

**Dorothy Menasco**

100000-OT

**From:** nicki.garcia@akerman.com  
**Sent:** Friday, May 07, 2010 3:16 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** matthew.feil@akerman.com; Kathryn Cowdery; Jeff Bates; Laura King; Julie Gowen; th9467@att.com; de.oroark@verizon.com; David Christian; poucher.earl@leg.state.fl.us; Tom McCabe; susan.masterton@centurylink.com; sandy.khazraee@centurylink.com  
**Subject:** Electronic Filing - Docket No. 100000  
**Attachments:** 20100507150255174.pdf

Attached is an electronic filing for the docket referenced below. If you have any questions, please contact either Matt Feil or Nicki Garcia at the numbers below. Thank you.

**Person Responsible for Filing:**

Matthew Feil  
**AKERMAN SENTERFITT**  
 106 East College Avenue, Suite 1200  
 Tallahassee, FL 32301  
 (850) 425-1614 (direct)  
 (850) 222-0103 (main)  
 matt.feil@akerman.com

**Docket No. and Name:** Docket No. 100000

**Filed on behalf of:** tw telecom of florida, l.p. and Competitive Carriers of the South, Inc.

**Total Number of Pages:** 6

**Description of Documents:** Comments of TWTC Telecom of Florida, L.P. and Competitive Carriers of the South, Inc.

**Nicki Garcia**

Office of:  
 Lila A. Jaber  
 Matthew Feil

Akerman Senterfitt  
 106 East College Avenue, Suite 1200  
 Tallahassee, FL 32301  
 (850) 425-1677  
 Nicki.Garcia@Akerman.com



www.akerman.com

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5/7/2010

DOCUMENT NO. DATE  
 03878-10 5/7/10  
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Suite 1200  
106 East College Avenue  
Tallahassee, FL 32301  
www.akerman.com  
850 224 9634 tel 850 222 0103 fax

May 7, 2010

**VIA ELECTRONIC FILING**

Ms. Ann Cole  
Director  
Commission Clerk & Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

**Re: Docket No. 100000**

Dear Ms. Cole:

Attached for filing in the above-referenced Docket, please find tw telecom of florida, l.p. and the Competitive Carriers of the South, Inc.'s comments requested by Commission staff at the March 30, 2010 workshop.

Your assistance is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matthew Feil

Enclosure

DOCUMENT NUMBER-DATE

03878 MAY-7 0

FPSC-COMMISSION CLERK

**STATE OF FLORIDA**  
**PUBLIC SERVICE COMMISSION**

In Re: Initiation of Rulemaking to Amend )  
Rules in Chapters 25-4 and 25-14, F.A.C., )     Docket No. UNDOCKETED  
To Address Publication of Service )  
Schedules by Telecommunications )  
Companies )  
\_\_\_\_\_ )

**COMMENTS OF TWTC TELECOM OF FLORIDA, L.P. and**  
**COMPETITIVE CARRIERS OF THE SOUTH, INC.**

Pursuant to the request of the Commission staff at the March 30, 2010, workshop held in the above-captioned matter, tw telecom of florida, l.p. ("TWTC") and the Competitive Carriers of the South, Inc. ("CompSouth")<sup>1</sup> hereby submit the following comments.

Introduction

The Commission's approach to any rules in this proceeding should be governed by the following guiding principles: (1) Any form/substance rule requirements for CLEC filed schedules<sup>2</sup> should not impose obligations that would cause current CLEC price lists and existing filing practices to be non-compliant; (2) Form/substance rule requirements for CLEC filed schedules should not be imposed without the Commission's acknowledging that such schedules come with filed rate doctrine status; and (3) There should be extremely limited or no form/substance requirements for posted CLEC schedules, and no requirement to notify the Commission of changes to posted schedules.

<sup>1</sup> Sprint, a CompSouth member, does not join in this filing.

<sup>2</sup> Throughout these comments, references to "filed" schedules means those filed with the Commission and "posted" schedules means those not filed with the Commission but available via website or other published means.

