BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NOS. 2005-204-C AND 2006-99-C - ORDER NO. 2007-346

MAY 25, 2007

IN RE: **Docket No. 2005-204-C** - Request for Extended Calling Area From Bluff/Sun City Hilton Head Area to Hilton Head Island	)	ORDER GRANTING EXTENDED AREA SERVICE
AND	)	
Docket No. 2006-99-C – Petition of Bluffton Telephone Company and Hargray Telephone Company to Implement Extended Area Service (EAS)	)	

I. PROCEDURAL BACKGROUND

This consolidated matter comes before the Public Service Commission of South Carolina ("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 cost of providing an Extended Calling Area from the 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 1. ORS obtained cost data and other information from the Companies, and provided its recommendation to the Commission on December 18, 2005. ORS's 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 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. Notice of the proposal was made in the *Island Packet* newspaper on April 24, 2006.

On May 15, 2006, the South Carolina Cable Television Association ("SCCTA") filed to intervene 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'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."

A public hearing was held in this consolidated matter on November 30, 2006. Bluffton and Hargray were represented by M. John Bowen, Jr., Esquire, and Margaret M. Fox, Esquire. 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, Esquire, and Bonnie D. Shealy, Esquire. The SCCTA did not present a witness. ORS was represented by Nanette Edwards, Esquire. 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 proposed by the Companies.

[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.

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.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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). The Bluffton exchange is geographically located between Hargray's two exchanges.

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. The Companies have had inquiries from customers over the years regarding expanded calling. 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.

5. Bluffton customers currently may call the following exchanges at a discounted Measured Extended 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 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.

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. 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.

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.

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 exchange, 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).

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

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.

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.

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.

13. The Commission finds that the proposed EAS plan does not violate any Commission rule or regulation and appropriately resolves frequent customer confusion

and/or complaints regarding the placement of local versus toll calls between Hargray and Bluffton exchanges. Counsel for SCCTA argued that through prior Commission orders, the Commission has established a procedure for reviewing and approving EAS arrangements. Specifically, SCCTA argued that the process of performing community of interest studies and balloting customers has not been performed in this case. However, SCCTA counsel also admitted that there is no Commission rule or regulation related to the procedure for establishing EAS arrangements. Furthermore, the Commission notes that both balloting and a public hearing were not required in the majority of the cases cited by SCCTA.

14. The Commission finds that, given the availability of alternative services and the lack of negative response to this proposal by the Companies' customers, balloting and community of interest studies are not required in addition to holding a public hearing. The Commission's prior cases involving EAS plans cited by SCCTA pre-date the Telecommunications Act of 1996 and the rapid growth of wireless availability. Commission Order 2005-141 dated March 28, 2005, granted the Petitioners alternative regulation due to wireless availability in the Bluffton and Hargray exchanges. S.C. Code Ann.§ 58-9-576(A) provides in part:

> Any LEC may elect to have rates, terms, and conditions determined pursuant to the plan described in subsection (B), if the commission: (1) has approved a local interconnection agreement in which the LEC is a participant with any entity determined by the commission not to be affiliated with the LEC, (2) determines that another provider's service competes with the LEC's basic local exchange service, or (3) determines that at least two wireless providers have coverage generally available in the LEC's service area and that the providers are not affiliates of the LEC.

The Commission granted alternative regulation to the Petitioners because several wireless carriers, none of which is affiliated with either Bluffton or Hargray, have wireless coverage generally available in Bluffton's and Hargray's service areas. Counsel for SCCTA also recognized that Bluffton/Hargray customers can opt for cellular service. Prior to the passage of the Telecommunications Act of 1996 and the advent of widespread wireless services, customers of incumbent local exchange carriers did not have any choice other than the incumbent, and in reviewing EAS proposals the Commission required community of interest studies and ballots. As a result of changes in technology and the availability of alternatives, consumers are not tied to one provider, which is a substantial change from the circumstances that existed prior to 1996. Therefore, the Commission sees no need to ballot customers or require a community of interest study where a public hearing has been afforded.[2]

15. The Commission concludes that it has jurisdiction over this matter and the relief sought in the Petition pursuant to S.C. Code Ann. § 58-9-210.

16. We conclude that the proposed EAS plan benefits the majority of Hargray and Bluffton customers.

17. We conclude that Petitioners have complied with the requirements of all applicable regulations and statutes.

18. We conclude that balloting and community of interest studies are not required where a public hearing was noticed in a publication of general circulation in the affected service areas. Further, since both Bluffton and Hargray are owned by the same

[2] Mr. Reinhardt testified that customers would have the ability to select another carrier for long distance service.

parent company, conducting a single cost study was a reasonable decision as opposed to a joint cost study and does not compromise the integrity of the study.

19. Based on the foregoing findings of fact, the record in this case, and the hearing held in this matter, the Commission concludes that the Petitioners' proposal to replace existing MEAS and Flat Rate Service plans with a mandatory EAS in the amount of $2.25 per residential customer per month and $4.50 per business customer per month should be approved and SCCTA's motion should be denied.

IT IS, THERFORE, ORDERED THAT:

1. The Commission hereby approves the Petition to implement the expanded local calling plan, all in the manner as proposed by Petitioners.

2. SCCTA's motion is denied.

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

BY ORDER OF THE COMMISSION:

G. O'Neal Hamilton, Chairman

ATTEST:

C. Robert Moseley, Vice Chairman

(SEAL)