and throat doctor that's in Lakeland...it's hard when you're working and you're trying to make a living and you have to pay a long distance phone call when I think that we don't have to." [TR Pg 391, L22-Pg 392 L3]

COMMERCE

"Our County is tied together economically-retirement, citrus, distributions. It makes no sense to chop communication into smaller parts...This community should at least have the small window of our county within which we can communicate freely."
[TR Pg 84, L1-L7]

"One of the primary functions of the Main Street program is to recruit new businesses and industry to the community. It is difficult to recruit new businesses to downtown Haines City when a business can open in downtown Winter Haven and be able to call all of Polk County without a long distance charge being assessed." [TR Pg 179, L6-10]

"Haines City is home to the Haines City Citrus Growers Association, the largest citrus co-op in...Florida...there are...constant countywide telephone requirements." [TR Pg 138, L15-18]

"Haines City is known nationwide as a trucking center. The trucking industry is a communications driven industry and the inability for a trucker in Frostproof, Mulberry, Fort Meade, Bartow, Polk City and Lakeland to call his broker in Haines City is not only inconvenient but it economically affects his/her business." [TR Pg 139, L4-7]

"Business and industry which must conduct a great deal of its business outside of the Haines City area would be able to do so in a more cost effective and competitive fashion." [TR Pg 70, L10-14]

"Long distance telephone tolls create an economic impediment as Haines city develops along with several of Polk County's municipalities. Furthermore, long distance tolls create a cost of doing business...that creates a competitive disadvantage for business in that community." [TR Pg 95, L11-17]

"Many smaller businesses depend heavily on dealers and distributors who are located in the larger Polk County communities of Bartow and Lakeland." [TR Pg 109, L13-15]

"I do business in Lakeland, too, and it's all long distance." [TR Pg 15, L 24-25]

"I work in Haines City and my supervisor lives in Lakeland...So to keep in touch...we have to call long distance." [TR Pg 17, L 11-13]

"We strongly support Haines City's effort to reclassify these calls to local. Continuing to charge long distance rates for these calls is an economic hardship on business and individuals in the Haines City area." [TR Pg 21, L 3-7]

"My wife is a shopper...she loves to hit the malls...but the (local stores) don't have the selection or the prices that the same stores in Lakeland have. There's no Home Depot...no Sam's Club, except in Lakeland....and there is an awful lot of professional people in Lakeland that are not available anywhere else." [TR Pg 24 L 16-Pg 25 L 5]

"...we've had..numerous calls to county planning, zoning, the building department...also, our legal counsel is in Lakeland, and so we have a host of calls that are part of our normal daily business routine."

"We also have a very active Polk Association of Chambers of Commerce...and once again to try to coordinate and get information out...to a lot of different places, to Bartow, Lakeland, Frostproof, Mulberry and so forth, is a toll call." [TR Pg 46 L13-20]

"We have a lot of people in the east side of the county go to our electrical store because we have a bigger store...and they need to make contact back there...so they have to make a toll call back." [TR Pg 63 L20-25].

"Some 443 of these calls (last month) were either to Lakeland or Bartow...you can see where I would be in favor of extended area service." [TR Pg 342, L 14-20]

"I use a beeper service...Now for business purposes I have to go through

Lakeland." [TR 346, L 3-7]

"He (Lonnie Brown, The Ledger) refers that there are no local (Internet) lines available to us for the major providers." [TR Pg 344, L 6-16]

"We service nine different nursing homes...If it's in Lakeland, I'm having to pay a toll fee to send information back and forth. Trying to get on Internet, ...the local access number is Lakeland...so that's a toll fee." [TR Pg 356, L22-Pg 357 L8]

"I'm in the real estate business. My office is in Winter Haven. I have been told many times people don't call me from other parts of the county at night because they have to call long distance." [TR Pg 384, L2-6]

"I came from Lakeland...I'm in the produce business and...I have a Winter Haven number that's on call forwarding that I get a bill once a month...and people..that I do business with...don't have to pay a long distance call." [TR Pg 392, L23-Pg 393, L7]

