

Ruth Nettles

080065-TX

From: Keating, Beth [beth.keating@akerman.com]
Sent: Wednesday, May 14, 2008 3:11 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 080065
Attachments: 20080514150428421.pdf; Prehearing Statement (TL158501).DOC

Attached for electronic filing in the referenced Docket, please find a copy of Vilaire Communications, Inc.'s Prehearing Statement, along with a copy in Word format. If you have any questions, please do not hesitate to contact me.

Sincerely,
Beth Keating
Akerman Senterfitt
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CMP _____
COM _____
CTR _____
ECR _____
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A.
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B. Docket No. 080065-TX - In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

C. On behalf of Vilaire Communications, Inc.

D. Number of Pages - PDF file -8 pages w/cover sheet
Word - 7 pages

E. Prehearing Statement



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DOCUMENT NUMBER-DATE

04019 MAY 14 8

5/14/2008

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May 14, 2008

VIA Electronic Filing

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 080065-TX - In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

Dear Ms. Cole:

Enclosed for electronic filing in the above-referenced docket, please find VCT's Prehearing Statement, as well as a version in Word format in compliance with the Order Establishing Procedure for this case.

Thank you for your kind assistance with this filing. Please do not hesitate to call me if you have any questions whatsoever.

Sincerely,

Beth Keating
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Tallahassee, FL 32302-1877
Phone: (850) 224-9634
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Enclosures

(TL158487.1)

DOCUMENT NUMBER-DATE

04019 MAY 14 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida. DOCKET NO. 080065-TX
DATED: May 14, 2008

VILAIRE COMMUNICATIONS INC.'S
PREHEARING STATEMENT

COMES NOW, VCI Company, doing business in Florida as Vilaire Communications, Inc. ("VCI"), and files its Prehearing Statement pursuant to the Order Establishing Procedure, Order No. 08-0194-PCO-TX, issued by the Prehearing Officer on March 26, 2008:

A. Known Witnesses

VCI intends to offer the direct testimony of Stanley Johnson, filed April 24, 2008. Mr. Johnson will not offer testimony on any issues that touch on, wholly or in part, the company's operations as an ETC as VCI believes the Commission is without subject matter jurisdiction to inquire into, review or adjudicate these matters. With respect to Issue Nos. 11(a) and (b), Mr. Johnson's testimony will be limited to the company's operations as a CLEC that VCI believes are within the jurisdiction of the Commission in accordance with Florida law, rules lawfully adopted by and lawful orders issued by the Commission with respect to CLECs. Mr. Johnson's also will offer testimony as to Issues 5 and 6.

B. Description of Prefiled Exhibits

Vilaire Communications, Inc. intends to offer through its witness Stanley Johnson the following Exhibits:

<u>Exhibit(s)</u>	<u>Subject</u>
SJ1-A-SJ1-G	Audit document and information requests and VCI responses concerning reconciliation of data reported on VCI's RAF Form.
SJ2-A-SJ2-F	Complaints to Commission regarding incorrect billing of late payment fee.

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FPSC-COMMISSION CLERK

C. Basic Position

VCI's position is that the PSC is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate matters touching on, wholly or part, VCI's operations as an ETC in Florida, to enforce federal law or the FCC's rules pertaining to ETCs against VCI, to rescind VCI's ETC designation, or to revoke VCI's CLEC certification for any violation of federal law or the FCC's rules.

D. VCI's Positions on Issues Identified by Staff

VCI's positions on the issues identified by Staff are as follows:

Issue No. 1. Is the PSC authorized to audit an ETC's records for compliance with applicable Lifeline, Link-Up, and ETC statutes, rules, processes, procedures, and orders?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 2. Did VCI provide Lifeline service to its Florida customers using a combination of its own facilities and resale of another carrier's services between June 2006 and November 2006?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 3. Did VCI correctly report Link-Up and Lifeline lines on USAC's Form 497 for reimbursement while operating as an ETC in Florida in accordance with applicable requirements?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 4.(a) Does VCI provide toll limitation service to Lifeline customers using its own facilities?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 4.(b) If so, is VCI entitled to obtain reimbursement for incremental costs of TLS?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 4.(c) If yes, what is the appropriate amount of reimbursement?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 5. Were late payment charges correctly applied to VCI Florida customer bills?

