BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NOS. 2005-204-C and 2006-99-C

Request for Extended Calling Area From Bluffton/Sun City Hilton Head Area to Hilton Head Island Docket No. 2005-204-C	)	**PROPOSED ORDER** (of Bluffton Telephone Company and Hargray Telephone Company)
Petition of Bluffton Telephone Company and Hargray Telephone Company to Implement Extended Area Service (EAS) Docket No. 2006-99-C	)	

I. PROCEDURAL BACKGROUND

This consolidated matter comes before the South Carolina Public Service Commission ("Commission") upon the complaint of Donald A. Cotnoir ("Complaint"), dated May 29, 2005, and upon the application of Bluffton Telephone Company ("Bluffton") and Hargray Telephone Company ("Hargray") (collectively, "Companies") to Implement Extended Area Service (EAS) ("Application"), dated April 3, 2006. The Complaint was assigned Docket No. 2005-204-C and the Application was assigned Docket No. 2006-99-C.

In the Complaint, Mr. Cotnoir expressed a desire, on behalf of a group of concerned residents, for local calling from Sun City Hilton Head (located in Bluffton's service area) to Hilton Head Island (located in Hargray's service area). On July 19, 2005, the Commission issued Order No. 2005-382 in Docket No. 2005-204-C, requesting that the Office of Regulatory Staff ("ORS") "investigate the costs of providing an Extended Calling Area from the

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Bluffton/Sun City Hilton Head area to Hilton Head Island with the affected utilities, and any possible alternatives to extended area calling." Order No. 2005-382 at p. 1. ORS obtained cost data and other information from the companies, and provided its recommendation to the Commission on December 18, 2005. ORS' recommendation was that the $5.30 cost per line for implementing EAS calling from Bluffton/Sun City Hilton Head to Hilton Head Island be recalculated in order to maintain the relationship between the pricing of residential and business lines, which yielded a cost of $ 4.18 per residential access line and $ 8.36 per business access line. ORS further recommended that the customers of Bluffton be balloted to determine their interest in paying the additional monthly fee for expanding toll free calling to the Hargray exchanges.

During the course of the investigation, and pursuant to the Commission's direction in Order No. 2005-382, ORS invited the Companies to suggest possible alternatives to a Sun City/Hilton Head Island EAS route. The Companies began working on a proposal for a comprehensive calling solution they believed would be responsive to their customers' needs. However, the proposal was not completed until after ORS had made its recommendation to the Commission.

On April 3, 2006, the Companies filed their Application, along with a motion to hold the Complaint proceeding in abeyance pending the Commission's disposition of the Application. The Commission issued Order No. 2006-61 consolidating the two dockets, which rendered moot the Companies' Motion to Hold Proceeding in Abeyance.

The South Carolina Cable Television Association ("SCCTA") intervened in Docket No. 2006-99-C, asserting an interest in the proceeding as "potential providers and providers of competitive local exchange services in . . . the areas served by Bluffton and Hargray." SCCTA

Petition to Intervene, at para. 4. SCCTA's stated position was that "Bluffton and Hargray should not receive state universal service fund support for any new product that merges a toll service offering with a basic local exchange service offering." Id.

A public hearing was held in this consolidated matter on November 30, 2006. Bluffton and Hargray were represented by M. John Bowen, Jr., and Margaret M. Fox. The Companies presented the direct testimony of Mark D. Reinhardt, Director of Customer Services and Government Affairs for Hargray Communications Group, Inc., the parent company of Bluffton and Hargray.[1] The SCCTA was represented by Frank R. Ellerbe, III and Bonnie D. Shealy. The SCCTA did not present a witness. ORS was represented by Nanette Edwards. ORS did not present a witness.

Mr. Reinhardt testified regarding the need and customer desire for expanded calling in the area served by the Companies. He described the Companies' current expanded calling options and testified in detail regarding the Extended Area Service Plan ("EAS Plan") proposed by the Companies.

