State of Florida

Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: July 2, 2009

TO: Mary Andrews Bane, Executive Director

FROM: Office of Strategic Analysis and Governmental Affairs (Rudd, Shafer, Trapp, Lovett)
Office of Regulatory Compliance (Salak)
Office of Service, Safety and Consumer Assistance (Hoppe)
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RE: Briefing on 2009 Legislative Session and Implementation Plans for 2009 Legislative Directives
CRITICAL INFORMATION: Briefing only. Please place on July 14, 2009, Internal Affairs.

The Legislature's only Constitutional requirement is to pass the state's budget. A breakdown of the Florida Public Service Commission (PSC) budget is included in materials that follow. The 2009 Legislature passed just 202 general bills, one of which requires implementation on the part of the PSC.

Senate Bill 2626 created the "Consumer Choice and Protection Act," which includes revisions to the existing regulatory framework for telecommunications. The bill also designates the Department of Management Services as the primary agency for the development of a strategic plan for broadband deployment and use in the state. This bill is discussed in greater detail in the following supporting material.

2009 Budget Issues

In yet another fiscally constrained year, initial PSC budget proposals from the House and Senate ranged from: reductions of three to seven FTE; no trust fund sweep to up to a $4.5 million trust fund sweep; and a graduated salary reduction from two percent to five percent.

The final Fiscal Year 2009-10 Conference Committee Reports included:

- A reduction of three FTE,
- $4.5 Million Trust Fund sweep,
- Two percent pay reduction for employees earning more than $45,000,
- Guidelines for replacement of motor vehicles,
- Continued restrictions on travel,
- The requirement for a plan for the efficient transfer of data center functions to the Southwood Shared Resource Center, and
- The requirement for a plan regarding the distribution, utilization, and procurement method of cell phones, PDAs, and other wireless devices.

On May 27, Governor Crist vetoed the two percent salary reduction for employees earning more than $45,000. Agencies are now required to make other budget reductions in the amount the salary reductions would have saved the agencies.

Salaries and Benefits - $22,150,091

Other Personal Services - $200,588

Expenses - $4,280,019

Operating Capital Outlay - $387,546

Acquisition of Motor Vehicles - $72,055

> Proviso – The department may purchase one or more vehicles for replacement when the mileage of a vehicle is in excess of 200,000 miles, or based on an emergency or unforeseen circumstances.

Contracted Services - $479,706

Risk Management Insurance - $87,433

Transfer to Department of Management Services for Human Resource Services– $132,588

Data Processing Services - $76,708

Total: Utilities Regulation/Consumer Assistance - $27,866,734

Unobligated cash balance amount transferred to the General Revenue Fund - $4,500,000

SB 2626—RELATING TO TELECOMMUNICATIONS

Senate Bill 2626 amends Chapter 364, F.S., making reforms to the existing regulatory framework for telecommunications. The bill also designates the Department of Management Services as the primary agency for the development of a strategic plan for broadband deployment and use in the state. The analysis of the legislation is divided between telecommunications reform and broadband matters.

1. Telecommunications Regulation

Summary

The legislation primarily impacts the oversight of incumbent local exchange companies by the Florida Public Service Commission (PSC or Commission). Basic service is redefined for the purposes of regulatory oversight. Basic service will include only single line flat-rate residential service without any additional features, either priced individually or as part of a combination of services offered for one price. The additional features would also include unregulated services such as Internet or video services. The revised definition reclassifies flat-rate single line business customers and residential customers that subscribe to more than one line or at least one additional feature as nonbasic service. Nonbasic service does not have the same degree of service quality protection previously available for basic service. In addition, the bill eliminates certain regulatory requirements of nonbasic services (any service other than basic, interconnection services, and network access services).

