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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

96-159

In the Matter of )  
)  
Request of Limited Modification of )  
LATA Boundaries to Provide ELCS )  
Between the Irene )  
Exchange and the Corsicana )  
Exchange. )

DOCKET FILE COPY ORIGINAL

**PETITION**

**I. INTRODUCTION**

Southwestern Bell Telephone Company (SWBT), pursuant to Section 3(25) of the Communications Act of 1934, as amended,<sup>1</sup> and in accordance with the guidelines established in the Commission's Memorandum Opinion and Order (MO&O) released July 15, 1997 in CC Docket No. 96-159,<sup>2</sup> hereby makes application for a limited modification of LATA boundaries to provide ELCS between the Irene exchange and the Corsicana exchange.

**II. SUPPORTING INFORMATION**

As prescribed in paragraph 23 of the aforementioned Commission MO&O, SWBT provides the following information in support of its application:

1. Type of service: Flat-rate, non-optional Expanded Local Calling (ELC);
2. Direction of service: Two-way;

<sup>1</sup> The Communications Act of 1934, as amended, 47 U.S.C. *et al.*

<sup>2</sup> Memorandum Opinion and Order, Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service at Various Locations, CC Docket No. 96-159, released July 15, 1997. By way of this MO&O the Commission adopted a format for and criteria under which such petitions would be granted. The format and criteria are detailed in paragraphs 23 and 24.

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3. Exchanges involved: Irene in the Waco, TX LATA and Corsicana in the Dallas, TX LATA;
4. Name of carriers: Irene of Contel/GTE Southwest, Inc. and Corsicana of Southwestern Bell Telephone;
5. State commission approval(s): See Attachment A;
6. Number of access lines or customers: The Irene exchange has 373 access lines, and the Corsicana exchange has 15,433 access lines;
7. Usage data: Usage data is not available to Southwestern Bell Telephone. SWBT does not currently carry traffic across LATA boundaries;
8. Poll results: Percentage of Irene customers returning ballots who voted in favor of ELC to Corsicana: Greater than 70 percent. Where SWBT is the petitioning exchange, there is no proposed rate increase. Where SWBT is not the petitioning exchange, SWBT does not have information as to any proposed rate increase.
9. Community of interest statement: The Public Utility Commission of Texas includes a Community of Interest Finding in their Order(s). See Attachment A.
10. Map: See Attachment B; and,
11. Other pertinent information: None

### **III. PRIMA FACIE SHOWING**

SWBT believes that it has made a *prima facie* case supporting grant of the proposed modification because the instant ELCS petition (1) has been approved by the state commission; (2) proposes only traditional local service (i.e., flat-rate, non-optional ELCS); (3) indicates that the state commission found a sufficient community of interest to warrant such service; (4) documents this community of interest through such evidence as poll results and descriptions of the communities involved; and, (5) involves a limited number of customers or

access lines. These requirements for a *prima facie* case are detailed in the aforementioned Commission MO&O paragraph 24.

#### **IV. CONCLUSION**

Wherefore, SWBT request that the Commission approve its application for a limited modification of LATA boundaries to provide ELCS between the Irene exchange and the Corsicana exchange.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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AUGUST 29, 1997

DOCKET NO. 13835

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE	§	
MURCHISON EXCHANGE TO THE	§	OF TEXAS
EXCHANGES OF LINDALE-SWAN AND	§	
TYLER	§	

ORDER NO. 8

DOCKET NO. 14151

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE IRENE	§	
EXCHANGE TO THE EXCHANGE OF	§	OF TEXAS
CORSICANA	§	

ORDER NO. 7

DOCKET NO. 14160

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE BEN	§	
WHEELER EXCHANGE TO THE	§	OF TEXAS
EXCHANGE OF TYLER	§	

ORDER NO. 8

DOCKET NO. 14250

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE MONTALBA	§	
EXCHANGE TO THE EXCHANGE OF	§	OF TEXAS
TYLER	§	

ORDER NO. 4

DOCKET NO. 14256

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE KOPPERL	§	
EXCHANGE TO THE EXCHANGE OF	§	STATE OF TEXAS
MERIDIAN	§	