At the conclusion of the Companies' case, counsel for SCCTA moved that the Commission deny the Application as a matter of law. SCCTA asserted several grounds for denying the Application, including a lack of proper procedure in addressing EAS routes and the allegation that the Companies' proposal would improperly bundle toll and basic local service, and that those lines should not be eligible for funding from the State Universal Service Fund ("State USF"). Counsel for SCTC and for ORS responded in opposition to the SCCTA's motion. The Commission took the motion under advisement.

[1] At the time of the hearing, Mr. Reinhardt was transitioning from his former position as Director of Marketing to his new position as Director of Customer Services and Government Affairs. TR. at 8.

II. FINDINGS AND CONCLUSIONS

1. The Commission has the authority, pursuant to S.C. Code Ann § 58-9-10 *et seq.*, to make a determination regarding whether the proposed EAS Plan is just and reasonable and in the public interest.

2. Bluffton and Hargray are incumbent local exchange telephone companies organized and doing business under the laws of the State of South Carolina. Each of the companies is a rural telephone company as that term is defined in 47 U.S.C. § 153(37), and a small local exchange carrier as that term is defined in S.C. Code Ann. § 58-9-10(14).

3. At the time the application was filed, Bluffton served approximately 20,692 access lines in its service area, and Hargray served approximately 50,303 access lines in its service area. Bluffton serves one local exchange (the Bluffton exchange), and Hargray serves two local exchanges (the Hardeeville exchange and the Hilton Head exchange). Bluffton's Bluffton exchange is geographically located between Hargray's two exchanges. TR. at 12.

4. Because of the geographical location of the Petitioners' respective service areas, in close proximity to one another and to Beaufort, SC (served by Embarq) and Savannah, GA (served by BellSouth Telecommunications, Inc.), the Companies have been striving for many years to offer expanded calling plans to benefit their respective customers. TR. at 14. The Companies have had inquiries from customers over the years regarding expanded calling. Id. Customer calling patterns and requests to increase the number of communities that customers can call in their area without being charged for long distance or incurring per-minute charges indicate a desire for wide-area calling. TR. at 13.

5. Bluffton customers currently may call the following exchanges at a discounted Measured Extended Area Service ("MEAS") rate of 4 cents per minute: Hilton Head, SC;

Ridgeland, SC; Pooler, GA; Hardeeville, SC; St. Helena, SC; Tybee Island, GA; Beaufort, SC; Laurel Bay, SC; and Savannah, GA. Likewise, Hargray customers may call the following exchanges for the discounted rate of 4 cents per minute under the MEAS plan: Ridgeland, SC; Pooler, GA; Bluffton, SC; St. Helena, SC; Tybee Island, GA; Beaufort, SC; Laurel Bay, SC; and Savannah, GA. In addition, Bluffton offers an Extended Flat Rate Service that allows unlimited calling from the Bluffton Exchange to Hargray Telephone Company's exchanges at a flat rate of $10 per month for residential customers and $20 per month for business customers. Similarly, Hargray offers an Extended Flat Rate Service that allows unlimited calling to the Bluffton Exchange and to both Hargray exchanges at a flat rate of $10 per month for residential customers and $20 per month for business customers. Bluffton's and Hargray's affiliated long distance company also offers an unlimited long distance plan for $24.99 that provides Bluffton and Hargray customers who subscribe to the plan with unlimited calling to anywhere in the continental United States. TR. at 12-13.

6. Despite the availability of various calling plans offered by the respective Companies, there continues to be a strong desire on the part of the Companies' customers for a simple plan offering wide-area calling at a fixed, affordable rate. TR. at 13. The proposed plan would replace the current MEAS calling and Extended Flat Rate Service plans currently offered by the respective Companies. The Companies' affiliated long distance company will continue to offer its current nationwide unlimited long distance calling plan. TR. at 13.