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CLEC Price Lists v. Filed Schedules

As staff acknowledged at the workshop, the biggest change in the proposed rules over the current rules is the imposition of specific form/substance requirements for CLEC schedules. And, as AT&T noted at the workshop, it would be ironic if after the 2009 de-regulatory legislative changes, the Commission were to impose **more** regulation on CLECs than existed before those legislative changes. However, TWTC and CompSouth believe that if current CLEC price lists on file with the Commission and current CLEC filing procedures for price lists are compliant with any new filed schedule rules, then such rules would not effectively impose an additional burden on CLECs. TWTC and CompSouth maintain that any new rules should **not** impose any new/additional burdens as to the form or filing process for schedules.<sup>3</sup> CLEC price lists currently on file should not have to be re-formatted, re-written, re-labeled, or re-filed. Going-forward, CLECs who choose to file schedules should be able to file those schedules (and changes thereto) in the same manner as, and consistent with what was the generally accepted industry practice, under the prior price list regime.<sup>4</sup> Accordingly, there should be no requirement that service levels offered for all non-basic services be included in filed schedules, as the existing rule requires a service level description only for basic service.<sup>5</sup> And, as AT&T pointed out at the workshop, inclusion of all "fees and surcharges" should not be required for filed schedules, among other things not currently required.

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<sup>3</sup> Nor should there be any new noticing burdens on CLECs.

<sup>4</sup> TWTC and CompSouth, however, tend to agree with Century Link that it is not necessary for going-forward schedule changes to be in legislative format, with marginal notations. An explanation of the changes via correspondence with the filing should suffice.

<sup>5</sup> Compare existing 25-24.825(1) with proposed 25-24.825(1). Under the existing price list regime, some CLECs may include service level information for certain, but not all, of the CLEC's non-basic services.

Filed Schedules and Filed Rate Doctrine

TWTC and CompSouth believe that it would be inconsistent for the Commission to impose rules regarding form/substance of filed schedules without also acknowledging that such schedules have filed rate status, particularly if the Commission intends to enforce such filing rules or if the Commission intends to enforce all or part of the content of filed schedules as between a CLEC and its customers. Accordingly, rules for CLEC filed schedules should not be imposed without acknowledgment that such requirements come with filed rate status.

Posted Schedules

TWTC and CompSouth assert that if a CLEC chooses to post its schedules on a website rather than file schedules with the Commission, the posted schedules should not be subject to Commission rules on form/substance. Carriers were given a choice of filing or posting schedules. Posting schedules should be seen as a carrier's having made the definitive choice to step outside the realm of the traditional regulatory regime, by-pass the burdens and benefits that go along with that regime, and accept the de-regulated environment of private contracts. Not only should there be few, if any, form/substance rules for posted schedules, there should be no requirement that the Commission be notified each time there is a change to posted schedules. As long as schedules are posted and a carrier is able to produce a history for the posted schedules when the Commission so requests, the Commission should have sufficient access to the information it needs when it needs it.

Other Comments

TWTC and CompSouth support preserving the language staff has proposed to delete on page 8, lines 8 – 12 (Rule 25-4.034 of the Notice). This language addresses current Commission practice regarding contract service arrangements. The current practice regarding such contracts should not change; and staff stated at the workshop there was no intent that it change. Therefore, the current rule language should remain in place. This will avoid questions and confusion.

In addition, while making any rule changes to Chapter 25-24, the Commission should delete (1)(d) of Rule 25-24.820, Florida Administrative Code, which appears to enable the PSC to revoke a CLEC certificate for "violation of" a price list (or, in the future) a schedule. This rule, aside from being unduly discriminatory (there is no similar rule for ILECs or IXC) is needless and far too onerous.

Respectfully submitted,



Matthew Feil, Esq.  
Akerman Senterfitt  
106 East College Avenue, Suite 1200  
Tallahassee, FL 32301  
(850) 425-1614

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by Email this 7<sup>th</sup> day of May, 2010.

<p>Kathryn Cowdery Jeff Bates Laura King Julie Gowen Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 kcowdery@psc.state.fl.us jbates@psc.state.fl.us lking@psc.state.fl.us jgowen@psc.state.fl.us</p>	<p>Tracy W. Hatch c/o Gregory R. Follensbee 150 South Monroe Street Suite 400 Tallahassee, FL 32301 th9467@att.com</p>
<p>Dulaney O'Roark Dave Christian Vice President &amp; General Counsel -- Southeast Region Verizon Six Concourse Parkway, NE Suite 800 Atlanta, GA 30328 de.oroark@verizon.com David.Christian@verizon.com</p>	<p>Earl Poucher Office of Public Counsel 111 West Madison Street Room 812 Tallahassee, FL 32399-1400 poucher.earl@leg.state.fl.us</p>
<p>Tom McCabe TDS Telecom 107 West Franklin Street Quincy, FL 32351-2310 thomas.mccabe@tdstelecom.com</p>	<p>Sandy Khazraee Susan Masterton Century Link 1313 Blairstone Road Tallahassee, FL 32301-3021 susan.masterton@centurylink.com sandy.khazraee@centurylink.com</p>

By:   
Matthew Feil, Esq.