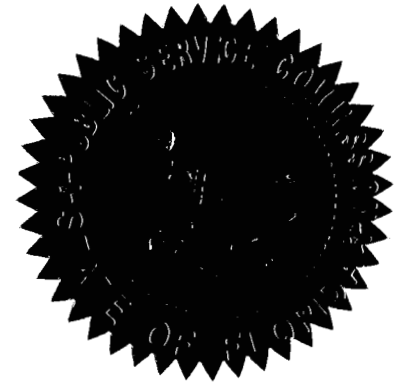


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060582-TP

In the Matter of:

PETITION OF ALLTEL COMMUNICATIONS,
INC. FOR DESIGNATION AS ELIGIBLE
TELECOMMUNICATIONS CARRIER (ETC) IN
CERTAIN RURAL TELEPHONE COMPANY STUDY
AREAS LOCATED ENTIRELY IN ALLTEL'S
LICENSED AREA.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 6

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, June 19, 2007

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

1 PARTICIPATING:

2 BETH KEATING, ESQUIRE, MICHAEL TWOMEY, ESQUIRE, and
3 STEVE MOWERY, representing Alltel Communications, Inc.

4 THOMAS M. MCCABE, representing TDS Telecom and Quincy
5 Telephone.

6 ADAM TEITZMAN, ESQUIRE, MICHAEL COOKE, GENERAL
7 COUNSEL, BETH SALAK, BOB CASEY, and DAVID DOWDS representing
8 the Florida Public Service Commission Staff.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 CHAIRMAN EDGAR: And we will begin our discussions
3 with Item 6.

4 MR. CASEY: Good morning, Commissioners, Bob Casey on
5 behalf of staff.

6 Item Number 6 addresses Alltel Communication's
7 petition for eligible telecommunications status in rural areas
8 of Florida served by GT Com, TDS Telecom, and Frontier
9 Communications. Staff has included a primary and alternative
10 recommendation on this item.

11 Primary staff believes that Alltel has met the
12 criteria required to become an ETC, and believes the public
13 interest will be served by allowing Alltel to expand its
14 coverage to include unserved or underserved areas, increased
15 service quality and reliability of its network, and speeded
16 delivery of advanced wireless services to the citizens of rural
17 Florida. Primary staff also agrees with alternative staff that
18 something does need to be done to curtail the growth of the
19 universal service high cost fund, but believe the proper forum
20 to debate this issue is in the proceedings taking place before
21 the Federal/State Joint Board on universal service and the FCC.

22 Alternative staff, as presented by Mr. Dowds,
23 believes that the Commission should make the affirmative
24 finding that given the current FCC policies that automatically
25 fund multiple providers, it is not in the public interest at

1 this time to designate Alltel as an ETC in the rural areas that
2 are the subject of this petition. Alternative staff believes
3 that funding multiple providers imposes an excessive burden on
4 Florida consumers and thus is not in the public interest.
5 Accordingly, alternative staff recommends that Alltel's
6 petition be denied.

7 Staff does have one minor change in the
8 recommendation. On Appendix A on Page 19, one rate center was
9 omitted from the list there, and staff would like to add the
10 GTC, Inc., Blountstown rate center switch to the list, which
11 has a code of BLTWFLXA. This rate center was not included in
12 Alltel's original petition, but was included in response to a
13 staff data request.

14 There are some parties here this morning who would
15 like to speak on this item. With us this morning we have
16 Ms. Beth Keating, Mr. Mike Twomey, and Mr. Steve Mowrey
17 representing Alltel, and Mr. Tom McCabe representing TDS
18 Telecom. And staff is prepared to answer any questions the
19 Commissioners may have.

20 CHAIRMAN EDGAR: Thank you, Mr. Casey.

21 Commissioner Carter.

22 COMMISSIONER CARTER: Just before we get into
23 questions, can you give that BLT --

24 CHAIRMAN EDGAR: Mr. Casey, could you give us the --

25 MR. CASEY: It is called a CLLI code, and it is

1 BLTWFLXA. That's the identification for the switch.

2 Thank you, sir.

3 CHAIRMAN EDGAR: Thank you. Okay. Before we look to
4 the interested parties that are here to talk with us, Mr.
5 Dowds, would you like to elaborate a little bit further on the
6 alternative recommendation for me, please?

7 MR. DOWDS: Certainly, Chairman.

8 Currently, there are on the order of 450 CETCs
9 nationwide drawing close to a billion dollars. In recent years
10 the growth has been astronomical, on the order of close to
11 100 percent a year. The alternative recommendation notes that
12 something needs to be done to stem the growth in the fund. The
13 only aspect that a state commission can handle is ETC
14 designation of alternative carriers in rural territories. The
15 FCC and the courts have given the state commissions great
16 latitude as to what aspects and what factors they evaluate in
17 determining whether it's in the public interest to make such a
18 finding.

19 The crux of the alternative recommendation is that
20 alternative staff does not believe it's in the public interest
21 to fund multiple providers to serve rural areas where even one
22 provider could not provide service absent a subsidy.

23 CHAIRMAN EDGAR: Thank you.

24 Let's begin by hearing from one of the
25 representatives from Alltel, since it is your petition. Who

1 would like to?

2 Ms. Keating, you are recognized.

3 MS. KEATING: Thank you, Madam Chair. Good morning,
4 Madam Chair, Commissioners. Again, as Mr. Casey mentioned, I'm
5 Beth Keating on behalf of Alltel with the law firm of Akerman
6 Senterfitt. Also with us today is Mr. Steve Mowery. He's the
7 vice-president of public policy for Alltel. Sitting behind me
8 is Denise Collins, she is the director of state regulatory and
9 legislative affairs. In addition, sitting to my right, also
10 appearing on behalf of Alltel today is Mike Twomey. And with
11 your permission, Madam Chair, Mr. Twomey will be making the
12 presentation today for Alltel.

13 CHAIRMAN EDGAR: Thank you.

14 Mr. Twomey.

15 MR. TWOMEY: Madam Chair, Commissioners, good
16 morning. Mike Twomey on behalf of Alltel.

17 Let me, if I may, Madam Chair, Commissioners, right
18 out of the box address Mr. Dowds' concerns and try to put them
19 in proper perspective.

20 The issue of 450 CETCs arguably is beyond your
21 ability to control. You have one case before you today. Your
22 ability to control the billion dollars of expenditures is
23 limited greatly because that's within the jurisdiction of the
24 FCC by and large, and with the jurisdiction of the Joint Board
25 and the recommended decision. Those decisions will be made --

1 appropriately be made in Washington, D.C. The 100 percent
2 growth per year, the same thing. We are looking at a growth of
3 ETCs that the board has recognized presents a problem, that
4 requires solutions and so forth.

5 You all as recently as yesterday have commented on
6 this situation, but the decisions aren't yours. The
7 jurisdiction is not yours. And more importantly perhaps, I
8 want to submit to you that by hurting your own, by depriving
9 the people of the Quincy area, the Alltel service area, the TDS
10 service territory, by depriving them of additional funds to the
11 potential advantage of the rest of the states of the United
12 States, the territory of Puerto Rico and others that get a lot
13 of these monies, you are not going to solve the problem of the
14 United States of America, the decisions which are better left
15 to the national level by hurting your own. And that's
16 precisely what you will be doing at the core of it if you deny
17 this petition today based upon the logic Mr. Dowds just gave
18 you. And that's all he has. He don't have any challenges to
19 whether Alltel has not met the requirements of the FCC and the
20 rules and the case law and so forth.

21 And with the exception of one minor area which the
22 primary staff very effectively rebuts, TDS bases their entire
23 case as well upon saying we have this problem with the
24 universal service fund and its growth, and let's take care of
25 that national problem by hurting the people, by depriving the

1 citizens of the state of Florida of some of that money coming
2 back to the state of Florida.

3 Now, Madam Chair, all of you are aware of this, but
4 you wrote a letter to Senator Argenziano during the regular
5 session in response to some questions she put to the
6 Commission, and one of the things in that response showed that
7 for the year 2005, which at that point was the most recent year
8 for which we had data on the universal service fund, the state
9 of Florida was the largest net contributor to the universal
10 service fund in the United States. At that point it was just
11 short of \$312 million a year net loss the people of the state
12 of Florida sent up to wherever the Joint Board sits and whoever
13 distributes the money. That's \$852,000 a day, Commissioners,
14 that was flowing out of the state of Florida to the benefit of
15 people elsewhere.

16 CHAIRMAN EDGAR: Mr. Twomey, could I ask you, I'm not
17 sure of your statement "wherever the Joint Board sits," what
18 that means. What does that mean?

19 MR. TWOMEY: Oh, it means, I don't know -- I'm
20 embarrassed that I don't know exactly where they meet. I
21 didn't mean anything.

22 CHAIRMAN EDGAR: A variety of places.

23 MR. TWOMEY: I didn't mean anything flip by it, I
24 didn't know. I had in the back of my mind that maybe they
25 didn't always meet in D.C., so --

1 CHAIRMAN EDGAR: That is correct.

2 MR. TWOMEY: But I didn't mean anything flip by it at
3 all.

4 CHAIRMAN EDGAR: Thank you.

5 MR. TWOMEY: But the point being that we have been
6 for a decade, I think, the largest net contributor to the
7 universal service fund in all four areas, whether it is
8 assistance to schools, Lifeline, high costs, and the like. We
9 have been sending a huge amount of money. Now, this is an
10 opportunity to get some of it back and benefit the citizens in
11 the Quincy area, and we should take advantage of it.

12 The decision by the FCC is not only their
13 jurisdiction, it is premature, they haven't reached a decision
14 yet. To my knowledge, Alltel's knowledge, the FCC hasn't
15 suggested that there should be a cessation by this Commission
16 or any other state commission in designating ETCs. They
17 haven't, and no other states, to my knowledge, have started
18 doing that. So you would be trying to start a trend here to
19 the clear disadvantage, we would submit, to our citizens.

20 We want to bring some of this money back into the
21 state of Florida. So you shouldn't consider these reasons
22 because it is not within your jurisdiction. It's not on your
23 plate. And the primary staff recommendation, we think,
24 methodically goes through the things you should consider and
25 concludes that Alltel meets the requirements that it should.

1 One other thing I wanted to point out that is not
2 before you, and, again, I would urge you to focus on what is
3 before you and not extraneous ancillary matters that may be of
4 a large concern, properly a large concern on the national
5 stage, but focus on the things that are before you.

6 And one of them is that you have already decided,
7 Commissioner McMurrian, that you all have the jurisdiction to
8 hear this case. You made a heartfelt strong argument in
9 opposition to it, Commissioner, but the decision has been made,
10 and I think we're comfortable that you and the rest of the
11 Commission will decide this case based upon the facts in the
12 petition as against the law, and we are comfortable with that.

13 Now, the primary staff -- I want to, if I may, go
14 through the recommendation, and I'm going to try and make this
15 as brief as I can because you have other important business
16 here today, but I want to go through the staff recommendation.
17 At Page 14, stating right in the middle, "Staff concludes that
18 Alltel has satisfied the statutory eligibility requirements of
19 Section 214(e)(1), and that its designation as an ETC will
20 further the goals of universal service," that is the
21 conclusion. And it gives some more reasons. What I want to
22 read is it says, "While ILECs may characterize ETC status for
23 wireless carriers as a windfall, and that it is unnecessary for
24 the provision of wireless phone service, staff believes that so
25 long as these carriers follow the rules for becoming an ETC,

1 that their customers continue to support the federal universal
2 service programs through payment of universal service charges,
3 and that wireless carriers further the goals of universal
4 service in Florida, then they are just as entitled to
5 participate in the federal program --

6 CHAIRMAN EDGAR: Mr. Twomey, quite frankly, I don't
7 think we need you to read it to us.

8 MR. TWOMEY: Okay.

9 CHAIRMAN EDGAR: And I would like to hear from
10 Mr. McCabe, so if you have further points to illuminate, but I
11 really don't need you to read it to us.