ORDER NO. 5

DOCKET NO. 13835  
DOCKET NO. 14151  
DOCKET NO. 14160  
DOCKET NO. 14250  
DOCKET NO. 14256  
DOCKET NO. 14465  
DOCKET NO. 14310

ORDER NO. 8  
ORDER NO. 7  
ORDER NO. 8  
ORDER NO. 4  
ORDER NO. 5  
ORDER NO. 5  
ORDER NO. 3

DOCKET NO. 14465

PETITION FOR EXPANDED LOCAL           §       PUBLIC UTILITY COMMISSION  
CALLING SERVICE FROM THE JARRELL   §  
EXCHANGE TO THE EXCHANGES OF     §           OF TEXAS  
BELTON AND TEMPLE                   §

ORDER NO. 5

DOCKET NO. 14310

PETITION FOR EXPANDED LOCAL           §       PUBLIC UTILITY COMMISSION  
CALLING SERVICE FROM THE CHICO     §  
EXCHANGE TO THE EXCHANGE OF     §           OF TEXAS  
BOWIE                                   §

ORDER NO. 3  
DIRECTING LOCAL EXCHANGE COMPANY  
TO FILE FOR LIMITED MODIFICATION

On July 28, 1997, the Commission Staff recommended that Southwestern Bell Telephone Company (SWBT), in light of the recent Federal Communications Commission (FCC) order addressing the procedures for SWBT to request limited modifications of local access and transport area (LATA) boundaries for the provision of expanded local calling service (ELCS), file a request with the FCC, within thirty days of the effective date of this order, in accordance with the procedures outlined *In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, FCC 97-244, (rel. July 15, 1997) *Memorandum Opinion and Order*, §§ 23 & 24.

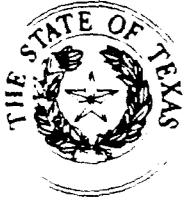
A community of interest has previously been established in these cases and a waiver request was filed by SWBT with the Department of Justice under the *Modified Final Judgment*.

**DOCKET NO. 13835**  
**DOCKET NO. 14151**  
**DOCKET NO. 14160**  
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**DOCKET NO. 14465**  
**DOCKET NO. 14310**

**ORDER NO. 8**  
**ORDER NO. 7**  
**ORDER NO. 8**  
**ORDER NO. 4**  
**ORDER NO. 5**  
**ORDER NO. 5**  
**ORDER NO. 3**

**ATTACHMENT A**  
**SHEET 3**

SWBT shall file within 30 days of the effective date of this order, a request for limited modification of the LATA boundaries. Additionally, within 10 days of the receipt of orders or notices from the FCC relating to these petitions, SWBT shall file such orders or notices with the Commission.



**ISSUED BY THE OFFICE OF POLICY DEVELOPMENT**  
**ON BEHALF OF THE PUBLIC UTILITY COMMISSION OF TEXAS**  
**ON THE 31st DAY OF JULY, 1997**

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PROJECT NO. 13743

PETITION FOR EXPANDED LOCAL  
CALLING SERVICE FROM THE IRENE  
EXCHANGE TO THE EXCHANGES OF  
BLOOMING GROVE, DAWSON, MILFORD  
AND PURDON

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PUBLIC UTILITY COMMISSION  
OF TEXAS

ORDER NO. 4  
ORDER OF SEVERANCE AND DISMISSAL

DOCKET NO. 14151

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②

PETITION FOR EXPANDED LOCAL  
CALLING SERVICE FROM THE IRENE  
EXCHANGE TO THE EXCHANGES OF  
AVALON, CORSICANA, ENNIS, ITALY AND  
WAXAHACHIE

