

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Bonita Springs residents for Extended Area Service between Bonita Springs and the Fort Myers and Naples exchanges.	)	DOCKET NO. 910027-TL
	)	
	)	ORDER NO. 25728
	)	
	)	ISSUED: 2/17/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 SUSAN F. CLARK  
 J. TERRY DEASON  
 BETTY EASLEY

ORDER REQUIRING RESURVEY  
INCLUDING ADDITIONAL ROUTE

BY THE COMMISSION:

BACKGROUND

This docket was initiated pursuant to petitions filed with this Commission by residents of the Bonita Springs exchange. The petitions requested that we consider requiring implementation of extended area service (EAS) between the Bonita Springs exchange and the Fort Myers and Naples exchanges. The Bonita Springs and Fort Myers exchanges are located in Lee County, while the Naples exchange is located in Collier County. All three exchanges are served by United Telephone Company of Florida (United or the Company), which is subject to regulation by this Commission pursuant to Chapter 364, Florida Statutes.

By Order No. 24089, issued February 8, 1991, we directed United to perform traffic studies between these exchanges to determine whether a sufficient community of interest exists, pursuant to Rule 25-4.060, Florida Administrative Code. The Company was required to prepare and submit these studies to us within sixty (60) days of the issuance of Order No. 24089, making the studies due by April 9, 1991. Subsequently, United submitted the required traffic studies.

By Order No. 25005, issued September 3, 1991, we proposed requiring United to survey the Bonita Springs subscribers for implementation of flat rate, two-way, nonoptional EAS under the 25/25 plan with regrouping, at rates set forth in that Order. With the plan we proposed, the Bonita Springs, Fort Myers, and Naples exchanges would all receive toll-free calling to and from each other. Only the rates in the Bonita Springs exchange would

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increase; therefore, the Fort Myers and Naples exchanges were not included in the customer survey.

No protest was filed to our proposed action, so Order No. 25005 became final and effective on September 25, 1991. United then proceeded to conduct the survey.

#### SURVEY RESULTS

The survey of the Bonita Springs subscribers was scheduled to be conducted during October, 1991. United mailed a total of 18,301 ballots during the last week of September, to be returned no later than November 4, 1991. Of these ballots, 53 were returned by the Post Office as undeliverable. Therefore, the results below are based on 18,248 ballots. The results of the survey are as follows:

	<u>NUMBER</u>	<u>PERCENT</u>
Ballots Mailed	18,248	100.00%
Ballots Returned	12,170	66.69%
Ballots Not Returned	6,078	33.31%
For EAS	6,636	36.37%
Against EAS	5,324	29.18%
Invalid	210	1.14%

Our rules outline two methods by which an EAS survey may pass. The first method is specified in Rule 25-4.063(5)(a), Florida Administrative Code, which requires that a majority of all eligible voters respond favorably in order for the survey to pass. Alternatively, Subsection (5)(b) of the Rule states that a survey will pass if 60% of the respondents in the exchange vote favorably and at least 70% of all subscribers required to be surveyed respond. Under both provisions of the Rule, the survey has failed and United shall not be required to implement the EAS plan contemplated by Order No. 25005 at this time.

#### REQUIREMENT TO RESURVEY

Information submitted by several Bonita Springs subscribers indicates that there were several perceived and actual problems with the customer survey. Among the problems that have been brought to our attention are the following:

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1. Some subscribers entitled to receive ballots never received them.
2. Some subscribers appear to have been given erroneous information regarding whether the proposed plan was a one-way plan or a two-way plan. Apparently, some subscribers were told that the Naples and Fort Myers subscribers would continue to pay toll charges to call Bonita Springs, even if the survey passed.
3. Some subscribers apparently concluded, erroneously, that the EAS additive would apply over and above the optional additive they were presently paying for the Optional Extended Local Calling (OELC) plan.
4. Proponents of the EAS proposal had planned a major publicity campaign, timed to coincide with mailing of the EAS ballots. That campaign was cut short, however, because United inadvertently mailed out the ballots early. Because about half of all respondents generally send their EAS ballots back within the first two or three days after receipt, those planning the publicity campaign believed it was then too late to have any impact on the customers, since the ballots were already out when the campaign was scheduled to begin.

While each of these events, considered alone, might not be sufficient for us to require a resurvey, taken together, we find that the effect of these events could have been sufficient to cause the survey to fail. Accordingly, we shall require United to resurvey the Bonita Springs subscribers under the terms and conditions specified in Order No. 25005, with one change. The new survey shall include calling to and from the Fort Myers Beach exchange. We are adding this exchange to the calling plan based upon discussions that occurred at our Agenda Conference, at which time the Company agreed it could add this route to the calling plan without a change in rates. It appears that the Fort Myers Beach exchange was inadvertently "leapfrogged" in our originally proposed plan. Since the Company has agreed to both the resurvey and inclusion of the additional exchange, our decision to resurvey

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including this route shall be final, rather than proposed agency action.

United shall conduct the survey of the Bonita Springs subscribers as soon as practicable. Prior to conducting the survey, United shall submit its explanatory survey letter and ballot to our staff for review and approval. The balance of the terms and conditions set forth in Order No. 25005 shall remain in place for the resurvey. In addition to rates, this includes the survey approval process, implementation process and timeframes, and several rule waivers.

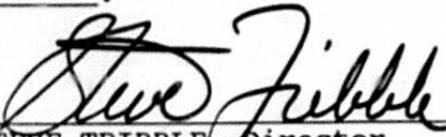
Based on the foregoing, it is

ORDERED by the Florida Public Service that the survey conducted pursuant to Order No. 25005 has failed. It is further

ORDERED that United Telephone Company of Florida shall resurvey the subscribers in the Bonita Springs exchange in accordance with the directives set forth herein. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 17th  
day of FEBRUARY, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ABG

Commissioner Easley dissented from the decision to resurvey the customers, voting instead to require that this docket be considered in the context of United's rate case (Docket No. 910980-TL).

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.