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August 31, 2004

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Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Hand Delivery
RECEIVED - FPSC
AUG 31 PM 4:29
COMMISSION
CLERK

RE: Docket No. 040604-TL

Dear Ms. Bayo:

Enclosed for filing in the above docket on behalf of Quincy Telephone Company d/b/a TDS Telecom, GTC, Inc. d/b/a GT COM and ALLTEL Florida, Inc. are the original and fifteen copies of Quincy Telephone Company d/b/a TDS Telecom, GTC, Inc. d/b/a GT COM and ALLTEL Florida, Inc.'s Petition Protesting Proposed Agency Action Order No. PSC-04-0781-PAA-TL regarding Eligibility Criteria for Lifeline and Link-up Programs.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

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Sincerely,

J. Stephen Menton
J. Stephen Menton

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DOCUMENT NUMBER-DATE
09528 AUG 31
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs.

Docket No. 040604-TL

Filed: August 31, 2004

**QUINCY TELEPHONE COMPANY d/b/a TDS TELECOM,
GTC, INC. d/b/a GT COM AND ALLTEL FLORIDA,
INC.'S PETITION PROTESTING PROPOSED AGENCY ACTION
ORDER NO. PSC-04-0781-PAA-TL REGARDING ELIGIBILITY CRITERIA
FOR LIFELINE AND LINK-UP PROGRAMS**

Quincy Telephone Company d/b/a TDS Telecom, GTC, Inc. d/b/a GT COM and ALLTEL Florida, Inc. (hereinafter referred to collectively as "Petitioners"), by and through undersigned counsel, and pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule 28-106.201, Florida Administrative Code, hereby file this Petition protesting the Notice of Proposed Agency Action Order, Order No. PSC-04-0781-PAA-TL (the "PAA Order") issued by the Florida Public Service Commission ("Commission") in the instant docket on August 10, 2004. The PAA Order proposes to adopt new eligibility criteria and certification processes for the Lifeline and Link-Up assistance program ("Lifeline and Link-Up"), and to require all Eligible Telecommunications Carriers ("ETCs"), including Petitioners, to implement such criteria and processes. For the reasons set forth herein, Petitioners request a formal administrative hearing to address the assumptions and conclusions of the PAA Order. In support of this Petition, Petitioners state as follows:

1. The name and address of the Agency affected and the Agency's File Number are:

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
Docket No. 040604-TL

DOCUMENT NUMBER-DATE

09528 AUG 31 3

FPSC-COMMISSION CLERK

2. The name, address and telephone numbers of Petitioners are as follows:

TDS Telecom
P.O. Box 189
Quincy, Florida 32353-0189
(850) 875-5207 (Telephone)
(850) 875-5225 (Telecopier)

GTC, Inc. d/b/a GT COM
P.O. Box 220
502 Fifth Street
Port St. Joe, FL 32457
(850) 229-7235 (Telephone)
(850) 229-8724 (Telecopier)

ALLTEL Florida, Inc.
ALLTEL Communications
One Allied Drive, B4F4ND
Little Rock, AR 72203-2177
(501) 905-5692 (Telephone)
(501) 905-5679 (Telecopier)

3. All notices, pleadings, staff recommendations, orders or other documents filed or served in this docket should be provided to the following representatives of Petitioners:

Kenneth A. Hoffman, Esquire
Martin P. McDonnell, Esquire
Rutledge, Ecenia, Purnell & Hoffman
215 South Monroe Street, Suite 420
Tallahassee, Florida 32301
(850) 681-6788
(850) 681-6515 (Fax)

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4. **Petitioners are small incumbent local exchange companies** (“Small LECs”) within the meaning of Section 364.052(1), Florida Statutes. Petitioners also qualify as “rural telephone companies” within the meaning of 47 U.S.C. § 153(47). Petitioners have been certified by the Commission as Eligible Telecommunications Carriers (“ETCs”).

