

STATE OF FLORIDA

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## Public Service Commission

March 30, 2007

### VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: RM-11358, Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops**

Dear Ms. Dortch:

Forwarded herewith are reply comments of the Florida Public Service Commission in the above docket with regard to the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops.

Pat Lee at (850) 413-6453 is the primary staff contact on these comments.

Sincerely,

/ s /

Cindy B. Miller  
Senior Attorney

CBM:tf

cc: Janice Myles, Wireline Competition Bureau  
Brad Ramsay, NARUC

**Before the  
Federal Communications Commission  
Washington, D.C. 20054**

**In the Matter of:**

**Petitions for Rulemaking and Clarification  
Regarding the Commission's Rules  
Applicable to Retirement of Copper Loops  
and Copper Subloops**

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**Docket No. RM-11358**

**REPLY COMMENTS OF  
THE FLORIDA PUBLIC SERVICE COMMISSION**

The Florida Public Service Commission (FPSC) respectfully submits these reply comments in response to the Federal Communications Commission's (FCC's) Public Notice released on January 30, 2007. This Notice (DA 07-209) seeks comment on Competitive Local Exchange Carrier (CLEC) petitions for rulemaking and clarification regarding the FCC's rules applicable to the retirement of copper loops and copper subloops. The FPSC supports the requests for a rulemaking proceeding.

In the Triennial Review Order (TRO), the FCC held that where an ILEC elects to overbuild a route with fiber optic cable (i.e., to install fiber optic cable where copper cable currently exists), the ILEC does not have to unbundle the newly installed fiber cable for its competitors, for the provision of broadband services. However, a CLEC is still entitled to obtain a voice grade circuit along such routes. The ILEC must either provide the CLEC a 64 kbps (DS0 or voice grade) channel on the fiber facility, or provide access to the existing copper loop if it has not been "retired." If the ILEC elects to retire the copper cable, it must provide notice that it intends to do so. In addition, the FCC concluded that it was unnecessary, at that time, to require affirmative regulatory approval prior to the retirement of any copper loop facilities. The FCC held that its existing rules, with minor modifications, would serve as adequate safeguards.

The CLECs' petitions argue that the FCC's current copper loop retirement rules do not adequately safeguard against discriminatory and anticompetitive modifications to ILEC networks, and allow ILECs to eliminate network alternatives. The CLECs contend that today's technology can deliver substantially more bandwidth over copper than that existing at the time the TRO was released. The CLECs argue that the existing copper loop retirement rules undermine the goal of creating and fostering competition by allowing the ILECs to unilaterally retire copper facilities that might be used to provide alternative voice, Internet access, and video services to consumers and businesses. The existing retirement rules, the petitions allege, limit objections to a retirement to its timing only, thereby not providing an opportunity to review whether the proposed retirement is in the public interest.

### **Conclusion**

The FPSC does not take a position at this time regarding the CLECs' allegations and contentions. In conclusion, we believe the FCC should adopt a notice of proposed rulemaking for the purpose of addressing what modifications or changes, if any, are needed to its rules applicable to the retirement of copper loops and subloops.

Respectfully submitted,

/ s /

Cindy B. Miller, Senior Attorney  
Office of the General Counsel

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DATED: March 30, 2007