12 MR. TWOMEY: I will get right to it, Madam Chair.
13 Thank you.

14 Now, the primary staff goes through -- and, first,
15 they indicate that there are nine requirements, nine
16 traditional requirements that potentially an ETC has to meet
17 the designation. They list them in the staff recommendation,
18 and in the footnotes thereto they indicate one-by-one why they
19 believe Alltel has met those requirements. And, importantly,
20 neither your alternative staff, nor the sole intervenor in this
21 case has challenged that Alltel meets or will meet all nine of
22 those criteria.

23 Staff then goes on and says that there are an
24 additional five criteria required under a recent 2005 report
25 and order, and it says as well in the footnotes, it lists the

1 requirements and it says in the footnotes that Alltel has met
2 each and every one. Again, and importantly, your alternative
3 staff hasn't challenged the fact that Alltel meets or will meet
4 those requirements if granted ETC designation today.

5 The intervenor suggests that one of them, (1) on
6 terms of the amount of service required, doesn't meet it. Your
7 staff convincingly says, in my view, they rebut that and say
8 there are important safeguards in place. Your staff concludes
9 that as to the important -- so they, your staff, your primary
10 staff concludes that Alltel, as it has said, meets all 14 of
11 those criteria. Then we get into the public interest test, and
12 your staff analyzes that and says the FCC has established a
13 fact specific analysis on whether public interest is met, and
14 it concludes that they have.

15 Now, I'm not going to go into each one of those
16 elements, but I want to suggest to you one clear public
17 interest result that I believe, and Alltel believes, is
18 irrebuttable. And that is if you give ETC designation to
19 Alltel today for the TDC service territory, it's going to do a
20 lot of things, but one of the things that it is going to do is
21 it is going to expand the coverage, reduce the pockets, the
22 dead pockets in that area for service. And in doing so, in
23 addition to having just regular telecommunications services, it
24 is going to provide all of Alltel's customers there access to
25 expanded 911 public safety communications. Public safety in

1 our view equals public interest.

2 Not only is it going to by expanding the quality of
3 the service reducing these areas, it is going to benefit full
4 paying Alltel subscribers. It is going to necessarily, by the
5 availability of Lifeline funds, expand the number of persons
6 who will have Lifeline service at \$16 a month, have a cell
7 phone, and have access to 911 service where they might not
8 otherwise have it.

9 Commissioners, you're aware that particularly in the
10 Quincy area there is a large migrant population, people that
11 may not live in circumstances where they have a permanent
12 residence, where they can have a landline. There are homeless
13 people, far too many than we care to admit too often, battered
14 wives and the like who will benefit by having access to mobile
15 Lifeline 911 access. People that don't have it now will have
16 it then, and that's a public interest result that cannot be
17 rebutted. It will expand it.

18 So, with that, Madam Chair, we believe that Alltel
19 has fully and completely -- let me add again, the 911 access
20 that one has as a result of having a cell phone is far superior
21 to having it at a residence with a wireline. If your daughter
22 or son is traveling at night, you have an emergency, you have
23 access.

24 So, in conclusion, we believe that Alltel, as does
25 your primary staff, has met all the legal requirements of

1 obtaining ETC designation pursuant to the state law that gives
2 you the authority to make the designation as well as all the
3 requirements established by the FCC. We would urge you to find
4 the same and approve the PAA order so that if anybody has a
5 problem with it they can seek a hearing.

6 Thank you.

7 CHAIRMAN EDGAR: Thank you, Mr. Twomey.

8 Mr. McCabe.

9 MR. McCABE: Good morning, Tom McCabe on behalf of
10 TDS Telecom.

11 To be quite honest, I'm not really sure where to
12 begin at this point in time. But, for the new Commissioners,
13 let me just share with you, TDS, we are a small incumbent local
14 exchange company. We serve Gretna, Greensboro, and Quincy. We
15 have about 9,500 residential access lines. We have about
16 13,000 access lines in total.

17 Mr. Twomey has made a lot of comments regarding what
18 we challenged and did not challenge. Under Section 214(e), the
19 primary focus that the Commission needs to make in establishing
20 additional ETCs in a rural area is not on the nine items that
21 Mr. Twomey identified, but it's whether or not it is in the
22 public interest, and that is the primary focus.

23 Now, one of the items in the primary staff
24 recommendation tends to allude that it is going to foster
25 competition in this marketplace. In this marketplace we

1 already have AT&T Wireless, we have Sprint Nextel Wireless, we
2 have Verizon Wireless, we have Alltel Wireless. In addition,
3 we have Mediacom providing voice over IP. Providing additional
4 universal service support to -- high cost support to Alltel is
5 not going to change that mix at all. Plain and simple, all the
6 same carriers will be there tomorrow.

7 Now, as far as hurting Florida consumers, Alltel
8 receives, based on their 10K report, 65 to \$70 million a
9 quarter. Florida residents are contributing to that. In a
10 study by Verizon that was just recently released, that USF
11 subsidy represents, like, 27 percent of their operating
12 revenues. What it is is a subsidy. It is not going to have
13 any benefits to the consumers in Quincy, contrary to
14 Mr. Twomey's claims. Because, one, first of all, there has
15 been no finding that the other wireless providers aren't
16 meeting those needs.

17 The other area I would like to just touch on is
18 Lifeline. Alltel has attempted to solicit the input of various
19 legislators who filed letters in support of their petition
20 before this Commission. And I found it really rather
21 interesting, given the amount of attention that Lifeline has
22 garnered in the state of Florida.

23 Under Alltel's Lifeline program, customers receive a
24 discount off of their lowest plan, which I believe is 29.99,
25 and I think in staff's recommendation it indicates it is 16.70

1 a month. That is for five hours of local calling. After that,
2 that's 45 cents a minute. Compared to mine, where I'm required
3 to provide Lifeline at a rate that equates to about \$6.

4 I would be more than happy to turn around tomorrow
5 and offer my Lifeline service at 16.70 for five hours a month,
6 but I don't think that's what the legislature intended. When
7 we went through rate rebalancing legislation, one of the items
8 that the legislature made sure was not going to change was
9 rates for Lifeline customers. So I don't think that you can
10 sit there and look at Alltel's arguments that this is all about
11 increasing Lifeline availability in Gadsden County, it's not,
12 it's about getting access to high cost dollars, which Florida
13 residents will be contributing to.

14 When I look at the public interest issues here, I
15 think one of the things that you have to consider is the fact
16 that we only have 13,000 access lines. There's a lot of
17 uncertainty in terms of what is going to happen with the Joint
18 Board recommendation and what decisions that the FCC ultimately
19 makes on universal service support. Does it become an auction
20 type of situation, is it one line per -- is it a situation in
21 which a customer gets to designate who their USF support comes
22 from?

23 Those are all going to have public policy impacts on
24 rural areas. And I have laid out a couple of recommendations
25 here in terms of what the Commission should consider in

1 granting something in the public interest. One would be that
2 Alltel would be required to provide Lifeline service at a rate
3 that's comparable to that of the incumbent local exchange
4 company. In addition, I think if you look towards what has
5 occurred over the last couple of years and during the last
6 session with regard to what the appropriate local exchange rate
7 is. Last year the legislature took away the ability for local
8 phone companies to increase local rates.

9 And interestingly enough, Mr. Twomey argued that that
10 legislation needed to be passed. Yet, what he is asking for
11 today is allow an ETC, a universal service provider, to charge
12 whatever they want. It might be if you want 500 minutes of
13 local calling it's going to cost you 59.99. Or, if you only
14 want five hours of local calling it is going to cost you 29.99.
15 Yet my rate of \$13.20 for unlimited calling was considered to
16 be too high, in his opinion. So I find it somewhat interesting
17 how, you know, we are here today and the positions that we are
18 taking.

19 With respect to customer complaints, those are items
20 that I think that if you are going to be accepting these high
21 cost dollars and universal service support, perhaps it would be
22 appropriate that the Commission deal with customer complaints.
23 There was a recent article in The Democrat where customers were
24 complaining about Alltel service, yet they have nowhere to turn
25 to other than to Alltel. If customers have any problems with

1 my service, they turn to the Public Service Commission, and the
2 reason being is that I am a universal service provider, the
3 same designation that Alltel is asking for today. So I think
4 those public policies issues should be looked at.

5 The other thing I think that the Commission might
6 want to consider is going to the legislature and asking for
7 Alltel, or any ETC, to contribute to the regulatory assessment
8 fees. I'm sitting here today paying regulatory assessment
9 fees. I have Alltel sitting next to me asking for the same
10 thing that I do and they are free of paying regulatory
11 assessment fees. All I'm looking for is to have the same
12 opportunities as they are.

13 Thank you.

14 CHAIRMAN EDGAR: Thank you, Mr. McCabe.

15 Commissioners, questions at this time?

16 Commissioner McMurrian.

17 COMMISSIONER McMURRIAN: I guess I should start with
18 a comment, since I was mentioned in Mr. Twomey's opening
19 arguments, that I do still believe in the things that I said at
20 the last agenda conference, but I do respect that the
21 Commission made a decision to assert jurisdiction and I will
22 stand behind that in making its decision and moved on. And, of
23 course, I have no concerns about any particular company being
24 granted ETC status any different than any other ETC.

25 So, I guess with that said, I thought that frankly

1 just to share with you, I kind of thought that this decision
2 today would be easier than the last. But I believe that both
3 staff's primary and alternative recommendations have merit, and
4 I just wanted to share that with all of you and wanted to get
5 your perspectives on it, as well.

6 I guess I will start with a question. Mr. Twomey
7 mentioned the additional five criteria on the top of Page 7.
8 And staff and I talked about this at length last week, but that
9 first criteria there listed at the top of Page 7, that
10 commitment and ability to provide the supported services
11 throughout the designated area. When I read the footnotes and
12 what Alltel asserted with respect to that criteria, I had some
13 concerns, and I guess it's just because I want to have a better
14 understanding of what that criteria means. Does commitment and
15 ability means that Alltel has to say that they right now, as of
16 today, commit to providing the supported services throughout
17 that entire designated area and that they have the ability
18 today to do that?

19 I realize that staff has explained in response to
20 TDS's arguments that it believes safeguards are in place, and I
21 believe that has merit, as well, but what exactly does that
22 criteria mean? Do we have to say, does Alltel need to say --
23 and I would like to hear from Alltel as well on this, and even
24 TDS, but, Staff, what do you believe that commitment means?

25 MR. CASEY: They have requested certain rate centers

1 to receive ETC status in. And what they are saying is that
2 they will provide services throughout those rate centers. If
3 they can't, they will have to report it to us.

4 COMMISSIONER McMURRIAN: A follow-up, Chairman.

5 So they don't have to say today that they commit to
6 serve every nook and cranny of that designated area if they are
7 designated or that they have the ability today. They just have
8 to say that they will look at it going forward and they will
9 let us know if they can't, is that the way it has consistently
10 been determined by this Commission, and I guess in other ETC
11 designations?

12 MR. CASEY: Yes, ma'am, that's my understanding.

13 COMMISSIONER McMURRIAN: Okay. I guess, Mr. Twomey,
14 did you want to -- Mr. Mowery.

15 MR. MOWERY: What the FCC has said is that it doesn't
16 necessarily mean that you are presently serving every consumer.
17 They recognize there are dead spots, or spots where coverage
18 may be weaker, and that is what the funds are used for is to
19 bring those up to the level where you can eventually serve
20 every customer in every case. But what the process, I call it
21 the six-step process that the FCC established in Virginia
22 Cellular, and that is that if we find a customer who our signal
23 presently doesn't reach today, and somebody wants service, we
24 have to go through a series of six steps of trying to find a
25 way to provide him service. And that goes from dealing with

1 the different handsets, to putting an antenna on top of his
2 house, to building a cell tower or tweaking an existing tower
3 to provide that service, and that's what the funds are used
4 for.

5 In the case, which would be very rare based on our
6 experience in the 28 states where we operate, that we couldn't
7 provide him service, we would have to come to you and tell you
8 we can't provide him service. Here is what we have tried to
9 do. Here is what it would cost to provide him service. Is
10 this a reasonable use of universal service funds to do this for
11 this particular customer.

12 Now, we have never had to do that so far in 28
13 states, but I can't sit here and tell you that it could never
14 happen. It could if you had a very remote request. And that's
15 why the checks and balances are there of coming to you in the
16 case where we can't provide service to explain to you why and
17 get your concurrence in that.

