

State of Florida



Public Service Commission

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COMMISSION CLERK

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

DATE: September 7, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Curry, Lewis) *KUC, CKL*
Division of Economic Regulation (Springer) *TRD*
Office of the General Counsel (Tan) *pkw CRB* *ALM (m)*

RE: Docket No. 060553-TL – Investigation and determination of appropriate method for issuing Service Guarantee Credits to all affected customers of Embarq Florida, Inc.

AGENDA: 09/19/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\060553.RCM.DOC

Case Background

In Docket No. 991377-TL, In Re; Initiation of show cause proceedings against Sprint-Florida, Incorporated for violation of service standards, by Order No. PSC-00-2462-PAA-TL, issued December 20, 2000, the Commission approved a stipulation and settlement entered into by the Office of Public Counsel wherein Sprint-Florida, Incorporated, currently known as Embarq Florida, Inc., implemented a Service Guarantee Program (SGP). The original SGP was implemented on June 1, 2001. On May 26, 2005, the Commission issued Order No. PSC-05-0586-FOF-TP adopting Rule 25-4.085, Florida Administrative Code, Service Guarantee Program, which became effective on June 14, 2005. Rule 25-4.085, F.A.C., allows a company to

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petition the Commission for approval of a SGP which would relieve the company from the rule requirement of each service standard addressed in the approved SGP. On July 15, 2005, the company filed a petition for approval of its current SGP. By Order No. PSC-05-0918-PAA-TL, issued September 19, 2005, the Commission approved the company's SGP.

In 2004 staff opened Docket No. 041113-TL, to investigate Embarq regarding its failure to issue SGP credits. Upon investigation, it was determined that due to a software enhancement to the company's billing and customer care systems that the company failed to issue SGP credits to its customers for missed commitments for installation of primary service as required by the company's SGP. By Order No. PSC-04-1037-PAA-TL, issued October 25, 2004, the Commission ordered the company to issue credits to customers in the amount of \$285,075, plus interest of \$1,486.69, for a total of \$286,561.69, for missed commitments for installation of primary service.

During the 2005 service quality evaluation, staff determined that some customers who qualified for credits under Embarq's SGP were not properly credited. Upon determining this, staff notified the company and requested that Embarq provide staff with an explanation as to why the proper credits were not issued and what actions the company was taking to correct the problem. According to Embarq, the company's failure to issue the credits was the result of two system application errors that occurred when modifications were being made to satisfy data gathering requirements associated with the implementation of the new service rules in April 2005. To resolve the issue, Embarq has proposed to issue credits to all affected customers in the amount of \$46,950, plus interest of \$2,130.16, for a total of \$49,080.16.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.01(4) and 364.285, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission accept Embarq Florida, Inc.'s proposal to issue credits as required by Embarq Florida, Inc.'s Service Guarantee Program, to all affected customers in the amount of \$46,950, plus interest of \$2,130.16, for a total of \$49,080.16, for missed commitments for installation of primary service?

Recommendation: Yes, the Commission should accept Embarq Florida, Inc.'s proposal to issue credits, as required by Embarq Florida, Inc.'s Service Guarantee Program, to all affected customers in the amount of \$46,950, plus interest of \$2,130.16, for a total of \$49,080.16, for missed commitments for installation of primary service. **(Curry, Lewis, Springer, Tan)**

Staff Analysis: Under Embarq's current SGP, if Embarq fails to install a customer's primary local service on the date the customer and Embarq have agreed upon, Embarq will issue an automatic credit of \$25.00 to the customer's account. As a result of the first system application error, Embarq failed to issue SGP credits between April 1, 2005 and May 31, 2006, for missed commitments for installation of primary service to 389 customers, with credits totaling \$9,725. Embarq estimates that approximately 120 hours of programming is needed to correct the problem. The company is currently working to resolve this issue and expects to have the matter resolved by September 2006. As a result of the second system application error, Embarq failed to issue SGP credits between September 1, 2005, and June 30, 2006, to 1,489 customers, with credits totaling \$37,225. Embarq estimates that it will take approximately six months to correct this error. While both of the system application errors are being corrected, Embarq will manually issue credits to future qualifying customers.

Embarq failed to issue SGP credits for missed commitments for installation of primary service to a total of 1,878 customers. To resolve the matter, Embarq has proposed to issue credits to all affected customers in the amount of \$46,950, plus interest of \$2,130.16, for a total of \$49,080.16. Embarq will issue the SGP credits, plus interest, no later than 30 days after the issuance for the Consummating Order. If the customer is no longer with Embarq, but has an outstanding final bill, Embarq will apply the credit, plus interest, towards the final bill. If the customer is no longer with Embarq and there is no outstanding final bill, Embarq will mail a check for the credit amount, plus interest, to the last known address on file for the customer. Embarq also proposes to contribute all unclaimed funds to the Community Service Fund for promotion of Lifeline service. The current balance of the fund is \$41,800.

Once the credits have been issued, Embarq will provide the Commission a final report within 90 days after the issuance of the Consummating Order. The report will include the following information:

- 1) The total number of customers that actually received the credit;
- 2) The total amount of money that was actually credited, including interest;
- 3) The total number of customers who did not receive the credit; and
- 4) The total amount of any unclaimed credits, including interest.

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Based on the above, staff recommends that the Commission accept Embarq Florida, Inc.'s proposal to issue credits to all affected customers in the amount of \$46,950, plus interest of \$2,130.16, for a total of \$49,080.16.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interest are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80 (13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If the Commission's Order is not protested, Embarq shall issue the SGP credits, plus interest, for missed installation commitments no later than 30 days after the issuance of the Consummating Order. If the customer is no longer with Embarq, but has an outstanding final bill, the company will apply the credit plus interest, towards the final bill. If the customer is no longer with Embarq and there is no outstanding final bill, the company will mail a check for the credit amount, plus interest, to the last known address on file for the customer. Embarq shall contribute all unclaimed funds to the Community Service Fund. Embarq shall provide the Commission with a final report no later than 90 days after the issuance of the Consummating Order, identifying the total number of customers that actually received the credit, the total amount of money that was actually credited, including interest, the total number of customers who did not receive the credit, and the total amount of unclaimed funds, including interest, that were placed in the Community Service Fund. If staff determines that Embarq has complied with the provisions of the Commission's Order, then this docket will be closed administratively. If Embarq fails to demonstrate that it has complied with the provisions of the Commission's Order, then this docket will remain open pending further action.
(Tan)

Staff Analysis: Staff recommends that the Commission take action as set forth in the above staff recommendation.