7. The Companies have calculated from billing records the revenue impact of implementing the EAS Plan throughout Bluffton's and Hargray's service areas. The proposed EAS area would include all of the exchanges that are currently covered by the MEAS plans for the respective Companies, as set forth in Paragraph 5 above. The cost results show a monthly cost of

$2.42 for residential customers and $4.85 for business customers; however, the Companies propose to offer the EAS Plan with a slightly lower mandatory monthly EAS adder of $2.25 for residential customers and $4.50 for business customers. TR. at 14-15.

8. In addition, as part of the overall restructuring and simplification of extended area calling, the Companies' affiliated long distance carrier, Hargray Long Distance, would reduce the rate for unlimited nationwide calling from $24.99 to $22.74. This would ensure that Bluffton and Hargray customers who currently subscribe to unlimited nationwide calling would continue to pay the same amount for the same calling scope they currently enjoy (i.e., instead of paying $24.99 for unlimited nationwide calling, which includes the current MEAS exchanges, they will pay $22.74 for unlimited nationwide calling and $2.25 for EAS, so that both the rate and the calling scope would remain the same for these customers). TR. at 15.

9. The proposed plan is in the public interest because it will provide a simple, comprehensive, long-term, affordable solution to the expanded calling needs of customers in the respective service areas served by Bluffton and Hargray. TR. at 16. Additionally, because of the scope of the proposed plan, it would provide for unlimited calling to local government offices and medical facilities. TR. at 16, 32.

10. Based on customer calling patterns, the majority of Bluffton and Hargray customers will either see a decrease or will see no increase in the rates they pay for expanded calling as a result of the Commission's approval of the Application and implementation of the EAS Plan. TR. at 15, 21. Customers of both Companies will benefit from the EAS Plan. TR. at 38.

11. ORS is the state agency charged with representing the public interest of South Carolina before the Commission. S.C. Code Ann. § 58-4-10(B). ORS investigated Mr.

Cotnoir's Complaint, and reviewed the plan proposed by the Companies. ORS supports approval of the Application. TR. at 48.

12. Issues raised by SCCTA relating to the State Universal Service Fund are generic in nature in that they relate to and have implications beyond the instant proceeding. These issues are, therefore, properly addressed in Docket No. 1997-239-C, the docket established to address issues relating to the Intrastate Universal Service Fund. SCCTA's argument is not particular to Bluffton and Hargray, but would potentially affect any company with an EAS route that receives State USF. Even if the issues were particular to the instant case, they have no merit. The EAS Plan proposed by the Companies does not merge toll and basic service, as SCCTA alleges. The EAS Plan converts current MEAS and extended flat rate calling plans to EAS. TR. at 13, 35. EAS is not basic local service. TR. at 21, lines 17-18; 49, lines 11-12. We, therefore, deny SCCTA's objection to the Application on this basis.

13. Other procedural grounds raised by SCCTA for denying the Companies' Application are likewise without merit. SCCTA suggests this Commission does not have the authority to diverge from past procedure with respect to establishing EAS routes. See TR. at 43. The case cited by SCCTA, 330 Concord Street Neighborhood Association v. Campsen, 309 S.C. 514, 424 S.E.2d 538 (Ct. App. 1992), does not support SCCTA's contention that the Commission must deny the Application as a matter of law. The cited case stands for the proposition that, *while established precedent is not binding on a state agency*, the agency may not act *arbitrarily* in failing to follow established precedent. In this case, the "precedent" to which SCCTA refers is procedural only, and we have more than ample reason to handle this matter according to a different procedure than we have used in the past for EAS matters. Each of the cases cited by SCCTA in support of the Commission's prior "established procedure" is more

than 11 years old. See TR. at 42-43. No one can dispute that the telecommunications environment underwent a tremendous change in February 1996 with the enactment of the Federal Telecommunications Act. Furthermore, the unique location and pressure for expanded area calling faced by the Companies and the innovative EAS Plan it has proposed in response to customer demands are certainly different from anything this Commission has addressed before.