18 COMMISSIONER McMURRIAN: Mr. Mowery, before we get to
19 Mr. McCabe, does TDS have that option to come and say that we
20 can't serve in every nook and cranny?

21 MR. MOWERY: You know, I'm not particularly familiar
22 with TDS's Florida tariffs, but from my experience in the
23 former wireline world, our tariffs generally allowed a
24 requirement for a customer to contribute to construction of
25 facilities in remote areas. I don't know if that is the case

1 in Florida or not, it is in most of the country. And we don't
2 have that in ours. There is a little difference between
3 wireline and wireless in that respect, so we would use
4 universal service funds where a wireline company would
5 typically say aid to construction is X, customer, do you still
6 want service.

7 COMMISSIONER McMURRIAN: Thank you.

8 Mr. McCabe.

9 MR. McCABE: Well, I guess the comment I would make
10 is that one of the things that we seem to be doing, or at least
11 Alltel is wanting this Commission to do is rely on the FCC to
12 develop your public policy. The way it works with us is that
13 we don't get universal service support until that money is
14 already spent, which is different than what the wireless
15 carriers are asking for today. They want the money first, and
16 then they will figure out how they plan to spend it. And if
17 you look in their petition, they make reference to the fact
18 that they may need to spend that money somewhere else,
19 depending on market conditions.

20 Now, one of the things that TDS has just done at the
21 FCC is file for revocation of Sprint Nextel's ETC application
22 in Virginia because they have been telling the Commission, the
23 FCC for the past three years that they are going to be
24 deploying, you know, these towers and such in rural areas. And
25 it has never occurred, yet they have been getting those

1 dollars.

2 So what we are asking is to rely on the FCC for the
3 public policy, I think, is a mistake. I think what you need to
4 look at is will all the residents in Gadsden County, if TDS was
5 to be out of business tomorrow because we could not support
6 multiple carriers in that location, have access to the same
7 types of services, same level of service, same types of rates,
8 and the quality of service that you would expect? And so then
9 the question is is it appropriate if someone lives down on the
10 lake where there is a whole bunch of coverage from trees, that
11 the signal is not good, that the person needs to go outside and
12 stand on top of the deck to get a cell phone call? Those are
13 public policies decisions that you have to make. And from an
14 ETC standpoint that is where we are talking about. What is the
15 universal service obligation that we want as a public policy.

16 COMMISSIONER McMURRIAN: Another question for staff.
17 If going forward, and I know that you have said in the
18 footnote, I believe in Alltel's, if going forward they have
19 some problems serving a customer or are unable to for some
20 reason and they report that to us, what ability do we have to
21 address that? Do we have the ability to go as far as to say
22 that your ETC status is revoked?

23 MR. CASEY: That is one understanding that we always
24 tell the ETCs, we could give ETC status, but we can also take
25 it away. We do have that authority.

1 CHAIRMAN EDGAR: Commissioner Argenziano.

2 COMMISSIONER ARGENZIANO: Yes. If you would, I have
3 a few questions to sort of bring me up to speed, and maybe
4 staff can help me with a couple of them. From my understanding
5 of the universal fund, would this be the first wireless to be
6 designated as an ETC?

7 MR. CASEY: This would be the first wireless
8 designated as an ETC by this Commission. The FCC has
9 designated wireless in the state of Florida, yes, ma'am.

10 COMMISSIONER ARGENZIANO: Right, okay. And the
11 original purpose for the universal fund, wasn't it to provide
12 rural areas, and at the time I guess a wireline, for the
13 purpose of having the phone or that communication? And it
14 seems to me like maybe we have diverted from its original
15 purpose in expanding for competition. I don't know that the
16 original purpose of the universal fund was to include
17 competition as much as it was to make sure there was a line of
18 communication to that rural area. Am I correct?

19 MR. CASEY: Yes, Commissioner. That is not the
20 primary focus is competition, that is just something that comes
21 along with it.

22 COMMISSIONER ARGENZIANO: Right. And now that that
23 is coming along with it, it seems to me that has expanded the
24 cost to the Florida consumer a great deal.

25 Is that part of what is happening when we are saying

1 that a lot of money, and as Mr. Twomey mentioned, too, a lot of
2 money is coming out of the state of Florida which hurts the
3 consumers if it's not coming back. And without guarantees and
4 without accountability.

5 And the next question, if I may ask, what I have a
6 hard time with, is how do I know as a Commissioner, and I
7 believe it is under my jurisdiction to want to know where the
8 money goes, is it really being used for the purpose intended?

9 MR. CASEY: On an annual basis they are required to
10 recertify with us, and that is part of the requirements that we
11 can have is show us where the money went. In other words, on
12 an annual basis, they have to certify with us and then we turn
13 around and certify them with the FCC in order for them to
14 receive those universal service funds. And part of the
15 criteria which we can establish is, well, you received this
16 much money in universal service funds that year, where did it
17 go? Did it stay in the state of Florida? If so, what areas,
18 were they rural areas or were they urban areas?

19 COMMISSIONER ARGENZIANO: To that point, if that's
20 the case, then why is the money leaving so fast and not coming
21 back? If we have a mechanism, and obviously the record shows
22 that the money is not being used specifically in the state of
23 Florida, I mean, I know it is to help other states also, but I
24 am just having a hard time. It looks like the fund may be
25 broken, and I think part of my jurisdiction is making sure that

1 the citizens of the state of Florida are not caused an undue
2 burden from a broken fund. And I am just real concerned that,
3 as Commissioner McMurrian just mentioned, that in the language
4 it says that they can take that money elsewhere, and I see that
5 as a real problem for Florida citizens.

6 Thank you.

7 CHAIRMAN EDGAR: Thank you.

8 I have a couple of kind of follow-up questions
9 perhaps along some of those same lines. In the written
10 material that we have and in some of the comments and arguments
11 that Mr. Twomey -- and this is to staff right now -- that Mr.
12 Twomey shared with us, there are a number of commitments that
13 are being made by Alltel if, indeed, this designation were to
14 be approved: To reduce dead pockets in the service area, to
15 improve public safety, to help battered women. I heard and
16 have read about that certification process that you have laid
17 out to us, but could you go into a little more detail about
18 what type of after-the-fact evaluation is or is not done or
19 available to have a better feel for how many of the commitments
20 are met or to what degree?

21 MR. CASEY: One of the requirements is that they
22 submit a five-year plan on an annual basis to us. And we have
23 the five-year plan where they show us where they are going to
24 spend the money. And then the following year we could say,
25 okay, did you do this, did you do this, and go right down the

1 line to see if they did meet their commitments.

2 CHAIRMAN EDGAR: Commissioner Argenziano, did you
3 have a follow-up question, as well?

4 COMMISSIONER ARGENZIANO: Yes.

5 Well, then there should be a record that shows how
6 much money they are getting from the citizens of the state of
7 Florida and how much money they are actually spending. And
8 obviously it seems very lopsided. So I think what you are
9 telling me is though you can look at that, you must have found
10 that many times the money is not going to those commitments, is
11 that correct?

12 MR. CASEY: Well, Alltel presently --

13 COMMISSIONER ARGENZIANO: Not Alltel. I can't say
14 Alltel because I know they are here asking for that, and you
15 have the past -- you have other ETCs that you apply this
16 practice to, right, and you are looking at their commitments
17 and seeing if the dollars -- is there some kind of ratio, do we
18 know if those commitments are met on a regular basis?

19 MR. CASEY: Mr. Dowds, I think, wanted to respond.

20 MR. DOWDS: Commissioner, in Florida there is
21 basically a disconnect between contributions, which is in the
22 aggregate, what Florida consumers pay and what they receive.
23 There are many factors that account for that, but the major
24 reason on the contribution side is it looks like a tax. It's
25 called a contribution factor. It's assessed on a quarterly

1 basis based on interstate and international end user revenues,
2 which is predominately wireless and long distance. Because of
3 the calling characteristics of Florida consumers, they generate
4 a lot of toll calling, so proportionately they end up paying
5 the lion's share under virtually any mechanism for universal
6 service.

7 Generally speaking, in terms of the contribution
8 percentage, Florida ranks about number four. Even though they
9 have been considering for five years to changing that, most of
10 the proposals really won't change the relative ranking on the
11 contribution side of Florida.

12 On the funding side, especially for high cost,
13 Florida is not truly a high-cost state, so consequently there
14 are fewer dollars that carriers want to go after, which is why
15 we have fewer CETCs in Florida because it's the
16 follow-the-money sort of logic. There are many other states
17 where on a per line basis there is much more money available,
18 so consequently they go there first. Does that help by way of
19 background?

20 COMMISSIONER ARGENZIANO: Yes, in a way.

21 But, I think I'm having a hard time. I feel like
22 Floridians are -- and it's obvious -- we are subsidizing other
23 states. And one of my concern's is that -- I guess at the
24 federal level they are going to be addressing this, and my
25 concern is adding more burden or more ETCs in a fund that is

1 broken right now. I don't feel like I have accountability
2 really.

3 I know that you go in and you say that you look and
4 say, okay, this is what you committed to and this is what we
5 are going to see if you did or not, but I have no record before
6 me that gives me a good clean feeling that those commitments
7 are being met. And it seems to me there is always an out to
8 take that money to another state. So I'm really concerned, and
9 I guess I just don't feel comfortable. I see Mr. Twomey is
10 waving.

11 Maybe you want to add to that, Madam Chair.

12 CHAIRMAN EDGAR: Thank you.

13 Mr. Twomey.

14 MR. TWOMEY: Yes, ma'am, thank you. I would like to
15 briefly.

16 Commissioner Argenziano, as Mr. Dowds said,
17 essentially, the contribution each of us pays, those of us that
18 have the designated funds monthly is pretty much beyond our
19 control to reduce. We pay that in and it goes to the national
20 distribution.

21 COMMISSIONER ARGENZIANO: Excuse me, Madam Chair, if
22 I may. I'm sorry to interrupt you, but it is in our control to
23 not maybe increase it.

24 MR. TWOMEY: Yes. To the extent that you consider
25 that you do it through this. What I want to urge you to

1 consider is that as your staff and the company has indicated
2 here, the amount of money that Alltel would get from ETC
3 designation which would be expended on high cost areas, and as
4 Mr. Mowery can tell you and your staff has told you, there are
5 rather rigid reporting requirements to ensure that any ETC,
6 Alltel included, must spend the money on the universal service
7 purposes that it's allowed for. It can't take it out of the
8 state. It can't spend it on equity. It can't spend it on
9 profits. It has to spend it on universal service applications,
10 which in this case would be expanding the number of cells,
11 increasing the service quality throughout the area. That's
12 very highly regulated and you have the ability to check that on
13 an annual basis through your staff. And as your staff said, if
14 they don't meet those requirements, you can decertify them,
15 take care of that.

16 The bigger thing, though, is going back to the --
17 like the Lifeline situation, I think we all realize that we
18 spend a lot of money in Florida going to the national Lifeline
19 fund, which is one of the four components of the universal
20 service fund, and we got relatively little back because we
21 didn't have a high enough membership in the fund. And so what
22 we end up doing is while we are sending a lot of money out in
23 Lifeline, as the Commission through its excellent program now,
24 and in conjunction with DCF dramatically increases Lifeline
25 registration in the state of Florida, then we will start

1 getting some of that money back.

2 CHAIRMAN EDGAR: Mr. Twomey, could I follow up on a
3 couple of the comments you have just made?

4 MR. TWOMEY: Yes, ma'am.

5 CHAIRMAN EDGAR: You mentioned the amount of money
6 that Alltel will -- additional money that Alltel would be
7 receiving if ETC status were to be granted. How much money
8 does Alltel estimate that to be?

9 MR. TWOMEY: Mr. Mowery can address that.

10 MR. MOWERY: Present estimates are about \$3 million
11 per year.

12 CHAIRMAN EDGAR: About 3 million annually.

13 MR. MOWERY: Let me make sure I don't have my states
14 confused. I believe it is about \$3 million per year.

15 CHAIRMAN EDGAR: Okay. And we also are hearing about
16 if ETC status were to be granted to Alltel under the scenario
17 that is before us, that Lifeline registration for Florida would
18 go up, and, therefore -- or that Lifeline registration in this
19 service area will go up and, therefore, additional Lifeline
20 dollars will come back into the state.