EMPLOYMENT

"I know that there is a significant amount of commuting within the county...The largest employer in this area is Green Leaf. During the wintertime, (they) have at times five and six hundred people working out there...they're all coming from the west... So

there's a terrific amount of commuting within the county for work." [TR Pg 89, L21-Pg 90, L6]

"With major companies and distribution centers located in Lakeland, many Haines City residents either work or seek jobs in the Lakeland areas which require frequent long distance calls." [TR Pg 105, L4-6]

"Also because Bartow is the county seat and houses the County Administration Building, the Polk County Courthouse, the Polk County School Board, the Polk County Sheriff's Main Office, and the main office of all Polk County Constitutional Officers, many residents from Haines City commute to Bartow to work." [TR Pg 136, L6-L10]

"From an economic standpoint, Lakeland is a major employment and distribution center...Therefore, from both an employment and a business prospective, long distance calls are required." [TR Pg 136, L25-Pg 137, L9]

"Individuals hired from outside the area i.e. Lakeland, Bartow, etc. would benefit by being able to conduct personal business more cost effectively." [TR Pg 70, L12-L14]

"Most of our employees either come from the Winter Haven-Lakeland area as well as Haines City, and so we find that the community at large is no longer just Haines City." [TR Pg 36, L 13-16]

"My husband...has become a pastor of a congregation in Auburndale...Last year...60% of the calls...on our long distance .were in the area that...would be local if this was passed...So I would like to see it passed for that reason." [TR Pg 352, L 9-24]

"I had the opportunity to build me a home in Haines City. I work in Winter Haven. Had I known telephone calls from Bartow to Lakeland to Haines City was long distance, I may not have been as happy as I was." [TR Pg 364, L 12-18]

TRANSPORTATION

"I would also note that the FDOT now has right-of-way acquisition monies in the ... to purchase land so U.S. 27 can be widened to six lanes. Now, and even more so in the future, U.S. 27 will naturally link Frostproof to Haines City." [TR Pg 139, L9-12]

"We contend that 'all roads lead to Haines City.' (P)eople do travel between Fort Meade and Haines City for employment and shopping. Both of these activities are conducive to the need for telephone contact." [TR Pg 139, L14-20]

SOCIAL AND CULTURAL

"We have a large ministry...and we have a lot of our folks that live throughout the area and we have to make calls." [TR Pg 13, L 19-21]

"My daughter lives in Polk City...her and my phone bill are tremendous." [TR Pg 15, L 18-20]

"We're in the southernmost district of Little League. All the calls that we make are made to the Lakeland area. Every time we call it's an extra cost to the children." [TR Pg 28, L 18-21]

"The City actually runs...all youth sports...and adult sports...we run to the same problems where we have to call Lakeland, Bartow...You have to make those long distance calls and its a problem for us." [TR Pg 31, L 1-8]

"Not everybody who goes to church here lives in Haines City and they do want to be in touch with their past...It's expensive for the church...It includes Lakeland, Mulberry, Wauchula, Bartow, Winter Haven and Davenport." [TR pg 32 L2-11].

"..every grandparent...wants to be able to ... send e-mail and receive e-mail from her grandchildren. We are unable to do that because only a few internet service that are not long distance for us in this area." [TR Pg 51 L24-Pg 52 L4]

"My problem is my children live in Lakeland as well as other relatives and friends." [TR Pg 339, L 12-14]

"I have a son that lives in Lakeland, and I have 23 phone calls on here to my son. Then my younger son calls his dad in Lakeland." [TR Pg 371, L5-8]

"I am very active in this community and in my church...and I'm on a board that they're headquartered in Lakeland and I am a volunteer at a nursing home. (M)ost of our congregation...are in Auburndale..come from Lakeland, Polk City, Bartow. My son-in-law works in Bartow...it would be a wonderful thing for us." [TR Pg 373, L23-Pg 374, l19]

"We lived in Polk City for about 16 years...We moved to Haines City five years ago, and now if we need to contact any of our relatives in those areas, it is a long distance call for us." [TR Pg 380, L10-L17]

"One of the new technologies that's emerging, the web TV...you can't go through the two or three Internet providers. You have to go through web TV, which...is in Lakeland." [TR Pg 386, L16-L25]

"Now we have a lot of people that are in jail in Bartow...and they have to call collect...It would be a good thing if some of our children...could call home and we could give them those encouraging words." [TR pg 388, L8-L13]

"We have a lot of people that come to stay for the winter in the Haines City area.