Significant changes to PSC jurisdiction include the following—

- All single line business customers and any residential customers that subscribe to any nonbasic or unregulated services on an a la carte basis are now considered nonbasic subscribers. Previously, the local service component was classified as basic service and, as such, rate increases in any 12-month period were limited to the change in inflation less one percent. [Section 364.02(1)&(10) and 364.051(3), F.S.].
- Nonbasic subscribers are now subject to 10 percent rate increases in a 12-month period, a reduction from the 20 percent increases previously allowed, if competitors are present. [Sections 364.02(1)&(10) and 364.051(5)(a), F.S.].
- The PSC no longer has authority to resolve service quality complaints of any business customers or nonbasic residential customers [Sections 364.02(1) & (10) and 364.051(5)(b), F.S.].
- The PSC's authority to compel repairs or improvements is restricted to facilities serving single-line residential customers without nonbasic or unregulated services (Section 364.15, F.S.).
- The income eligibility criteria for Lifeline service is increased to 150 percent of the federal poverty guidelines from the existing 135 percent. This pertains to AT&T, Embarq, and Verizon. [Section 364.10(3)(a), F.S.].
- The PSC authority over the terms of contracts between telecommunications companies and their subscribers is no longer applicable to incumbent local exchange companies. [Sections 364.051(1)(c) and 364.19, F.S.].

- The requirement that companies file tariffs (schedules) containing rates, terms, and conditions of service is eliminated. However, companies may continue filing tariffs (schedules) with the PSC or they have the option to publish this information electronically [Sections 364.04(1), 364.10(3)(a), and 364.051(5)(a), F.S.].
- Companies continue to be required to inform customers of this information annually, but the method is not specified. The new law does, however, specify that the requirement for a bill insert to annually inform customers of the prices of services they subscribe is eliminated (Section 364.3382, F.S.).
- The price cap for operator services is removed (Section 364.3376(3), F.S.).
- Certificated carriers are allowed to merge or transfer ownership to other certificated carriers without any state regulatory oversight (Section 364.33, F.S.).

Proposed Implementation

Rule Review—The rules will be reviewed to determine if modifications are needed to reflect:

- the change in name from "tariffs" to "schedules;"
- the ability of companies to choose whether to file tariffs, now known as schedules, or publish rates and terms through other reasonable, publicly accessible means, including a website;
- the impact, if any, of the change in the definitions of basic and nonbasic;
- the elimination of quality of service authority for nonbasic services for ILECs;
- the elimination of operator services rate caps; and
- the change in certification requirements—acquiring ownership or control of a telecommunications facility without prior approval of the commission.

Script Changes for Consumers Complaint Intake—Because the PSC will no longer be resolving nonbasic telecommunications complaints, the complaint intake script will need to be modified so that nonbasic complaints can be filtered and redirected to the Department of Agriculture and Consumer Services.

Lifeline—All forms and promotional materials for Lifeline will need to be changed to reflect the change in poverty level requirements for AT&T, Embarq, and Verizon. The income test is now 150 percent, up from 135 percent, to be eligible to receive Lifeline discounts.

2. Broadband Deployment Administration

The bill created a new section of the statute to acknowledge the importance of broadband Internet service and authorizes the Department of Management Services (DMS) to work collaboratively with Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations to:

- conduct a needs assessment of broadband Internet service including wireless and wireline Internet service providers, to create maps at the census tract level that will show geographic gaps in coverage, identify download and upload transmission speeds, and provide a baseline assessment of statewide broadband deployment in terms of percentage of households with broadband availability;

- create a strategic plan defining goals and strategies for increasing the use of broadband Internet service in the state;
- build and facilitate local technology planning teams or partnerships with members representing cross-sections of the community; and
- establish a grant program to provide funds to encourage the use of broadband Internet service in rural, unserved, and underserved areas.

DMS is also authorized to:

- apply for and accept federal funds for these purposes, as well as donations and gifts from individuals, foundations, and private organizations;
- enter into contracts that are necessary to carry out the goals of the section;
- establish any committee to administer or carry out the purposes of the section; and
- adopt necessary rules, including the authority to establish definitions of terms pertinent to the section.

Proposed Implementation

Staff will continue to participate in the DMS-led collaborative on broadband offering assistance and technical support as appropriate.

SB 2626 was approved by the Governor on June 24, 2009.