21 What is the estimate that Alltel has as to annually
22 how many new Lifeline customers will be signed up if ETC status
23 is granted?

24 MR. MOWERY: I really don't have an estimate of that.
25 It will be available to those customers for the first time, and

1 we will be doing significant advertising. And with the
2 automatic enrollment that we have now started, we are hopeful
3 that it will be significant, but I don't have an estimate that
4 I can give you as to how many that will be. What it will mean,
5 though, is that there are consumers who presently have that
6 need and no availability that will now have that availability.

7 CHAIRMAN EDGAR: Mr. McCabe, do you have a comment on
8 that?

9 MR. McCABE: Yes.

10 I'm not sure exactly what the figures are because it
11 is a little bit difficult to figure out the FCC reports, and
12 I'm sure that staff knows what that is, but I believe Alltel
13 receives about a million dollars in ETC for the nonrural areas
14 in which they have been designated in the state of Florida.
15 For the past two years, during that time collecting a million
16 dollars, they have been able to get 31 Lifeline customers. So,
17 you know, this commitment --

18 CHAIRMAN EDGAR: Was that 31?

19 MR. McCABE: According to the December 31, 2006,
20 report, that was the figure that was listed, I believe, was 31.
21 And that is over two years. When we are looking at Lifeline,
22 you know, when we are saying that people can't afford \$13,
23 trying to find a jump to how they can afford 16.50 for five
24 hours of calling. Now, perhaps they are wanting to commit to
25 providing an unlimited Lifeline plan with unlimited --

1 comparable to the service that I offer today. I don't think
2 that you are going to see that.

3 Now, just as on observation with regard to the
4 jurisdiction. We supported that 100 percent. Interestingly
5 enough, a couple of years ago, we sat before this Commission
6 arguing that the Commission should assert that jurisdiction,
7 and the Commission at that time was a 3/2 vote, and
8 interestingly enough, it was Alltel that told you you didn't
9 have that jurisdiction. Rather than going to the legislature
10 for that jurisdiction, they said you don't have it, go to the
11 FCC where the FCC was rubber-stamping this.

12 What has happened is that the FCC stopped
13 rubber-stamping these. Now Alltel is back with regard to the
14 legislation that was passed, I believe it was 2005. If you go
15 back and look at what was happening at the time, state
16 commissions were going after wireless carriers in order to go
17 after the terms and conditions, the disconnect fees. So they
18 said we will pass some legislation to make sure that state
19 commissions won't have access to wireless regulation, but now
20 they are looking at that as a loophole to come back before you
21 today and say, hey, the Florida legislature gave you that
22 jurisdiction for ETC status.

23 I just don't think that the public interest
24 determinations have been met in this docket, which is precisely
25 what Section 214(e) requires. And the bottom line, I think, is

1 that you have to look at it from the standpoint of what happens
2 if the incumbent exchange carrier no longer exists. Because
3 under the Telecom Act, I have the ability to relinquish my ETC
4 status. Now, I understand that there is some differences, you
5 know, with regard to Florida Statutes with respect to carrier
6 of last resort. But under the federal act I have the ability
7 to relinquish my ETC status. And then the question is who is
8 that ETC provider? If you designate Alltel, you need to make
9 sure that they have public policy interest in place in order to
10 continue what you believe is in the best interest of Florida
11 consumers.

12 MR. TWOMEY: May I respond?

13 CHAIRMAN EDGAR: You may.

14 MR. TWOMEY: Thank you, Madam Chair.

15 First, as to them, TDS giving up their ETC status,
16 that's not before you. That is a parade of horrors that is
17 not before you, and I would suggest to you, ask yourselves what
18 is TDS's dog in this hunt, in the fight?

19 As to the one million dollars and 31 alleged Lifeline
20 subscribers, it's important to keep in mind that the one
21 million dollars is not tied to just Lifeline, it's tied to the
22 high cost and all the universal service funds. And Mr. Mowery
23 can tell you those monies, if they were spent properly, and
24 presumably they were, were spent to increase cell coverage and
25 expand the coverage in these rural areas so that the rural

1 folks, pursuant to the universal service fund goals, would have
2 services that are comparable to people that live in more urban
3 areas. That's one of the primary goals.

4 So the money wasn't just tied to providing Lifeline
5 assistance so you could say let's divide a million dollars by
6 31, and that looks horrible, let's not give any more of that.
7 It had a broader purpose. And if your staff follows these
8 reports, and they have very specific reporting requirements for
9 wireless companies that are substantially more specific than
10 for ILECs.

11 The business of the five hours, as you may or may not
12 be aware, probably most of you are, if you have a cell phone
13 and you use your five hours, and you don't recharge it, you can
14 still use the device at no cost for 911 service. You're still
15 there. You have mobile 911 service at no cost. That is a real
16 benefit, Commissioners.

17 And, again, I want to briefly say that we have a
18 large population, an increasing population of people in this
19 country and particularly in the Quincy area, that may not have
20 the security, financial security checks necessary to get
21 landline service because it's required, may not have a home,
22 may not be in a home long enough to have landline service, may
23 be in a shelter or whatever so that you have these services.

24 And, Commissioner Argenziano, the issue here is your
25 staff would say that there is an infinitesimal increase from

1 this \$2 million or \$3 million in the amounts that Florida would
2 pay and that people nationally would pay.

3 And meanwhile, other states are granting ETCs.
4 That's part of the problem is like with Lifeline, other states
5 took more, California, New York, Texas, and others because they
6 had substantially higher rates. Our money was going out to
7 support them. Now we are going to have some come back. The
8 same is true here. You ought to be asking yourself would
9 granting this ETC designation and providing, Commissioner
10 Carter, somebody mentioned, I think Mr. McCabe, that
11 legislators were solicited to write, and I'm not sure if they
12 were solicited or not. Representative Curtis Richardson has
13 written and said this is a good idea, please adopt it for the
14 people of my district in Quincy. But what is going to happen
15 is you are going to have a certain body of people that cannot,
16 for various reasons, including that they may not want a
17 landline phone, it's going to allow them to have access to
18 wireless and with it the public safety benefit of having
19 essentially nonstop mobile access to 911. We think that's a
20 clear benefit.

21 CHAIRMAN EDGAR: Thank you, Mr. Twomey.

22 Mr. Dowds.

23 MR. DOWDS: Just a few comments based on the
24 discussion to this point. Commissioner Argenziano mentioned,
25 or actually I didn't get a chance to answer her question to the

1 effect that, yes, Florida subsidizes the provision of telephone
2 service in Montana, Wyoming, and Alaska. There are about four
3 or five states that are the lion's share of the net
4 contributors, notably Florida and New Jersey come to mind.

5 Earlier, Mr. Twomey said that, quote, the decisions
6 are not yours to make. And that's not completely true. ETC
7 designation is the one responsibility that is reserved to state
8 commissions for especially in rural areas. The FCC has not
9 promulgated rules dictating how the state commissions can do
10 it, what factors to consider.

11 They tried to do this back in 1997 and they were
12 overturned by the Fifth Circuit Court of Appeals in 1999. The
13 FCC doesn't touch it. That's why, for example, the five
14 criteria that are on Page 9 or thereabouts, those were adopted
15 by the FCC where they do designations, and they suggested that
16 it would be nice if the states adopted them. Florida did,
17 quickly; but they are voluntary.

18 The onus is on this Commission as to what factors it
19 wants to consider to make a public interest determination.
20 Just to reiterate, this is a case of first impression on a
21 couple of counts. One, it is the first wireless carrier
22 seeking ETC designation that this Commission has considered.
23 Second, it is the first company in a rural LEC territory. So
24 you do have discretion.

25 As to the other aspects, Mr. Twomey is absolutely

1 right, you can't dictate the size of the federal fund. That is
2 under the purview of the FCC. Another point of clarification,
3 Mr. Twomey referred to 14 criteria. And strictly speaking,
4 that is not correct, either. The first nine items on Pages 4
5 through 6 is an enumeration of what is referred to as the,
6 quote, supported services. In other words, as a precondition
7 to be eligible to receive universal service funding you have to
8 provide those, quote, supported services.

9 The Joint Board periodically makes recommendations
10 whether or not to amend the definition of supported services,
11 usually about every four or five years, and they make a
12 recommendation to the FCC as to whether the definition should
13 be changed and the FCC acts. And that is the only meaningful
14 rule that has anything to do with ETC designation that comes
15 out of the FCC. They get to define what the supported services
16 are, they don't get to tell you what public interest factors
17 you need to consider in performing ETC designations in rural
18 areas.

19 Mr. Twomey a minute ago used the phrase infinitesimal
20 to refer to the amount of funding. And with all due respect to
21 Mr. Mowery, I'm sure he is trying to keep track of umpteen
22 states, Alltel made a filing in March, I believe, a
23 supplemental filing in this docket, and he indicated that based
24 upon September '06 data if they received funding in these three
25 small rural LEC territories, they estimate they will be

1 receiving a little over \$6 million a year. And it harkens back
2 to the old Senator Dirksen (phonetic) comment of decades ago,
3 to see how old -- if anyone remembers this, about a million
4 here and a million there you are eventually talking about real
5 money.

6 CHAIRMAN EDGAR: Commissioner Carter, I know you had
7 a question earlier.

8 COMMISSIONER CARTER: Yes, Madam Chairman, I do, but
9 first I would like to make a couple of comments here.

10 It's really interesting to me when we look at the
11 fact that Florida has traditionally been abysmal in our
12 Lifeline. Let's just -- let's call it the way it is. Let's
13 don't play games. Florida has been abysmal. I mean, this
14 Commission, we have done -- we have done a yeoman's job, in my
15 opinion, at trying to get people signed up. We are even doing
16 it today as we speak. And the agreement that we signed this
17 year with Children and Family and going out individually as
18 Commissioners, as well as working with our different
19 organizations to rectify that. And I'm pleased with what we
20 are doing so far.

21 Secondly, is that anytime -- and to me anything that
22 we can do that is legal, moral, and ethical that can increase
23 our Lifeline participation, we should be doing that. So I
24 wanted to say that up front. To kind of put my questions and
25 my concerns in their proper context, first of all, is that I

1 have heard conversation about AT&T and other wireless companies
2 currently operating in Florida, but I didn't hear anything
3 about what they are paying in terms of when they provide
4 Lifeline support. I haven't heard anything about any others.

5 It seems to me that this is a case of first
6 impression. Staff has said that based upon, from my reading
7 it, they have found that it meets the factors that we should
8 consider in terms of the public interest. And, I mean, I don't
9 see anything here that will preclude us from agreeing with
10 staff's opinion that this would be an opportunity for us to
11 provide greater opportunities for increasing our numbers
12 at Lifeline, increase our numbers at Lifeline, is that if you
13 couch this in the context of Alltel versus TDS, you missed the
14 boat. You totally missed the boat.

15 This is a process whereby we can provide greater
16 Lifeline services in one of the poorest areas of the state of
17 Florida, probably in the country. And I think we should not
18 lose sight of that focus, because it is really all about the
19 people. Is that we had -- just in Internal Affairs yesterday
20 we talked about sending comments to the FCC about what Florida
21 does and what we are in terms of net contributors to the fund.

22 We can't control that right now. That's not before
23 us. What is before us now is the company decided to say even
24 though we are a wireless company, we want to apply for ETC
25 status, and in the process of applying that these are the

1 conditions that you can judge us by and hold us accountable to
2 that. And at the end of the year, even though they submitted a
3 five-year plan, at the end of the year you can say did we do
4 this or did we not. If we didn't do this, yank our
5 certification. Now, if I am missing anything, Staff, tell me
6 now. Am I missing anything in my characterization of this?