VCI: Yes.

Issue No. 6. What is the appropriate refund amount for E-911 customer overbilling?

VCI: The amount submitted to Staff in the Florida 911 Overcharge Worksheet on January 16, 2008 is the appropriate refund amount for E-911 customer overbilling.

Issue No. 7. Does the PSC have the authority to enforce an FCC statute, rule or order pertaining to ETC status, Lifeline, and Link-Up service?

VCI: No.

Issue No. 8.(a). Has VCI violated any FCC statute, rule or order pertaining to ETC status, or Lifeline and Link-Up service?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 8 (b). If so, what is the appropriate remedy or enforcement measure, if any?

VCI: The Commission is without subject matter jurisdiction under federal or state law to inquire into, review or adjudicate this matter.

Issue No. 9(a) Has VCI violated any PSC rule or order applicable to VCI pertaining to ETC status or Lifeline and Link-Up service?

VCI: No.

Issue No. 9(b) If so, what is the appropriate remedy, if any?

VCI: No remedy is appropriate.

Issue No. 10.(a) Does the Commission have authority to rescind VCI's ETC status in the state of Florida?

VCI: The Commission is without subject matter jurisdiction under federal or state law to rescind VCI's ETC status in the state of Florida.

Issue No. 10. (b) If so, is it in the public interest, convenience, and necessity for VCI to maintain ETC status in the state of Florida?

VCI: The Commission is without subject matter jurisdiction under federal or state law to rescind VCI's ETC status in the state of Florida.

Issue No. 11.(a) Has VCI willfully violated any lawful rule or order of the Commission, or provision of Chapter 364?

VCI: VCI unintentionally overbilled its customers the E-911 surcharge, but has refunded or credited customers who paid the incorrect charge and has instituted the correct surcharge on its customer bills.

Issue No. 11.(b) If so, should VCI's competitive local exchange company certificate be revoked?

VCI: No.

E. Stipulated Issues

VCI is not a party to any stipulations at this time, although it believes it should be able to reach a stipulation on Issue Nos. 5, 6 and 11(a).

F. Pending Motions

VCI seeks Commission action on its Motion to Dismiss for Lack of Subject Matter Jurisdiction.

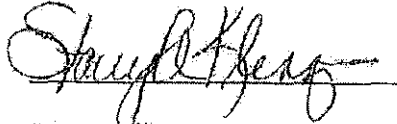
G. Pending Requests or Claims for Confidentiality

Today, VCI has filed a Petition for Confidential Classification of Certain Documents Submitted to Staff on January 16, 2008 in Response to Post-Audit Questions and Submitted by Stanley Johnson on April 24, 2008 as Exhibits to his Testimony. VCI filed a Petition for Confidential Treatment of Documents Submitted Pursuant to Audit Control No. 07-250-1-2 on December 4, 2007.

H. Objections to Witness' Qualifications as Expert

VCI objects to the qualification of Robert Casey as an expert on any aspect of the federal Universal Service program and also objects to his qualification to offer legal interpretations and analysis regarding federal and state law.

Respectfully submitted this 14th day of May, 2008.



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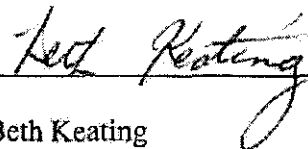
Attorneys for Vilaire Communications, Inc

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Prehearing Statement have been served via Electronic Mail to the persons listed below this 14th day of May, 2008:

<p>Lec Eng Tan, Senior Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 L.Tan@psc.state.fl.us</p>	
<p>Adam Teitzman, Supervising Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 ateitzma@psc.state.fl.us</p>	<p>Beth Salak, Director/Competitive Markets and Enforcement* 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 bsalak@psc.state.fl.us</p>

By:



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