They're interested in participating in activities all over the county." [TR Pg 87, L18-L21]

"The Lakeland Center located within the corporate limits of...Lakeland is the most culturally significant facility for cultural and entertainment opportunities in Polk County." [TR Pg 137, L18-20]

"It should also be noted that the Polk County Museum of Art is located in Lakeland." [TR Pg 138, L8-9]

"...there is the Haines City Community Theater. A lot of times those that are doing the parts...live in Lakeland,...and its a long distance call. Somebody calls from Lakeland for tickets to the play, that's a long distance call." [TR Pg 3J, L 4-10]

SCHOOLS

"As an elected official with the School Board office in Bartow, I feel I should not have to pay the "extra charge" when conducting business and performing my elected duties." [TR Pg 104, L2-4]

"Because Bartow is the County seat, and home of the Polk County School system, parents, citizens and businesses in the Haines City area are charged long-distance rates where others in the County are not." [TR Pg 105, L11-13]

"(I)n order to call to gain information relative to registration or activities related to Florida Southern College athletics or performing arts series, residents from this area must place a long distance call." [TR Pg 137, L13-16]

"Another important link between the schools of Polk County is high school athletics. School to school calls, parent to parent calls, and friend to friend calls are quelled due to a countywide communications barrier known as long distance telephone calls." [TR Pg 139, L22-Pg 140 L2]

"We are attempting to connect all the schools to the Internet. We can do that at Lakeland, we can do it at Winter Haven, we can do it at Bartow. We cannot do it in this area." [TR 347, L 17-21]

"My daughter...decided she wanted to go to high school in Lakeland...she's hearing impaired...I just think it was a shame I had to pay all this expense...to keep in communication with my child." [TR Pg 390, L18-Pg 391, L17]

COUNTYWIDE CALLING

"As an elected countywide official...my constituents from Frostproof, Mulberry, Polk City, Fort Meade, Lakeland and Bartow cannot reach me via a local telephone call at my residence or place of employment in Haines City." [TR Pg 105, L16-19]

"It just seems God awful that someone would live in one community of Polk County and couldn't contact another community without a toll within the same geographic area." [TR Pg 99, L25-Pg 100, L3]

"If Miami can have all over the county, I don't know why we can't." [TR Pg 16, L 24-25]

"...that would be really nice if it were for the whole county." [TR Pg 17, L 15-16]

"...I really don't think the citizens of this area should be penalized for living here...they should be able to call anywhere in Polk County." [TR Pg 33 L21-24]

"And so I really think that people in this area really deserve to have this area changed,...that we just need to get the whole area in there, because it's a shame that you can't call your county seat where you need to for government things." [TR Pg 373, L13-19]

THE COMMISSION HAS ACCEPTED SUBSTANTIALLY LOWER TRAFFIC VOLUMES FOR APPROVAL OF COUNTYWIDE ROUTES FOR FLAT RATE EAS AND FOR ECS TYPE OFFERINGS.

This docket is being conducted on the basis of a request from Haines City for

countywide calling between Haines City and its sister cities in Polk County. Countywide calling requests have, in the past, been considered to be significantly different than requests for EAS on a route by route basis.[TR 225, L15-L17]

For instance, the Commission ordered balloting for flat rate EAS for all routes in Franklin County on January 7, 1991 when the traffic volumes on the 10 routes in question ranged from .02 to 2.12 and the distribution fell far short of the Commission standard. [TR 225, L21-24]

OPC Witness Poucher emphasized the significance of the less stringent standards the Commission has required in the past for countywide routes by citing 11 prior Commission orders granting ECS (\$.25) calling plans where traffic volumes were significantly below the standards established by the PSC in its rules. [TR Pg 226-Pg 231]

As pointed out by OPC Witness Poucher, GTE proposed ECS for the entire Tampa Bay area in 1991 when 20 of the routes had less than 1 message per access line per month. (REP-17) [TR Pg 234, L1-L2].