7 MR. CASEY: No, sir.

8 COMMISSIONER CARTER: Okay, good.

9 May I proceed, Madam Chairman?

10 CHAIRMAN EDGAR: Is there a question coming? I'm
11 just curious.

12 COMMISSIONER CARTER: I'm pretty much on the soapbox
13 right now.

14 CHAIRMAN EDGAR: Go right ahead.

15 COMMISSIONER CARTER: And I feel passionate about
16 what we should be doing for Lifeline. Is that -- I mean, we
17 have gone to churches, we have gone to schools, we gone to
18 gymnasiums, we have gone to parks, we have gone to fishfrys,
19 hotdog, weenie roasts, everything possible to increase our
20 numbers on Lifeline.

21 I have gone to public housing, and a lot of you have
22 gone to similar settings. We have gone to rural areas, we have
23 gone to municipalities. And I'm telling you, Commissioners, is
24 that we really need to do something about our Lifeline numbers.
25 I think somebody mentioned California earlier. PURC, which

1 works here at the University of Florida, they did a study that
2 they presented last year, and found that Florida was right --
3 we were worse than Idaho in our percentage of Lifeline
4 participation. California, believe it or not, was over
5 100 percent. So it seems like to me the money is going
6 someplace, and I think the money should be going where it is
7 needed most. And let's do something to help the poor people of
8 Florida. Let's provide an opportunity for them to have
9 service.

10 Yes, there are a lot of poor families that don't have
11 landlines. They have cell lines and all like that, but they
12 are they are entitled to call the doctor as much as anybody
13 else. They are entitled to call 911, first responders as much
14 as anyone else. And I think that if we can do something that
15 is within our jurisdiction to do, based upon the terms and
16 conditions, it benefits the public interest, and I see nothing
17 in here, in staff's report, to say otherwise, if we can do
18 that, plus we can benefit our citizens that are in most need, I
19 think that is what we should be doing. I forgot my question.
20 That's just what I think.

21 CHAIRMAN EDGAR: Commissioner Argenziano.

22 COMMISSIONER ARGENZIANO: Thank you. Just a couple
23 of things.

24 First, let me just clarify what I was saying. I have
25 been a very strong supporter of Lifeline, and I understand your

1 commitment to Lifeline. I think it is an incredible program
2 that needed to be expanded. Because, as you know, I passed
3 legislation. This Commission has done a great job. And so I
4 want you to know I'm a very big supporter of Lifeline.

5 However, I would like to tell you in my experience in
6 the legislative process, I have seen Lifeline used as a
7 sweetener many, many times. Lifeline is extremely important,
8 but you use it as a sweetener and sometimes you don't divulge
9 the bitter components and you just look at that sweetener. And
10 I have seen in the legislative process, we have passed some
11 pretty lousy things in the name of the sweetener, and I'm going
12 to be real careful not to do that here.

13 My question now goes to what findings are there that
14 the people of Quincy and that area are in need of the services?
15 And my concern is that, as I heard here before, I think,
16 correct me if I'm wrong, that five hours is at 13, whatever,
17 \$13.50, anything above that is 45 cents? Because these people
18 now, it is not just calling 911, and not just, you know, there
19 are other phone calls, doctor phone calls, but at what point do
20 they get charged 45 cents a minute? And I think that is
21 somewhat exorbitant and frightening for those people who are
22 most eligible.

23 And then the back end of this whole thing is I love
24 Lifeline, but I want to make sure that there is not the
25 bittersweet pill that's following it. And are there findings

1 that say that the people who are not eligible for Lifeline
2 should be paying in more? Because, you know, you offset at
3 some point. And I need to know a little bit more about the
4 findings of those areas. Are there people out there with no
5 services right now? Is there anything definite for me to look
6 at and say, well, there is really no service out there? I
7 heard a little differently before.

8 MR. CASEY: We have no concrete evidence that this is
9 going to increase the coverage, just a commitment from Alltel.

10 COMMISSIONER ARGENZIANO: And, Madam Chair, one other
11 thing.

12 CHAIRMAN EDGAR: Yes.

13 COMMISSIONER ARGENZIANO: I'm a little concerned with
14 over a two-year period only getting 31 people on Lifeline.

15 MR. CASEY: Yes, ma'am. As of last year they did
16 have 31 people which was reported in our Lifeline report. I
17 can tell you that since the automatic enrollment process
18 started with DCF, they have received 379 applications for
19 Lifeline.

20 COMMISSIONER ARGENZIANO: So that's working. And
21 just one other comment if I may. In one of the pieces of
22 legislation that was around several years ago, Lifeline was
23 used and it was very important, and many legislators felt that
24 Lifeline was so underutilized in the State of Florida. And I
25 remember several very large telecommunications companies coming

1 in and saying, oh, we're going to provide, we will have
2 Lifeline.

3 Mr. Twomey, I think you testified at a lot of those
4 hearings, and we found out just a couple of years later that
5 that really wasn't their concern. So let's just be careful,
6 Commissioners, that there is not a bittersweet pill at the end
7 of that, also. Thank you.

8 CHAIRMAN EDGAR: Thank you. And, gentlemen, what I
9 would like to do is hear from the other Commissioners and then
10 we will get a chance to close and we will bring it in for a
11 landing here shortly.

12 Commissioner Skop.

13 COMMISSIONER SKOP: Thank you, Madam Chair.

14 I have about three questions I would like to direct
15 to staff. Basically, if I could draw staff's attention to the
16 second full paragraph on Page 6, the mid-paragraph where it
17 begins with underscore every ETC receives available funding for
18 all of its lines and handsets served in a given area.

19 I would like to ask staff for a little bit of
20 clarification for my own benefit on this one. Am I correct to
21 understand, I mean, that the USF is a federally mandated fee
22 per line, and basically in order to generate that fee a
23 customer would have to physically subscribe to service in that
24 rural area?

25 MR. DOWDS: Bear with me a minute, I want to get my

1 ducks in a row.

2 There is an assessment factor that's currently -- for
3 the next quarter it's going to be 11.3 percent. And that
4 factor is applied to a carrier's interstate and international
5 revenues. So, for example, AT&T, the Lifeline company pays
6 11.3 percent of the subscriber line charge, which is 6.50 per
7 customer, those monies are remitted to an agency called the
8 Universal Service Administrative Company, and then they turn
9 around and divvy up the money to the various carriers. It's up
10 to a carrier whether and how it recovers its universal service
11 assessments with a caveat that they are forbidden from marking
12 up or passing it through to their customers more than they are
13 assessed. Does that help?

14 COMMISSIONER SKOP: Yes, it does.

15 And actually in that example I think you used further
16 in that paragraph, basically it seemingly is somewhat dependent
17 upon the number of lines in order to reach into the cookie jar
18 to obtain the USF funds as opposed to how they are generated.

19 MR. DOWDS: Yes. Currently all ETCs are funded for
20 all lines or handsets that they serve.

21 COMMISSIONER SKOP: But in order to -- the outflow is
22 dependent upon the lines in the service area, is that correct,
23 in terms of being able to access that potential bottom line?

24 MR. DOWDS: It is directly dependent upon the number
25 of lines or handsets for a competitive ETC, because their

1 funding is not based on their own costs, it's based upon the
2 per line equivalent of whatever the costs are of the incumbent
3 ETC.

4 COMMISSIONER SKOP: And, secondly, as a follow-up to
5 Commissioner Argenziano's concern regarding the 45 cent per
6 minute, because basically what you effectively would be doing
7 here is taking a landline where you can make unlimited calls
8 and kind of converting it over to a wireless where you have a
9 little bit of mobility, but also are constrained in any
10 cellular plan with a preset number of minutes.

11 So to address Commissioner Argenziano's concern, is
12 there anything similar to, like, a prepaid constraint that
13 would be analogous or similar to item or Requirement 9 for the
14 toll limitation shown on Page 6 that would prevent a consumer
15 that might have to want the mobility that a wireless option
16 would offer, but also prohibit them from spending beyond their
17 means, if you will, by just using unlimited minutes?

18 MR. DOWDS: Actually, I would prefer to defer to
19 Mr. Mowery, but I think the answer is as follows. They have
20 committed to provide toll limitation because it is part of the
21 supported services, so if one of their cell phone customers
22 wants toll restriction, then I presume they will provide it.

23 COMMISSIONER SKOP: Okay. And just a brief
24 clarification on that point. Let me withdraw that, because I
25 think I understand it.

1 My final question: How would staff respond to the
2 argument raised by Mr. McCabe regarding the inequities in the
3 regulatory assessment fee? I don't believe that was raised in
4 the staff rec, but that was a point that came up.

5 MR. DOWDS: I would have to defer to our legislature,
6 sir. I don't know. It's nonjurisdictional, I guess is the
7 short answer. We don't have jurisdiction over it, so I presume
8 consistent with our statute -- and this is not my area of
9 expertise -- that we can't assess nonjurisdictional revenues.

10 COMMISSIONER SKOP: Thank you.

11 CHAIRMAN EDGAR: Commissioner McMurrian.

12 COMMISSIONER McMURRIAN: Thank you, Chairman.

13 I guess to respond to a little bit of what I heard
14 earlier, I guess my concern is for what we gain on Lifeline we
15 might lose on the high cost fund side. And I guess to
16 elaborate just a little bit, and I said to begin with that I
17 see merit on both sides, I still do. I'm extremely concerned
18 that policywise voting to give ETC status will exacerbate that
19 problem and will very possibly -- and maybe I should or should
20 not be concerned about this, but yank us from the high ground,
21 so to speak.

22 I think that we have said that we are worried about
23 what other states do in granting ETC status. We're worried
24 about the multiple ETCs in some states. For instance, I think
25 staff threw out an example of Mississippi where they had about

1 15 wireless carriers in one area that were designated as ETCs,
2 and I think that is, of course, creating a problem for us and
3 states like us. New Jersey was mentioned. And so I'm worried
4 about, on the one hand arguing for that, and on the other hand
5 granting more wireless ETCs.

6 Again, I think that Alltel wireless should pursue ETC
7 status. I think probably any company would do that from a
8 financial standpoint, but I do think that we are going to have
9 a hard time sort of arguing that with respect to the Joint
10 Board and FCC processes.

11 That said, primary staff, and I know Mr. Twomey, as
12 well, pointed out that it may be unfair to hold up Alltel's ETC
13 designation because of these broader policy issues, and I
14 understand that, too. And I guess where I am -- I want to
15 throw out an idea, and maybe it's going to confuse things more,
16 but maybe a couple of different ideas, too. Maybe to get
17 better answers about some of these questions, maybe we ought to
18 be in hearing posture. But that said, let me move past that.

19 I agree with what Commissioner Carter said about this
20 isn't Alltel versus TDS, and I agree with that, it's about the
21 bigger policy issue. If we were to deny the ETC status today,
22 and I note that Mr. Dowds' recommendation on the alternative
23 says at this time, is there a way that we could go to
24 rulemaking, sort of take up this issue on a broader scale and
25 deal with it so that we get input of all the providers that are

1 affected, and customer groups, and things like that, and make
2 some kind of broader policy rather than doing it in the context
3 of an ETC designation for one company? I know I threw out a
4 lot.

5 CHAIRMAN EDGAR: Mr. Dowds.

6 MR. DOWDS: Yes, the Commission could go to
7 rulemaking to perhaps flesh out exactly what criteria it wants
8 to impose on perspective ETCs.

9 CHAIRMAN EDGAR: Mr. Dowds, we're going to let you
10 defer for just a moment.

11 Ms. Salak.

12 MS. SALAK: I was just going to make the comment that
13 we already have a technical -- staff has a meeting set up
14 tomorrow to talk about our rulemaking for ETCs. So we are
15 moving down that path. We also have a rulemaking in the
16 process for Lifeline for all ETCs, which would address some of
17 the issues, or at least bring some of the issues before you
18 about what plans Lifeline applies to. So those are things we
19 will be addressing.

20 In addition, Commissioner Argenziano, we have been in
21 the process of discussing auditing our ETCs for making sure,
22 seeing where the funds have been going, following up on some of
23 these projects. Now that we are in the business of designating
24 ETCs, so to speak, we were talking about what additional things
25 we should be doing, and so we will be addressing that and

1 seeing where the funds are going.