5. Petitioners received a copy of the PAA Order on August 11, 2004.

6. The PAA Order would require Petitioners to offer discounted services to an increased number of customers based upon expanded qualifications for the Lifeline and Link-Up assistance programs. The new criteria are proposed for adoption without an adequate understanding or analysis of the financial implications, particularly with respect to Small LECs and without any mechanism that would allow Petitioners to recover the significant increased costs that they would disproportionately incur. Final adoption and implementation of the criteria and standards in the PAA Order will have a direct, substantial and immediate effect on Petitioners.

BACKGROUND

7. Effective July 1, 1995, Section 364.10(2), Florida Statutes, required local exchange carriers serving as the carrier of last resort to provide a Lifeline and Link-Up Assistance plan to qualified residential subscribers. Currently, the Lifeline and Link-Up Assistance plan provides qualified residential subscribers with a credit of \$13.00 on the monthly bill. The local exchange company (“LEC”) recovers \$9.50 of the customer credit from the federal low-income program, but

there is no ability to recover the remaining \$3.50. Because Florida has not established a state universal service fund, the remaining cost for Lifeline and Link-Up assistance is provided directly by the providing LEC.

8. The Commission has previously recognized the potential disproportionate impact the funding short-fall can have on companies serving a large number of low-income customers. The Commission's 1996 Report to the Legislature on Universal Service provided in part:

At present, no universal service funding at the state level is provided for Lifeline and Link Up assistance. While this lack of funding may have been appropriate under rate of return regulation, under which a LEC could apply for rate increases if needed, we believe it is less appropriate in a competitive climate. Those companies with qualifying customers could provide a disproportionate share of the funding for those customers, while companies with no customers would not contribute anything. This would be a disadvantage to the companies serving the most low-income customers. Therefore, we believe provisions should be made to allow future funding of these programs through the state universal service fund, to the extent not funded through the federal programs.

9. To date, no state universal service fund has been established to address these concerns.

10. By Order No. PSC-98-0328-FOF-TP, issued in Docket No. 97-0744-TP on February 24, 1998 (the "1998 Order"), the Commission adopted initial eligibility criteria for Lifeline and Link-Up and required all ETCs, including Petitioners, to file tariffs implementing the criteria. Under the 1998 Order, customers who qualified for any of six existing assistance programs were deemed to qualify for Lifeline and Link-Up. The 1998 Order did not include or establish any income-based qualifications for Lifeline and Link-Up.

11. In the Tele-Competition Innovation and Infrastructure Enhancement Act of 2003, Chapter 2003-32, Laws of Florida, the Florida Legislature established a Lifeline and Link-Up income eligibility test for customers of any Incumbent LEC authorized by the Commission to rebalance its local rates pursuant to Section 364.164, Florida Statutes. Companies subject to this legislative provision are required to provide Lifeline and Link-Up service to customers who meet an income eligibility test at 125% or less of the Federal Poverty Guidelines as well as to those who meet the program based criteria previously established by the Commission. See, Section 364.10(3), Florida Statutes (2003).

12. None of Petitioners are currently required to meet the statutory income eligibility test.

13. The PAA Order would expand the income eligibility test for Lifeline assistance to customers who meet an eligibility requirement of 135 percent of the federal poverty income guidelines and would require all ETCs to comply, including Petitioners who are not currently subject to the legislatively imposed "125% or less" income eligibility test. This imposition of new obligations is unwarranted until such time as the Commission has fully analyzed the impacts of the proposed new criteria and established a universal service fund to equitably distribute responsibility for recovery of the \$3.50 not currently recovered by participating LECs.

14. In the PAA Order, the Commission proposes to require all ETCs, including Petitioners, to provide Lifeline and Link-Up service to customers (a) whose households qualify for the National School Lunch Program or (b) whose household incomes are at or below 135% of the Federal Poverty Guidelines. The effect of the new criteria would be to significantly increase the number of Petitioners' customers who would be eligible for Lifeline and Link-Up service. Thereby imposing significant additional costs on Petitioners.

15. Petitioners' substantial interests are affected by the PAA Order because, as ETCs subject to its requirements, Petitioners would be required to implement the new criteria proposed by the Commission and fund Lifeline and Link-Up service to newly-eligible customers. By this Petition, Petitioners protest the PAA Order and request a hearing on the scope and impact of the proposed changes and the assumptions and legal authority for them. Because of the disproportionate impact of the proposed changes on Small LECs, Petitioners assert, among other things, that establishment of a universal service fund is necessary to ensure that each telecommunications company contributes its fair share.