§  
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§

PUBLIC UTILITY COMMISSION  
OF TEXAS

ORDER NO. 3  
ORDER OF CONSOLIDATION

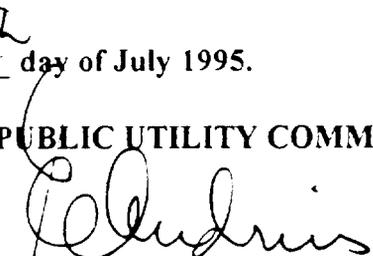
In Staff's ballot report for Project No. 13743, issued on April 25, 1995, Staff recommended that the exchanges of Italy, Waxahachie, Ennis, Corsicana and Avalon be severed and docketed because of interLATA issues. Staff recommended that the petition continue, restyled as the *Petition for Expanded Local Calling Service from the Irene Exchange to the Exchanges of Milford, Blooming Grove, Purdon and Dawson*. In Staff's memorandum, dated July 11, 1995, Staff states that the Dawson exchange was the only ballot-approved petitioned exchange in the Waco LATA, and that the Milford, Blooming Grove, Purdon, Italy, Waxahachie, Ennis, Corsicana and Avalon exchanges, exchanges in the Dallas LATA, should have been severed into the interLATA docket, Docket No. 14151. The petition for Project No. 13743 should have been restyled as *Petition for Expanded Local Calling Service from the Irene Exchange to the Dawson Exchange*.

Staff recommends that the Milford, Blooming Grove and Purdon exchanges be added to the list of petitioned exchanges in Docket No. 14151 and the petitioners be given the opportunity to provide community of interest information for these exchanges. Staff also recommends that since the Dawson exchange is already being provided service in Project No. 12969, that Project No. 13743 be dismissed. The undersigned Administrative Law Judges (ALJs) concur with Staff. Accordingly, the exchanges of Milford, Blooming Grove and Purdon are hereby **SEVERED** from Project No. 13743 and **CONSOLIDATED** with Docket No. 14151; the remainder of Project No. 13743 is **DISMISSED**. Docket No. 14151 is **RESTYLED** as the *Petition for Expanded Local Calling Service from the Irene Exchange to the Exchanges of Avalon, Blooming Grove, Corsicana, Ennis, Italy, Milford, Purdon and Waxahachie*.

The ALJ assigned to Docket No. 14151 notes that the deadline to file the community of interest evidence for the interLATA exchanges of Avalon, Corsicana, Ennis, Italy and Waxahachie exchanges was May 29, 1995. Therefore, the deadlines established in the attached procedural schedule are applicable only to the exchanges of Blooming Grove, Milford and Purdon.

SIGNED AT AUSTIN, TEXAS the 12<sup>th</sup> day of July 1995.

PUBLIC UTILITY COMMISSION OF TEXAS

  
\_\_\_\_\_  
EVA KING ANDRIES  
ADMINISTRATIVE LAW JUDGE

PUBLIC UTILITY COMMISSION OF TEXAS

  
\_\_\_\_\_  
DEANN T. WALKER  
ADMINISTRATIVE LAW JUDGE

DOCKET NO. 14151

PETITION FOR EXPANDED LOCAL  
CALLING SERVICE FROM THE IRENE  
EXCHANGE TO THE CORSICANA  
EXCHANGE

§  
§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

INTERIM ORDER

The Public Utility Commission of Texas (Commission) finds that this docket is based on an evidentiary record and has been processed in accordance with applicable statutes and Commission rules. There were no disputed issues in this petition.

The following findings of fact and conclusions of law are **ADOPTED**:

Findings of Fact

Background

1. The expanded toll-free local calling service (ELCS) petition that is the subject of this Interim Order requests non-optional "to and from calling" between the Irene Exchange and the Corsicana Exchange.
2. The processes for petitioning and balloting included notice that the service would have a fee of up to \$3.50 for residential and \$7.00 for business customers on a non-optional basis.
3. Judge Harold H. Greene established the LATA boundaries for Southwestern Bell Telephone Company (SWB) in the Modified Final Judgment, *United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982) and *United States v. Western Elec. Co., Inc.*, 569 F.Supp. 990 (D.D.C. 1983), and for GTE Southwest, Inc. and Contel of Texas, Inc. (collectively GTE) in the Decree, *United States v. GTE Corp.*, 1985-1 Trade Cas (CCH) §66,355 (D.D.C. 1985). (The collective orders of Judge Greene will hereinafter be referred to as MFJ.)