2 CHAIRMAN EDGAR: Thank you, Ms. Salak.

3 Which brings us, I think -- or a comment on my part,
4 that as this policy is evolving there may, indeed, need to be
5 some procedural things that would be helpful to catch up, for
6 lack of a better term. You know, as one side of the track is
7 moving along the other side perhaps may need to do some work to
8 get us in a better posture where we have better information, we
9 have better accountability, we have accurate numbers, and we do
10 have rules and a very clear policy or procedure in place that
11 could be consistent, or at least would be clearer for potential
12 consistency.

13 Commissioner Argenziano, you made some comments a
14 little while ago about perhaps the fund being broken, and I say
15 that is my belief. I do believe this fund is broken. I do
16 believe that it is a good program and a well-intentioned
17 program and that the goals that have been laid out I support
18 fully. But yet, it is a program that, quite frankly, has gone
19 somewhat far afield from what it was, in my opinion, initially
20 intended to try to accomplish, or to help us accomplish from a
21 public policy perspective.

22 Although there is some accountability and there is
23 reporting, it also is hemorrhaging money. And I do believe
24 that there are additional efficiencies that need to be put into
25 this program to make it more effective and to, again, further

1 the public policy goals that we all have, that Congress has,
2 that the state legislature has, that the governor has, that
3 this Commission has, and just hemorrhaging money is not the
4 best way to do it.

5 Many of us have made comments about Lifeline, I have
6 worked very hard to demonstrate my commitment to that program
7 during my time here with the good work and support and hard
8 work of each of my colleagues, and we have made real progress.
9 We aren't done; we aren't done. But what we really want, I
10 believe, to try to do is to best target those funds and those
11 programs and those efforts to those people who most need it and
12 will most benefit. I don't think that this request or any of
13 these issues are about one company versus another in this
14 instance, it's not just about wireline versus wireless, it is
15 about a program that we are setting potentially policy and
16 precedent here with our vote today as to how this Commission
17 will address these issues. And I believe very strongly in
18 doing anything we can to help people who need help who we can
19 help as statesmen, and also in doing anything we can to improve
20 public safety. But sometimes just throwing money at it is not
21 going to accomplish any of that.

22 So, I had offered to give each of the parties a few
23 moments for some closing thoughts, and then, Commissioners, if
24 there is more discussion, and then as I said, I think we have
25 covered it pretty fully, and so we will attempt to bring it in

1 for a landing here in a few moments.

2 So, Mr. McCabe, let me begin with you, and then I
3 will look to Alltel for your closing comments, since you are
4 the petitioner.

5 Mr. McCabe.

6 MR. McCABE: Thank you.

7 I agree whole-heartedly that this isn't an issue
8 about one company against another. I just happen to be the
9 only one that it's sitting up here today. I feel somewhat
10 outmanned, but I thought I'd give it a shot.

11 I think it is reasonable to conclude that you will
12 see others coming in asking for ETC status in our serving area.
13 What we have had is Alltel -- I believe it was identified about
14 \$6 million for the three service areas that we have here.
15 Interestingly, Alltel had filed a petition to include Embarq
16 and Windstream service areas, they since withdrew those, and I
17 don't really know why. I'm speculating that they had this idea
18 that if we can get Embarq out of here, the largest ILEC, maybe
19 I would disappear. Now they should have known better than
20 that.

21 And so I think what you will see, you have AT&T, I
22 believe, is certificated as an ETC throughout the nonrural
23 areas, and it is reasonable to suspect that they would file in
24 our areas. And it would be reasonable to expect that Alltel
25 will be filing for Sprint and Windstream, so that \$6 million

1 starts to grow. And what it is is those consumers in Florida
2 are going to be paying more money into the universal service
3 fund, and then it gets back to do they really see any benefit
4 from that.

5 One of the things we would like -- I mean, you know,
6 universal service funds that my company received, those dollars
7 were taken and used, put into the rate base to establish what
8 my local rate is. So the dollars that I received in high costs
9 support set my local rate of \$13.20. The \$6 million -- and I
10 get about a million dollars. The \$6 million that Alltel
11 indicates that they get has nothing to do with going into their
12 rates to their end users. It just goes into how much money
13 they are going to invest.

14 So I think from a public policy standpoint, I think
15 that, you know, perhaps it might be a good idea to look at this
16 on a broader scale. And, you know, we would in all likelihood
17 be more than happy to participate. But bottom line, I think
18 there is public interest. I don't think that there has been
19 any indication that customers are going to benefit, that they
20 are lacking anything today, and would recommend denying it.
21 Or, at a minimum, defer doing anything until the FCC makes
22 their determination in terms of how we are going to fix this
23 problem and then come back and look at it again.

24 Thank you.

25 CHAIRMAN EDGAR: Thank you.

1 Mr. Twomey, would you like to speak on behalf of
2 Alltel?

3 MR. TWOMEY: Yes, ma'am. Thank you very much, Madam
4 Chair.

5 Commissioners, vis-a-vis the Lifeline registration,
6 you heard Mr. Casey say, I believe, I didn't hear the exact
7 number, it was in excess of 300 applications that Alltel has
8 had since the start of your new program and the automatic
9 enrollment. Alltel has committed in its petition to adopting
10 the automatic enrollment process fully. They're committed to
11 advertising it more fully. And, as a consequence, as thing
12 gears up, because you all have had more success with DCF, as
13 this goes along, as I understand it, your rates are increasing
14 dramatically. What we are going to see is more and more
15 applications for Lifeline service for Alltel, and to provide
16 the Lifeline as well as the 911 access, mobile access.

17 Commissioner Skop, I think, got the answer that there
18 is going to be a prepaid service, so that like any other
19 service that if you run out of your 300 minutes, or your five
20 hours, it stops, and you have to recharge it. You don't
21 automatically get charged the 45 cents plus availability there.

22 As far as the Sprint and the Embarq withdrawal, that
23 was due because it would take, I'm told, an FCC application to
24 have to change their service territory as opposed to this
25 situation. That is neither here nor there, the speculation of

1 why they did that. Likewise, we have speculation that there
2 may be some more ETCs or wireless coming in and trying to get
3 in Mr. McCabe's service territory as an ETC and get high cost
4 funds. That's speculation, as well.

5 You have a real live case here, Commissioners. You
6 have a commitment from this company to expand the quality of
7 service and so forth, and particularly I want you to focus
8 again on expanded Lifeline. It's fair, it's getting bigger.
9 It provides mobile 911 access that's available even if the 300
10 minutes run out. It's a public safety issue. It's providing
11 more to the -- as Commissioner Carter said, some of the poorest
12 people in the state.

13 The rest of it, the speculation, we don't know who
14 else is going to come in. You can grant this petition today,
15 and give them the designation and they will start -- as soon as
16 they get it they will start offering more cell zones, more
17 Lifeline availability, greater 911 access, and that will be
18 there. And you can still have your rule proceeding, okay,
19 because we don't know who else is interested in this besides
20 Mr. McCabe. You can still have your rule proceeding and go
21 forward.

22 If you delay this now, then it means they can't start
23 offering this expanded Lifeline 911 service to the people of
24 the surrounding area of Quincy. And if the FCC down the road
25 decides that they are going to cap the monies, effectively,

1 which they haven't yet, then they are locked out and the people
2 of Quincy, the low income people that would benefit the most
3 from this, they are locked out, as well.

4 I would urge you to go ahead and grant this case that
5 is before you now, none of the rest of it is, and then
6 encourage you to go ahead and have a rule workshop and see who
7 participates. I'm sure I can commit for Alltel that they would
8 be more than willing to participate in that, but you have a
9 real case in controversy before you right now. You have the
10 opportunity to expand Lifeline, 911 access in the Quincy area,
11 and we urge you to go ahead and do that.

12 Thank you very much.

13 CHAIRMAN EDGAR: Thank you, Mr. Twomey.

14 Commissioner Argenziano.

15 COMMISSIONER ARGENZIANO: Just for clarification,
16 because two things were said, or I'm hearing them differently.
17 With regard to the 45 cents per minute, Mr. Twomey, you just
18 made a comment that the total limitation would be automatic,
19 and I thought I heard staff say that that would be what the
20 consumer had to request. Do we know?

21 MR. DOWDS: I personally don't know the exact
22 specifics of their proposed Lifeline offering. I know they
23 have to make toll limitation available upon request. Whether
24 they are automatically putting it in the Lifeline, I do not
25 know.

1 MR. TWOMEY: Mr. Mowery can answer that question.
2 There are two services. But answer, Mr. Mowery, please.

3 CHAIRMAN EDGAR: Mr. Mowery.

4 MR. MOWERY: Yes, that can be made available at the
5 time of purchase so that there is no way to overrun minutes.
6 If a consumer wants to put that protection, it's offered to
7 him, and he can never be assessed a 45-cent per minute charge,
8 so that he can have 300 minutes and when those run out his
9 phone would no longer make calls.

10 COMMISSIONER ARGENZIANO: So for correction purposes,
11 it would have to be asked for by the low income Lifeline
12 consumer?

13 MR. MOWERY: Yes. Now, under a prepaid arrangement
14 which is available that would automatically happen, so he has
15 to choice when he buys the service up front.

16 COMMISSIONER ARGENZIANO: It's a choice. Thank you.

17 MR. MOWERY: The other thing about Alltel's Lifeline
18 service that is different is that it provides statewide
19 calling, not just calling within a local area. Many of these
20 people have interests outside the local community. It's an
21 option. It is probably not for everybody, but there are those
22 who will find it much more valuable than the wireline
23 alternative. They are not the same. They are a customer
24 choice, and they serve different people better.

25 CHAIRMAN EDGAR: Commissioner Argenziano, did you

1 have a further question?

2 COMMISSIONER ARGENZIANO: I think just one other
3 question, and I have asked this before in trying to catch up on
4 some of this. Do we have, and I think I know the answer to
5 this, but I need to hear it again. Do we have any findings
6 that there are people now, and I know there are people who are
7 signing up for Lifeline because of what has been done, but do
8 we know, I mean, that there are people who need this service?
9 Is there a finding? Is there anything that gives me some type
10 of understanding that there are people absolutely not being
11 served?

12 MR. CASEY: We have no concrete evidence to that
13 effect, that there are people out there that are not being
14 served.

15 MR. DOWDS: Just by way of clarification,
16 Commissioner, is your question are there consumers who want
17 Lifeline who can't get it, or they are just not getting phone
18 service? I'm sorry, I'm not quite clear on your question.

19 COMMISSIONER ARGENZIANO: No. And I know there are
20 consumers who have not known about Lifeline who are eligible
21 for Lifeline. That's why the Legislature acted and why this
22 Commission acted the way it did, because we said we know you
23 are out there, and obviously the applications are rolling in.

24 What I'm trying to figure out is I'm hearing a plea,
25 and here we go again. I want to make sure it's not just a

1 sweetener. Because I think Lifeline is very important, but I
2 also have seen it used many, many times. And I just hear this
3 harping on there is a consumer who can't get 911, 911. I don't
4 know that there is areas in Quincy that have no service or
5 there are people who have no service, or if they are not those
6 same people who just applied in the 300 and -- I'm trying to
7 figure out how do you come to this determination, you make an
8 argument that we need to get the Lifeline out there, but I
9 don't know that they are out there not already applying for
10 Lifeline, or on Lifeline.

11 MR. DOWDS: Perhaps I can offer two bits of
12 information. One is it's my understanding there are currently
13 two ETCs designated in that territory. There is the three
14 incumbent LECs, and they are offering Lifeline, Nextel is
15 designated in these three companies' territory. And by the
16 terms and designation they are required to offer Lifeline, as
17 well.

18 The other issue about the E911, I have to defer the
19 details, but I suspect what he meant was when they build-out
20 more cell towers, then Alltel wireless customers have a greater
21 likelihood of hitting a tower and being able to successfully
22 dial the precept (phonetic) to get a 911 call.

23 CHAIRMAN EDGAR: Commissioner Argenziano? Fine.
24 Commissioner Carter.

25 COMMISSIONER CARTER: Madam Chairman, just one point

1 of clarification.

2 Lifeline is not a long distance -- I think I heard
3 somebody say -- it's not a long distance service, it's a local
4 service. And it is supposed to be for people in dire need. If
5 they want to reach their doctor, or for services, call the
6 school to check on their children, it's not long distance. So,
7 I'm not -- I thought I heard somebody say that you could use it
8 for that, and that's not what we -- you know, did you hear
9 that, as well?