16. Petitioners support the Lifeline Assistance program, recognizing the importance that basic telecommunications service has on all citizens, especially low-income residents. However, eligibility should not be expanded and additional obligations should not be imposed without a full and complete analysis of the costs, implications and legal authority for such changes. In addition, the burdens of the Lifeline and Link-Up Assistance program should be equitably distributed among carriers in accordance with Section 364.025, Florida Statutes (2004) expanding eligibility should not be undertaken without a full and complete assessment of the impact and distribution of universal service objectives and funding consistent with Section 364.025(2), Florida Statutes.

DISPUTED ISSUES OF MATERIAL FACT AND LAW

17. Subject to further discovery and refinement of the issues that will be appropriate for final hearing, the disputed issues of material fact and law include, but are not limited to, the following:

- (a) The costs to Petitioners and other ETCs of implementing the proposed new criteria;

(b) Whether other approaches, including, but not limited to, increased outreach programs, would more efficiently and cost effectively accomplish the Commission's stated purpose of increasing participation in Lifeline and Link-Up in Florida;

(c) Whether the proposed criteria disproportionately impact Florida's rural ETCs;

(d) Whether the proposed criteria will affect the ability of Petitioners and other Florida ETCs to continue providing service to their customers;

(e) Whether and to what extent the proposed new criteria will increase eligibility for Life and Link-Up;

(f) Whether and to what extent the proposed new eligibility criteria impact upon universal service objectives;

(g) Whether expansion of the Lifeline and Link-Up service obligations necessitates implementation of a universal service fund;

(h) Whether the Commission has the statutory authority to expand the eligibility criteria for Lifeline and Link-Up to include an income eligibility test;

(i) Whether the Commission must follow the rulemaking process set forth in Sections 120.54 and 120.541 before it can impose the proposed criteria on all ETCs;

(j) The number and distribution of additional landline customers in Florida who will become eligible for assistance under the proposed criteria;

(k) Whether implementation of the proposed criteria will materially increase landline telephone subscribership in Florida;

(l) The number and distribution of potential customers in Florida who would take landline service if Lifeline and Link-Up eligibility criteria were changed as proposed;

(m) Whether the Florida customers targeted for Lifeline and Link-Up assistance are failing to take advantage of such assistance because they have chosen to use wireless service rather than landline service; and,

(n) Whether implementation of the proposed criteria will materially increase Lifeline and Link-Up participants in Florida.

ULTIMATE FACTS ENTITLING PETITIONERS TO RELIEF

18. The ultimate facts that entitle Petitioners to relief include, but are not limited to the following: The Commission's proposal imposes an undue burden on Petitioners simply because their historical service territories encompasses a disproportionate number of economically disadvantaged citizens. Implementation of the proposed new Lifeline and Link-Up eligibility criteria in the PAA Order would increase Petitioners' costs and negatively affect the company's ability to continue providing service to its customers. Small LECs serve a disproportionately large number of low-income customers. The PAA Order will increase the number of customers eligible to receive Lifeline and Link-Up service without providing a mechanism to recover these additional costs. Small LECs such as Petitioners will disproportionately bear the burden of this increased eligibility. The financial hardship on Petitioners is exacerbated because they do not have extensive customer bases that will allow them to diffuse the costs of such subsidy and there is no mechanism to spread the costs of such subsidies across a wider base of customers.

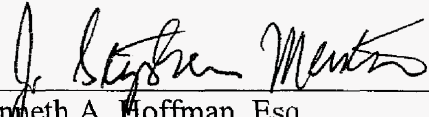
WHEREFORE, Petitioners protest the PAA Order and request the Commission:

(a) to grant Petitioners' request that a formal administrative hearing be scheduled on the disputed issues of material fact and law as set forth herein pursuant to Sections 120.569 and 120.57, Florida Statutes;

(b) establish a universal service fund to ensure that each telecommunications company contributes its fair share; and,

(c) to grant such further relief as may be deemed proper and just.

Respectfully submitted this 31st day of August, 2004.



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