DOCKET NO. 14151

INTERIM ORDER

4. A LATA is a geographic area in which SWB and GTE can provide telecommunication services within its boundaries. In the MFJ, Judge Greene restricted the two local exchange carriers from providing interLATA transport. In order for the companies to span the LATA boundaries established by the MFJ, they must obtain a waiver from Judge Greene.

5. Judge Greene has relied upon the following issues for SWB or GTE to obtain a waiver of the MFJ: impact on competition; whether the calling plan has the attributes of a long distance toll call; and whether a community of interest exist between the two exchanges.

6. On October 19, 1993, the Commission amended P U.C. SUBST. R. 23.49 by adding a section pertaining to ELCS in accordance with Senate Bill 632, (Act of May 11, 1993, 73rd Leg. R.S., ch.271, 1993 Tex. Sess. Law Serv. 1276 (Vernon))(to be codified as an amendment to TEX. REV. CIV. STAT. ANN., Art. 1446c, § 93A) and § 93A of the Public Utility Regulatory Act (PURA), Tex. Rev. Civ. Stat. Ann. art. 1446c (Vernon Supp. 1994). The rule became effective on December 7, 1993.

7. The statute and the rule referred to in Finding of Fact No. 6 provide certain requirements for petitioning exchanges to meet in order to receive ELCS. One such requirement is a showing of a community of interest.

8. In recommending approval of various waivers before Judge Greene, the Department of Justice (DOJ) has relied upon an affirmative finding of the Public Utility Commission of Texas that a community of interest exists, often based on a vote of the responding subscribers and whether the two exchanges share such needs as local governments, employment; shopping, and use of educational and medical services.

9. The Commission contemplated interLATA waivers in adopting P.U.C. SUBST. R. 23.49(c); thus, it was aware of issues relating to the implications of an interLATA boundary application when adopting the rule.

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INTERIM ORDER

10. An affirmative vote of 70 percent of the subscribers responding to the ballot is necessary for an ELCS petition to proceed at the Commission. The percentage of affirmative votes from those subscribers returning ballots is a compelling showing of a community of interest. This factor can and should be considered with the same weight as other factors, such as the sharing of local government, schools, employment, and commercial centers.

**Community of Interest Issue**

11. On December 14, 1994, the Irene Exchange filed a petition for ELCS between it and various exchanges, including the Corsicana Exchange.

12. The Irene Exchange is served by Contel, and it is in the Waco LATA. The Corsicana Exchange is served by SWB, and is in the Dallas LATA.

13. The parties to the proceeding were the petitioning Irene Exchange, Contel, SWB, and General Counsel. There is no statutory deadline for this proceeding.

14. The Irene Exchange is within 22 miles of the Corsicana Exchange.

15. An affirmative vote of more than 70 percent of those subscribers that voted in the balloting favored expanding local calling scope of the Irene Exchange to the Corsicana Exchange.

16. Corsicana serves as the Navarro County Seat and serves over 90 percent of the residents within the Irene Exchange. Most governmental agencies serving the residents of the Irene Exchange are located in Corsicana.

17. Over 70 percent of the residents of the Irene Exchange have their primary health care facilities in Corsicana.

DOCKET NO. 14151

INTERIM ORDER

18. Over 50 percent of the residents of the Irene Exchange rely upon merchants in the Corsicana Exchange for most of their shopping and economic needs. The electric utility serving 90 percent of the residents in the Irene Exchange is located in Corsicana
19. Approximately one-third of the residents of the Irene Exchange are employed in Corsicana.
20. A portion of the Irene Exchange is located in the public school system within Corsicana.
21. There is a community of interest between the Irene Exchange and the Corsicana Exchange. The exchanges are within 22 miles of each other. In addition, the petitioners proved a community of interest with the Corsicana Exchange in the following ways: affirmative vote of the subscribers returning ballots; commonality of governmental facilities; commonality as a commercial and employment center; commonality of medical facilities; and commonality of public schools.