14. To the extent SCCTA's argument regarding appropriate EAS procedures centers on an allegation that the public was not afforded procedural due process, the argument has no merit. Balloting is not the only means by which the public may be afforded notice and an opportunity to be heard regarding a particular matter. In the instant case, the public clearly was provided with ample notice and an opportunity to be heard regarding the proposed EAS Plan. At the Commission's direction, the Companies published notice of the proposed EAS Plan in newspapers of general circulation. See Proof of Publication dated May 15, 2006; see also TR. at 33. In addition, there was coverage in the local media about the proposed EAS Plan and upcoming public hearing. TR. at 30-31, 33. Finally, the Commission held a public hearing to address the proposed EAS Plan. The Companies' customers were notified of the public hearing, not just through publication of a legal notice, but also through newspaper coverage of the scheduled hearing. TR. at 33.

15. The evidence of record indicates no significant customer opposition to the EAS Plan and, in fact, indicates that the majority of customers will benefit from and are in favor of the EAS Plan. As stated in Paragraph 10, customer calling patterns show that the majority of customers will see a decrease or no increase in the rates they pay for expanded calling as a result of implementing the proposed EAS Plan. No Bluffton or Hargray customers appeared at the hearing to oppose the EAS Plan. The Commission received a single protest letter from one of

the Companies' approximately 70,000 access lines served regarding the proposed EAS Plan. TR. at 30, 33-34. The Companies themselves received no complaints regarding the proposed EAS Plan prior to the hearing. TR. at 30.[2] In fact, Mr. Reinhardt, whose position with Bluffton's and Hargray's parent company has brought him into direct contact with numerous customers through his oversight of the Companies' call center and his responsibility to oversee public events, testified that every customer he has talked to has been in favor of the proposed EAS Plan. TR. at 30. The original Complainant in this matter, Mr. Cotnoir, supports the proposed EAS Plan. TR. at 51; Letter from Donald A. Cotnoir to Charles L.A. Terreni, dated January 24, 2007 (stating "residents and businesses alike need this relief" and urging the Commission to move forward with approving the Companies' proposed EAS Plan). The lone intervenor in this matter, SCCTA, admittedly intervened on behalf of its members as potential providers and providers of services that compete with the Companies' services. SCCTA Petition to Intervene at para. 4.

16. A final ground raised by SCCTA, that approval of EAS routes does not "make any sense" in the context of Companies that are subject to alternative regulation, is similarly without merit. SCCTA did not set forth sufficient reasoning for its argument. See TR. at 52-53. Even so, it is clear that the Application will not result in additional revenues for the Companies, and is something that the vast majority of the Companies' customers desire. SCCTA's objection and request to deny the Application is, therefore, denied.

IT IS THEREFORE ORDERED THAT:

1. The SCCTA's motion to deny the Companies' Application is denied; and
2. The Application is approved as filed, to be implemented by the Companies through appropriate tariff filings as soon as feasible.

[2] After the hearing on this matter, the Companies did receive a single letter of protest from a customer in response to a newspaper article about the proposed EAS Plan. The customer noted that he made very few MEAS calls and that

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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Chairman

ATTEST:

_____
Executive Director

(SEAL)

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the proposed EAS Plan would therefore cost him an additional amount of approximately $17.00 per year.

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Request for Extended Calling Area From Bluffton/Sun City Hilton Head Area to Hilton Head Island Docket No. 2005-204-C	)	**CERTIFICATE OF SERVICE**
Petition of Bluffton Telephone Company and Hargray Telephone Company to Implement Extended Area Service (EAS) Docket No. 2006-99-C	)	

I, Rebecca W. Martin, Secretary for McNair Law Firm, P. A., do hereby certify that I have this date served one (1) copy of a Proposed Order regarding the above–referenced matters on the following parties of record by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

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February 16, 2007

Columbia, South Carolina