In redirect testimony, Mr. Robinson compared the calling rates in Tampa Bay with Haines City countywide calling rates and concluded that Tampa Bay CIF was from "seven to 22 times greater." [TR Pg 300, L11-15] Mr. Robinson failed to address the

specific questions put to him by OPC Counsel Beck regarding the inclusion of specific routes in the Tampa Bay plan that had significantly lower CIF, such as:

Tarpon Springs to Tampa South Exchange	.02
Tarpon Springs to Tampa East Exchange	.11
Tarpon Springs to Tampa North Exchange	.13
Clearwater to Tampa South Exchange	.04
Clearwater to Tampa North Exchange	.11
Clearwater to Tampa East Exchange	.24
St. Petersburg to Tampa East Exchange	.23
St. Petersburg to Tampa North Exchange	.09
St. Petersburg to Tampa South Exchange	.05
St. Petersburg to Tampa West Exchange	.19

Given the calling rates above that are all included in GTE's exhibit from the Tampa Bay ECS docket (REP-17), it is clear that GTE, itself, has proposed ECS on routes where the raw traffic volumes fall far short of the thresholds for flat rate EAS.

GTE has also recognized the same less stringent standards in the past when it proposed countywide calling for Polk County in Docket 920188-TL [TR Pg 234, L9-L12]. In Docket 920188-TL, GTE stated that the county boundaries are reasonable determinations for a customer's local calling area. [TR Pg 235, L2-4]. It is reasonable to conclude that the traffic in 1992 between Haines City and its sister cities in Polk

County was even less than it is today, due to growth. However, the traffic volumes didn't deter the company from concluding that it should offer countywide ECS.

Apparently, GTE sees a difference between the company's prior proposals to expand local calling through ECS and those made by the company in the current docket. According to GTE Witness Robinson, the company's 1991 ECS proposals were made when "we could seek rate relief if these weren't compensatory, and we no longer can seek that under today's current law." [TR Pg 276, L12-14]

When asked if rate relief was the defining criteria, Witness Robinson responded that "...we don't want to lose money for the Company..." [TR Pg 276, L 22-23] The GTE witness failed to mention that the Commission is still concerned with matters of public interest.

Lest there be anything left to doubt, Mr. Robinson was given another opportunity to clarify the company's policies when asked: "But my question is, is that the driving factor which would make this appropriate at that time but not appropriate here today?" [TR Pg 276, L25-Pg 277, L2]. Mr. Robinson offered the following to clarify the company's intentions: "No. Certainly one of the major factors, though, is that there was a way to protect the assets and the shareholder value of the firm by going in for rate relief." [TR Pg 277, L3-L6].

GTE took great pains to point out that those supporting the City of Haines City's request represented a small fraction of those customers in Polk County. [TR Pg 200, L13-16] OPC agrees with GTE, but only to a point.

In total 60 witnesses appeared in support of the Haines City petition, which is an impressive number for an EAS hearing in a rural county. In addition, the Commission should be cognizant of the fact that many of these witnesses consisted of elected officials and community, business, religious and civic leaders who were representing a substantial base of the Haines City customer body. Following is a listing of those witnesses who represented various organizations and business entities:

JAMES C. BRANTLEY

RE: Representation: Executive Director, East Polk County Committee of 100
[TR Pg 70, L10]

GEORGE CAREFOOT

RE: Representation: President, First National Bank of Polk County [TR Pg 80, L23-L24]

JAMES JOSEPH DeGENNARO

RE: Representation: Senior Vice President, Florida Development Council [TR Pg 92, L19-20]

JIM NELSON

RE: Representation: Store Manager, Public Super Market [TR Pg 103, L8-9]

BEN SAAG

RE: Representation: Main Street Board of Directors [TR Pg 109, L4]