**Informal Disposition**

22. More than 30 days have passed since completion of the notice provided in this docket.
23. No protests, motions to intervene, or requests for hearing have been filed. No issues of fact or law are disputed by any party; therefore, no hearing is necessary.

**Conclusions of Law**

1. The Commission has jurisdiction in this proceeding pursuant to the Public Utility Regulatory Act of 1995, S.B. 319, §§ 1.101, 3.051, 3.151, 3.155, 2.201, 3.251, and 3.304, 74th Leg., R.S. 1995.
2. The standards for community of interest for ELCS in Texas are established in § 3.304(a)(2) of PURA and in P.U.C. SUBST. R. 23.49(c)(3).

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INTERIM ORDER

3. Pursuant to P.U.C. SUBST. R. 23.49(c)(11), ELCS petitions filed prior to the adoption of P.U.C. SUBST. R. 23.49(c) must satisfy the criteria contained within the rule.

4. To meet the community of interest standard, P.U.C. SUBST. R. 23.49(c)(3)(B) and § 3.304(a)(2) of PURA require a petitioning exchange to have either a contiguous boundary with the petitioned exchange or require the exchanges covered by the petition to be within a distance of 22 miles of each other. As established in Finding of Fact No. 14, the petitioning exchange satisfies the requirement.

5. P.U.C. SUBST. R. 23.49(c)(3)(C) provides that if the exchanges are greater than 22 miles apart, but less than 50 miles, the petitioners must show a community of interest through schools, hospitals, local governments, business centers, or other relationships so that, without ELCS, a hardship on the residents of the petitioning exchange would occur.

6. An ELCS docket that has the two exchanges within 22 miles of each other or which are contiguous to each other constitutes a *per se* showing of community of interest. Judge Greene requires, however, a greater showing of community of interest in order to grant a waiver of the MFJ; thus, the Commission shall address additional findings of a community of interest between the exchanges in this type of proceeding.

7. A community of interest standard similar to P.U.C. SUBST. R. 23.49(b)(2) is not applicable to proceedings involving ELCS.

8. The standards contained within § 3.304(a)(2) of PURA and P.U.C. SUBST. R. 23.49(c)(3)(B) apply to both contested and uncontested ELCS proceedings.

9. P.U.C. SUBST. R. 23.49(c)(5)(D)(ii) and § 3.304 of PURA require an affirmative vote of at least 70 percent of those subscribers returning ballots to establish a community of interest. The statute and rule do not require an affirmative vote of at least 70 percent of all subscribers in the exchange.