10 COMMISSIONER ARGENZIANO: No. What I think you may
11 have heard was the plan that if you are a Lifeline customer
12 now, after you have gotten your five hours that the company is
13 offering you, they will charge you 45 cents per minute if you
14 do not choose to have limitation on toll.

15 COMMISSIONER CARTER: And if I may, Madam Chairman.

16 CHAIRMAN EDGAR: Commissioner Carter.

17 COMMISSIONER CARTER: The perspective of Lifeline is,
18 like it says, it is a lifeline. It is for people that are in
19 dire need of contact with the outside world. It is not a
20 luxury with all of the bells and whistles. I mean, I've got a
21 phone, I don't even know what half of the dadgum components are
22 on it, but Lifeline is merely a way for people to reach out.
23 And I just wanted to kind of stay focused on my whole issue on
24 this perspective was Lifeline, and, you know, long distance is
25 interesting, but, you know, most people's doctors live within

1 the confines of their calling area, so that's pretty much what
2 I was, you know, centering in on.

3 I think that there was a couple of issues that was
4 asked, I don't know if it was ever answered. One would be of
5 all the proceeds that would be spent in this perspective are
6 they going to be spent in Florida, or were they -- I think you
7 had a line of questioning along that.

8 CHAIRMAN EDGAR: Commissioner Carter, there was some
9 discussion on that, but if you would like to pose that to staff
10 again.

11 COMMISSIONER CARTER: Staff?

12 MR. CASEY: Are you speaking of the high cost
13 funding?

14 COMMISSIONER CARTER: Whatever proceeds that would be
15 drawn down by this ETC under this program, would those funds --
16 by Alltel, would those funds be spent specifically in Florida?

17 MR. DOWDS: My understanding is that with its
18 petition, Alltel submitted a five-year network build-out plan.
19 And in that the state commission on an annual basis has the
20 authority and responsibility to recertify ETCs that it has
21 designated. We can ensure that they, in fact, satisfy the
22 requirements of the build-out plan. That is that the monies,
23 quote, stayed in Florida. Did that answer your question, sir?

24 MR. TWOMEY: Mr. Mowery can answer.

25 CHAIRMAN EDGAR: Just a moment, Mr. Twomey.

1 COMMISSIONER CARTER: I'm still thinking, Madam
2 Chairman, if I may.

3 CHAIRMAN EDGAR: Commissioner Carter, permission to
4 think.

5 MR. DOWDS: The Commission can require and ensure
6 that it does stay in Florida.

7 COMMISSIONER CARTER: If I may, Madam Chairman.

8 CHAIRMAN EDGAR: Commissioner Carter, you have the
9 floor.

10 COMMISSIONER CARTER: I'm just trying to get my
11 thoughts together here, because I remember one of the questions
12 that Commissioner Argenziano asked was within the confines of
13 current ETCs, what would be the requirement in terms of what
14 they have been doing. And I think the response by staff was
15 that they are certified by the FCC, but the question that you
16 asked, I don't know -- maybe I stepped out when you asked that
17 question, but I don't remember the answer about whether or not
18 those reports were available to us at the Commission, do you?

19 COMMISSIONER ARGENZIANO: Madam Chair.

20 CHAIRMAN EDGAR: Commissioner Argenziano.

21 COMMISSIONER ARGENZIANO: I think the answer that I
22 received was that now that the Commission seems to be looking
23 at the ETCs, these are things that will be forthcoming, but
24 there is nothing there right now to say, okay, let me see.
25 There is no record. Starting now, from what I hear, the staff

1 will be starting to look at those things, but we have no
2 history.

3 MR. CASEY: Madam Chairman.

4 CHAIRMAN EDGAR: Mr. Casey.

5 MR. CASEY: The Commission has designated five
6 competitive ETCs, and there is only one that receives high cost
7 of funding at this time, and it was only \$103,000 in 2006 out
8 of the 81 million that came into Florida. So the competitive
9 LECs only received \$100,000 last year, because they weren't in
10 rural areas, mainly.

11 CHAIRMAN EDGAR: Thank you.

12 Commissioner Carter.

13 MR. CASEY: I'm sorry. Commissioner Argenziano, you
14 are correct that on a going-forward basis we would be looking
15 at that.

16 CHAIRMAN EDGAR: Commissioner Carter. You're done?
17 Okay.

18 Commissioners to my left. Commissioner McMurrin.

19 COMMISSIONER McMURRIAN: I do have one more question
20 that came up and it was in response to something Ms. Salak
21 brought up about auditing, and I think it goes along the same
22 lines of where we are discussing now. But what authority do we
23 have -- I mean, I realize we have said we have authority over
24 ETC designation. Does that give us the authority to audit, I
25 suppose, books and records of Alltel? What is it exactly we

1 would be auditing? Would we be able to audit just the
2 information about ETC, or are we talking about opening up books
3 and records?

4 MR. TEITZMAN: I believe to ensure that they are
5 making their commitments it would be limited to just ETC.

6 COMMISSIONER McMURRIAN: Chairman, is it okay if I
7 ask the company, too, is that their understanding of how that
8 function would work, and if you are on board with that kind of
9 plan? Because I do think it is important that we retain the
10 accountability.

11 MR. MOWERY: Yes. We believe that we have the
12 responsibility to make you comfortable that we have used every
13 dollar received for the benefit of Florida consumers in
14 accordance with the requirements of the USF, so we recognize
15 that you certainly have the ability to confirm that.

16 MS. SALAK: And I was using auditing in the broad
17 text. I mean, it could be done through data requests, it could
18 be done through inspection, and just depending on what level of
19 comfort we decide we need.

20 CHAIRMAN EDGAR: Commissioner Argenziano.

21 COMMISSIONER ARGENZIANO: I'm sorry, I need this
22 again.

23 CHAIRMAN EDGAR: Okay.

24 COMMISSIONER ARGENZIANO: What is it going to cost
25 the consumers to designate Alltel right now? What added burden

1 will be placed upon the consumers? And I say this only
2 because -- and I'm going to repeat it, I think it is a broken
3 system. I think it is diverted from its original purpose, and
4 it has nothing to do with Alltel. It's not a company versus
5 company thing. But I see all of these things subsidizing other
6 states. I have no findings of need. I'm not sure where the
7 money is really going to go. And I'm trying to figure out now,
8 getting down to the wire here, is how much more burden, do we
9 have a dollar figure on what it will cost the consumers of the
10 state of Florida to do this now before the feds make up their
11 mind of what they are going to do?

12 MR. CASEY: I believe, as Mr. Dowds said earlier, it
13 will be \$6 million that they are projected to receive. Now,
14 that is not a national level, that \$6 million will be on the
15 national level. Designating just one ETC, such as Alltel, it
16 would be miniscule and you wouldn't be able to know a
17 difference since the fund is, I believe, 6 or \$7 billion at the
18 present time.

19 MS. SALAK: That will be included in the computation
20 of what the contribution factor is, so it will be an additional
21 incremental, my understanding, \$4 million from the 2 million
22 they are already receiving. It will go into the pot when
23 you're calculating the billion dollar pot that Mr. Casey just
24 referred to. So it would be added to those monies, so it will
25 be small, relatively speaking.

1 COMMISSIONER ARGENZIANO: Small, relatively speaking.
2 Since Florida is one of the largest contributors to the pot,
3 then it is another hit for the Florida consumers is what I'm
4 looking at.

5 MR. DOWDS: Commissioner, if I may. Current numbers,
6 Florida pays approximately 7 to 7.2 percent of the total fund.
7 I can't do the math in my head. Whatever 7 percent of
8 6 million is. Ten percent would be 600,000, so it is on the
9 order of 450 or \$500,000.

10 MR. TWOMEY: Madam Chairman.

11 CHAIRMAN EDGAR: Mr. Twomey.

12 MR. TWOMEY: Mr. Mowery did a calculation.

13 Commissioner Argenziano and Commissioners in general,
14 the issue is if you took the \$4 million, the net \$4 million as
15 staff stated a minute ago, and you spread that -- if this was
16 the only ETC, which is, of course, the only one before you, but
17 if you spread that out to everybody in the United States that
18 makes payments into the universal service fund, Mr. Mowery
19 calculated that it would be less than 1/10th of a penny per
20 month.

21 COMMISSIONER ARGENZIANO: Now, Mr. Twomey, Florida is
22 one of the larger contributors. Is that what I'm hearing?
23 Didn't we say that, that Florida puts more money into this fund
24 than we get back?

25 MR. TWOMEY: Yes, ma'am.

1 COMMISSIONER ARGENZIANO: So then the bigger hit
2 comes to the Floridian and not the Montanian.

3 MR. TWOMEY: No, ma'am. No, ma'am. What you are
4 looking at, Commissioner, is you are looking at -- if the
5 number is correct, and I have no reason to doubt it, but your
6 staff could do this, as well, if the increase -- because the
7 increase for this \$4 million net is spread over the entirety of
8 the United States, and it's applied to everybody's bill, if
9 they change the surcharge, it is less than 1/10th of a penny
10 per month per line, okay? So it would be a little over -- let
11 me finish, please. A tenth of a percent.

12 You have to apply that to our current customers'
13 bills, and what you would want to do is see -- if you are doing
14 an efficiency, you would see if that was more or less than \$4
15 million.

16 MR. MOWERY: I agree with what Mr. Dowds quantified
17 there. He did it correctly.

18 CHAIRMAN EDGAR: Just to state the obvious, but maybe
19 to follow up also on a comment that I think Commissioner
20 McMurrian made. You know, yesterday this Commission voted to
21 send comments to the FCC in support of a recommendation to cap
22 this fund for a limited period of time. That is a very
23 controversial decision. In my opinion it's not a perfect
24 solution. It is an interim short-term measure to try to give
25 the federal government, the FCC, and all of the rest of us who

1 have an interest in this program an opportunity to catch our
2 breath and get our hands around it. And the Chairman of the
3 FCC has committed to trying to bring to an environment and an
4 atmosphere where real reform has some potential to move
5 forward. So, I don't know where that will take us in six to
6 nine months, it will be fascinating. I welcome everybody's
7 comments. But, again, just a reminder that we have gone on
8 record as of yesterday of supporting a temporary interim cap.

9 Commissioners, are there further comments? Any
10 further comments?

11 Commissioner McMurrian.

12 COMMISSIONER McMURRIAN: In some ways I'm hesitant to
13 go back to this, but I guess because some of the lines of
14 questioning we have had, it seems to me I see two paths. If we
15 are going forward and dealing with Alltel's petition that's
16 before us and strictly that, it seems to me we need to go to a
17 hearing, but that is if we are going to go forward with that.
18 Because I don't feel like we are getting real solid answers not
19 only to some of the criteria, whether it is nine, an additional
20 five, or fourteen, or whatever, I'm not sure that I'm getting
21 good answers on exactly whether those have been met.

22 But beyond that, more importantly, is it in the
23 public interest. And that, of course, as Mr. Dowds has pointed
24 out, we have a lot of leeway to decide. And I don't think we
25 can divorce the decision totally from what's going on with the

1 high cost fund at the federal level.

2 So that said, it seems to me the questions about
3 whether or not there truly are customers in the area that need
4 service, and the fact that there are other wireless carriers in
5 the area that may or may not be providing Lifeline, it just
6 seems like to me those kinds of questions we are not really
7 getting firm answers to if we are going to make a decision yes
8 or no on Alltel's.

9 Having said that, though, if, however, we are going
10 to make a decision more based on the policy aspect, to me maybe
11 it's appropriate to go forward with a rulemaking where we
12 decide what criteria this Commission is going to apply in
13 determining public interest before we make a decision on a
14 particular company. I'm not really sure where that leaves us,
15 but I throw both of those things out because it seems to me
16 that what we have before us in deciding it on a PAA is not
17 really the best of all worlds for me.

18 But, again, I'm willing to vote on what we have
19 before us one way or the other, and it sounds like staff is
20 going forward with a rulemaking regardless, but I'm not sure I
21 feel comfortable deciding on one company and then going to a
22 rulemaking that may change the rules going forward. But that
23 is my two cents for what they're worth.