WALTER STORMS

RE: Representation: Director of Polk County Elderly Services [TR Pg 119, L2]

THOMAS WHEELER

RE: Representation: Chief of Police for the City of Haines City [TR Pg 125,
L19-20]

ELIZABETH ANN TONEY DEAL

RE: Representation: City Manager of the City of Haines City [TR Pg 132, L19-
20]

TOM BROADAWAY

RE: Representation: Chairman of the Quality Improvement Council [TR Pg
347, L 16-17]

ROY SNYDER

RE: Representation: Health Care Profession [TR 349, L 18-19]

LARRY WRAY

RE: Representation: Pharmacist servicing 9 nursing homes [TR Pg 356, L 22-23]

JOY SIMS

RE: Representation: "I go to church in Auburndale...and a lot of our congregation—we're probably about 1,200 people in our congregation...and they're from all over the county." [TR Pg 373, L 16-22]

BILL POU

RE: Representation: Owner of Badcock Home Furnishings [TR Pg 376, L8]

LON CHENEY

RE: Representation: Fire Chief, City of Haines City [TR Pg 378, L 15-16]

HERMAN HILL, City Commissioner

RE: Representation: County Commissioner "One of the things I would like to pass on to you is I am speaking for several hundred people. They're called constituents." [TR Pg 394, L5-395, L2]

In summary, the Haines City customers have provided the Public Service Commission with substantial evidence to demonstrate that it is appropriate to ballot the customers for their choice of either flat rate EAS or the alternative \$.25 cent calling plan.

Issue 3: 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 (summarize 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)

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

Discussion: The economic impact of existing toll rates on customers was discussed in response to issue 3. Flat rate EAS or ECS would help alleviate the hardships created by existing toll rates.

Issue 4: 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?

Position: 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.

Discussion: The Commission should determine that Haines City customers be allowed to vote for their choice of flat rate EAS or an ECS (\$.25) calling plan on all routes. It is inappropriate to recover lost toll revenues from the \$.25 calling plan, because the initial loss is insignificant. Furthermore, the GTE stimulation estimate is inconsistent with staff models used in the past that have used higher stimulation. Stimulation increases on a going forward basis due to growth and expansion of the economy, a factor that should be highly relevant for a growing area such as Polk County.

Issue 5: 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?

Position: 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.

Discussion: OPC Witness Poucher states that "since 1991 this Commission has

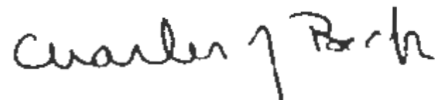
continually stated in every single order implementing the \$.25 calling plan that the plan is superior to the old optional calling plans that were in vogue in Florida in the late 1980's." [TR Pg 232, L8-10] Again, Poucher states "...the Commission has rejected in literally hundreds of situations since you started utilizing the 25-cent calling plan, proposals or considerations of the optional plans such as GTE has offered in this docket; and the reason that you've done that is because customers really do like the 25-cent calling plan..."

The proposals put forth by GTE are so ill-defined as to make them of little value for consideration by the Commission as a solution in this docket. When asked the question "(I) If the Commission were to approve GTE's LCP plan, how would the Commission determine the appropriate rate?", GTE witness Robinson responded "The Commission could look at our filing, which would have a set rate when we filed. It would have a set rate that would fit within these ranges." [TR Pg 281, L11-16] In addition, the only supporter of GTE's plan is GTE. No customers supported GTE's plan.

The Commission should consider the record in this docket and order the companies to ballot their customers for flat rate EAS or the \$.25 ECS plan, both options to be contained on the same ballot, so that Haines City customers can decide whether to pay higher flat rates or, optionally, ECS rates to satisfy their needs for countywide calling.

Respectfully submitted,

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**CERTIFICATE OF SERVICE
DOCKET NO. 950699-TL**

I HEREBY CERTIFY that a copy of the foregoing Citizens' Brief, filed on behalf of the Citizens of the State of Florida, has been furnished by U.S. Mail or hand-delivery to the following parties on this 23rd day of May, 1997.


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