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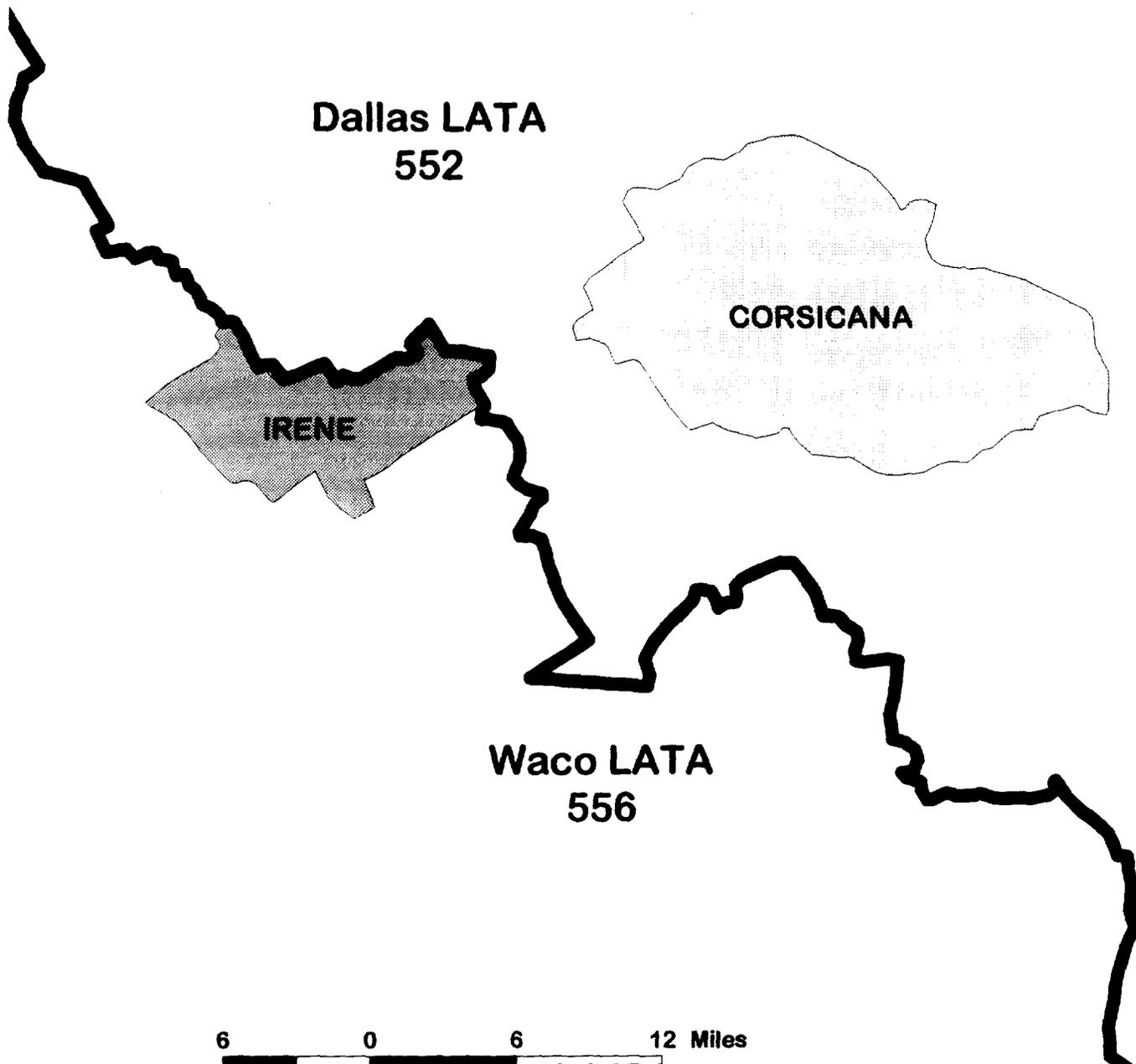
INTERIM ORDER

10. This petition does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.
11. The requirements of P.U.C. PROC. R. 22.35 have been met in this proceeding.

In accordance with the findings of fact and conclusions of law, the Commission issues the following Interim Order:

1. The petitioners in the petition filed by the Irene Exchange for expanded local calling service to the Corsicana Exchange have shown a community of interest between the Irene Exchange.
2. Within thirty (30) days of this Interim Order, GTE and SWB are **DIRECTED** to file a request for a waiver of the Modified Final Judgment with the Department of Justice or Judge Harold H. Greene, as appropriate.
3. Within thirty (30) days of the receipt of the ruling by Judge Greene, GTE and SWB are **DIRECTED** to file Judge Greene's judgment in this docket.

# Irene To Corsicana



6 0 6 12 Miles

 Southwestern Bell Telephone Exchange  
 GTE Southwest Inc. Exchange

This document was produced by the Texas Exchange Carrier Relations organization of Southwestern Bell Telephone Company on 8/7/97, based on the best information it could obtain from other sources at that time. In addition, it is the Telephone Company's understanding that the data underlying the creation of this document may be subject to change. Southwestern Bell makes no representation as to the accuracy of the information provided to it and used to create this document.

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY" in Docket No. 96-159 has been filed this 29th day of August, 1997 to the Parties of Record.

A handwritten signature in cursive script that reads "Katie M. Turner". The signature is written in black ink and is positioned above a horizontal line.

Katie M. Turner

August 29, 1997

Texas Public Utility Commission  
1701 North Congress  
Austin, Texas 78701