24 CHAIRMAN EDGAR: Mr. Teitzman.

25 MR. TEITZMAN: Commissioner McMurrian, I just wanted

1 to point out that staff had initially proposed setting this for
2 hearing. At that time we did not have any takers. I don't
3 want to speak for Mr. McCabe today, what his company's
4 intentions are, but we had actually proceeded and scheduled an
5 Issue ID, and at that time, like I said, there were no takers
6 so we then proceeded with the PAA recommendation you have
7 before you today.

8 CHAIRMAN EDGAR: Commissioner McMurrian.

9 COMMISSIONER McMURRIAN: A question about that.

10 I mean, do we really have to have someone on the
11 other side of the fence, so to speak, to go forward and gather
12 evidence? I mean, I don't know if it would necessarily require
13 staff testimony. I know in some dockets we have involved other
14 companies through subpoenas, for instance, to get information
15 from them, even if they weren't a party to the case.

16 You know, again, I'm not sure which way I prefer out
17 of those two approaches. And, again, if the Commission is
18 willing to go forward and vote on this with the recommendations
19 we have before us, then I'll pick one and go forward. But,
20 again, it seems like we don't necessarily have to rely on Mr.
21 McCabe's company if we were to actually have a hearing. But,
22 anyway, if you can give me some feedback on that.

23 MR. TEITZMAN: Well, procedurally, you're correct, we
24 do not need another party to proceed. Obviously if there is
25 another party opposing the petition we certainly would have a

1 more comprehensive record.

2 CHAIRMAN EDGAR: Mr. Cooke, could you speak to that
3 also for us, please.

4 MR. COOKE: I agree with Mr. Teitzman. The
5 Commission can on its own set this for hearing if it chooses to
6 do so. Staff would do whatever would be needed to develop the
7 record. If somebody wanted to intervene or be a party also on
8 this, that could happen. But clearly procedurally you can set
9 this for hearing if you choose to do that.

10 CHAIRMAN EDGAR: Commissioner McMurrian.

11 COMMISSIONER McMURRIAN: I guess one follow-up. If
12 we were to actually do the rulemaking route instead, would we
13 have to say, no, at this time to the petition and go forward
14 with rulemaking, and then at some point either Alltel bring the
15 petition back, given what our new rules would be? I know that
16 Mr. McCabe even threw out the idea about deferring, doing
17 anything until the FCC acts, but I'm not sure that that is the
18 best way to go, either.

19 MR. COOKE: I'm not aware offhand of a statutory
20 deadline for this Commission to make a decision on this
21 request. So, I believe you could defer this to any rulemaking,
22 although that would be sort of an indefinite deferral of the
23 decision-making.

24 CHAIRMAN EDGAR: Commissioners, any further questions
25 for our staff? No questions. Okay.

1 Any further discussion? No discussion.

2 Okay. Is there a motion? No motions?

3 Well, I have to say I don't know that I have ever, as
4 many meetings and hearings I have chaired, where we didn't get
5 anything.

6 COMMISSIONER ARGENZIANO: Madam Chair.

7 CHAIRMAN EDGAR: Commissioner Argenziano.

8 COMMISSIONER ARGENZIANO: I don't know that we will
9 have any kind of agreement. I think I will move to defer while
10 our staff starts rulemaking and we see what the federal
11 government decides to do. Do we have a time frame?

12 CHAIRMAN EDGAR: I am not aware of a statutory or
13 rule time frame that applies. I'm sure that the -- well, I
14 won't speak for the parties. But I am not aware of a
15 statutory, or a rule time frame, or a deadline on this petition
16 or request that is before us. But, of course, I will defer to
17 Mr. Teitzman, who I know and I am glad will tell me if I am
18 wrong.

19 MR. TEITZMAN: You are correct.

20 CHAIRMAN EDGAR: Okay. No deadline.

21 COMMISSIONER ARGENZIANO: Okay. Well, then rather
22 than denying or going forward one way or the other, I would
23 prefer to move to defer and start rulemaking and then see what
24 happens on the federal level, also.

25 CHAIRMAN EDGAR: Okay. Commissioner Argenziano has

1 made a motion that we defer a decision on the petition that is
2 before us at this time with the understanding -- Commissioner
3 Argenziano, make sure I have it right, and tell me if I
4 don't -- with the understanding and direction that our staff
5 continues the technical workshops and rule development process
6 that they have begun, and that we also follow very closely, as
7 we have, but continue the work that the FCC is doing and the
8 discussions at Congress as well on these issues.

9 Commissioner Argenziano, is that -- that is. Okay.

10 Commissioners, is there a second or a question?

11 COMMISSIONER McMURRIAN: I was just noting I see the
12 General Counsel's hand on the button. So I --

13 CHAIRMAN EDGAR: Mr. Cooke.

14 MR. COOKE: Off the cuff, I'm generally okay with
15 deferring this while we look into this further, and perhaps try
16 to initiate a rulemaking. We may have some issues that come
17 up. I mean, this is kind of an unusual situation. We have to
18 look at statutory authority to do a rule in this context. I
19 feel fairly comfortable we can find that. There may be
20 questions about whether we can apply a rule that is being done
21 to a case that has already been -- or a request that has
22 already been requested. We will have those types of issues,
23 but I'm not uncomfortable with taking this approach.

24 CHAIRMAN EDGAR: Commissioner Argenziano.

25 COMMISSIONER ARGENZIANO: Are we certain we have

1 authority, statutory authority to promulgate a rule?

2 MR. COOKE: I don't want to give a definitive answer
3 to that without looking at our statute, but I'm reasonably
4 comfortable that we do. We have authority over ETC designation
5 in our statute over Lifeline, so clearly we have authority to
6 develop rules, I believe, on those issues. This is a little
7 unusual because of the jurisdictional question that may be
8 another test for that. But assuming we are correct on our
9 jurisdictional decision, then I think we will get there. I
10 would just want to be able to look at all of our statutes in
11 context and be sure before I give a definitive answer to
12 something like that.

13 COMMISSIONER ARGENZIANO: Madam Chair, that would be
14 my concern. Let's say someone petitions the FCC and says that
15 we don't have authority to promulgate the rule, then we would
16 have to go and ask for legislative changes, I would imagine.
17 What do we do if we did move? We didn't hear a second anyway,
18 so we are not sure we are going there.

19 MR. COOKE: I think deferring it means that at least
20 you are not making a decision one way or the other, so if those
21 types of issues come up we can confer with the parties and
22 figure out if there is some way to bring this back on track.

23 CHAIRMAN EDGAR: Commissioner Carter.

24 COMMISSIONER CARTER: Thank you so kindly.

25 I think from what I'm hearing the General Counsel

1 say, I think that a cleaner thing we could do we could just
2 defer it. We will just defer it, and we can continue on with
3 what we are going with our rulemaking and all like that, but we
4 could just defer it. There is nothing that would preclude us
5 from just deferring it, and I would second that.

6 MR. TWOMEY: Madam Chairman, may I ask a clarifying
7 question? I understand deferring it until you all act on a
8 rulemaking, but I thought I heard you say that the second
9 branch of that would be until the FCC or the Congress acted.
10 Is that correct?

11 CHAIRMAN EDGAR: Well, what I said was that we would
12 be continuing to monitor the developments and discussions at
13 the federal level. There was not, in my comments, a direct
14 cause and effect there of monitoring of discussions.

15 Commissioner Argenziano, it's your motion, I defer to
16 you for clarification.

17 COMMISSIONER ARGENZIANO: And to clarify that, no,
18 just watching what the feds are doing. That may have something
19 to do with our decisions down the line in promulgating rules.

20 MR. TWOMEY: I was just trying to get a feel for how
21 long -- if it was at the end of rulemaking that would be one
22 thing, if it was something that was more amorphous in terms of
23 what the federal government was doing, then we wouldn't know
24 where we were going and where it was ending.

25 CHAIRMAN EDGAR: Commissioners, I have a motion and I

1 have a second. Is there further discussion?

2 Commissioner McMurrrian.

3 COMMISSIONER McMURRIAN: I'm definitely in support of
4 the motion. In fact, my only hesitation, Commissioner
5 Argenziano, was whether or not procedurally it's better to deny
6 it and then go to rulemaking. But I think we are past that
7 now, so that's fine. But I definitely do support the motion.
8 And I forgot what other thing I was going to say, so --

9 COMMISSIONER CARTER: Hey, I'm supposed to say that.

10 CHAIRMAN EDGAR: Commissioner Skop.

11 COMMISSIONER SKOP: Thank you, Madam Chair.

12 And I also echo Commissioner McMurrrian's comment
13 about whether procedurally it might have been more appropriate
14 to just decide to deny on the merits and then go to rulemaking,
15 but I just wanted to reiterate that.

16 COMMISSIONER CARTER: May I comment, Madam Chair?

17 CHAIRMAN EDGAR: Commissioner Carter.

18 COMMISSIONER CARTER: Thank you, Madam Chairman.

19 Just from the comfort zone, I thought that it would
20 just be cleaner that we just defer it, and that still allows us
21 to do whatever it is we want to do on this issue, but just this
22 particular matter before us today, we are just deferring this,
23 and that will allow staff to come back to us at a later point
24 in time with a recommendation on that.

25 And I think that Commissioner Argenziano is correct,

1 and Commissioner McMurrian is correct in terms of a lot of
2 unanswered questions. The clearer thing to do is that we are
3 not linking it to anything, we are just deferring it, and staff
4 will make recommendations and come back to us a later point in
5 time.

6 At the same time, if we decide to wait on the FCC, or
7 we decide to hide behind the tree, or whatever we decide to do,
8 we can still do that. But I think this is a clearer way to do
9 it. The General Counsel has signed off on it, and I think that
10 gets us pretty much where we need to be.

11 CHAIRMAN EDGAR: Commissioner McMurrian.

12 Commissioner Carter, thank you for those comments and
13 for giving Commissioner McMurrian a few moments to --

14 COMMISSIONER McMURRIAN: Thank you very much.

15 I was thinking about expedited rulemaking. And I
16 realize that we are talking about, you know, not making that
17 part of the motion, but I realize you are already going forward
18 with rulemaking anyway. And I think along the lines of giving
19 some certainty to this company and others who may be looking at
20 doing this, is there a way that we can -- I know we have done
21 it in some other cases, but is there a way that we can expedite
22 this so that we can get our policy in place sooner to give more
23 certainty to the companies?

24 CHAIRMAN EDGAR: That is why you are at the seat at
25 the end.

1 MR. COOKE: We always will do whatever we can to try
2 to get to the end of this process, of any rulemaking process in
3 a way that works for the Commission and the parties to this.
4 So, you know, there are certain procedures we have to follow
5 with certain definitive notice periods, et cetera. But I
6 think, generally speaking, I think it is rare for us to be able
7 to complete a rulemaking in less than six months. I don't know
8 how complicated this one might be, so that is about the best
9 answer I think I can give to that.

10 MS. SALAK: And I will commit that if we end up back
11 at agenda, we will have reviewed this transcript and answer any
12 of those unanswered questions that we can get answers to. We
13 will be doing that, also.

14 CHAIRMAN EDGAR: Thank you, Ms. Salak. Okay.

15 Commissioners, we have a motion. We have a second.
16 We have had full and thoughtful discussion.

17 All in favor of the motion say aye.

18 (Unanimous affirmative vote.)

19 CHAIRMAN EDGAR: Opposed?

20 Show it adopted.

21 Thank you very much. Thank you to our staff and to
22 all the parties.

23 * * * * *

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)

 :

COUNTY OF LEON)

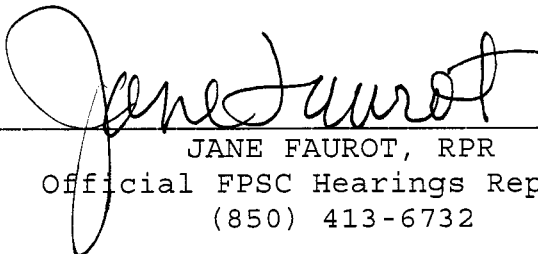
CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 25th day of June, 2007.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732