

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of eligible telecommunications carriers pursuant to Section 214(e) of the Telecommunications Act of 1996.

DOCKET NO. 970644-TP

In re: Implementation of changes in the Federal Lifeline Assistance Plan currently provided by telecommunications carriers of last resort.

DOCKET NO. 970744-TP
ORDER NO. PSC-98-0026-FOF-TP
ISSUED: January 5, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING PETITIONS FOR WAIVER

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

The Telecommunications Act of 1996 (the Act) initiated sweeping changes in the telecommunications industry. Among those changes was the introduction of Eligible Telecommunications Carriers (ETCs). ETCs are defined in Section 214(e) of the Act, 47 U.S.C. §214:

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(1) A common carrier designated as an eligible telecommunications carrier . . . shall be eligible to receive universal support . . . and shall, throughout the service area for which the designation is received--

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

The Act provides that state commissions may designate ETCs either on their own motion or upon request.

The FCC determined in its Report and Order on Universal Service (CC Docket No. 96-45, FCC Order 97-157, Released May 8, 1997) (Order) that the supported services to be provided by all ETCs must include voice grade access to the public switched network, a certain amount of free local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service, access to emergency services, access to operator services, access to interexchange service, and access to directory assistance. In addition, ETCs must provide Lifeline and Link Up to eligible subscribers. As part of their Lifeline plans, ETCs must offer voluntary toll limitation services in exchange for reduced or zero deposits.

The Order instituted several changes in the existing Lifeline program. Many of the changes were adopted to make the program consistent with the Act, particularly with regard to competitive neutrality. The current program is a function of jurisdictional separations and applies only to incumbent LECs; thus, it is not competitively neutral. Other changes were instituted in an attempt to increase subscribership levels among low-income consumers.

Beginning January 1, 1998, a baseline federal support amount of \$3.50 will be available in all states, the District of Columbia, and all territories and possessions, regardless of whether any intrastate support is provided. The baseline amount of federal

support will increase from the current \$3.50 waiver of the Subscriber Line charge (SLC) to \$5.25, provided the state approves the additional support to be passed through in intrastate rates. The federal jurisdiction will also provide additional Lifeline support equal to one-half of any intrastate support, up to an additional \$1.75. A total of \$7.00 in federal universal support can be received for each Lifeline subscriber.

By Order No. PSC-97-1262-FOF-TP, issued October 14, 1997, we designated the incumbent LECs as ETCs and adopted certain changes to the Lifeline program. In that Order, we recognized that the LECs may be limited in their ability to offer a full range of toll limitation services at this time, particularly in the area of toll control. Toll control allows the subscriber to choose a pre-set spending limit. The FCC allows the states to grant limited waivers of toll limitation requirements. Accordingly, we ordered ETCs to file petitions requesting waivers if they are unable to provide any portion of the toll limitation services.

All LECs are able to provide toll blocking at this time, but they all filed petitions asking for a waiver of the requirement to provide toll control. We approve those petitions and grant all current ETCs a waiver from implementation of toll control for a period of one year, beginning January 1, 1998. During that time, all ETCs must provide voluntary toll blocking at no charge to Lifeline subscribers, in exchange for a zero deposit, as previously set forth in Order No. PSC-97-1262-FOF-TP. We explain our decision in detail below.

DECISION

One of the new federal requirements for Lifeline is that Lifeline consumers be provided toll limitation services on a voluntary basis, without charge. This requirement is premised on the belief that one of the primary reasons subscribers lose access to telecommunications services is disconnection for failure to pay toll bills.

There are two types of toll limitation services: toll blocking and toll control. With voluntary toll blocking, customers may choose to have all toll calls blocked. With toll control, customers may limit in advance their toll usage per billing cycle. A customer's deposit can be eliminated in exchange for participation in toll blocking. ETCs may not collect service

deposits from customers who select toll blocking. The service deposit should be reduced appropriately for those customers who selected toll control.

All Florida LECs filed petitions for initial waivers for implementation of toll control services. ALLTEL, GTEFL, Northeast, and Vista-United requested a one-year waiver. Sprint requested a two-year waiver. BellSouth, GTC, Frontier, Indiantown, and Quincy requested waivers, but did not specify a period of time.

The companies alleged that toll control functionality is not generally available from their switch vendors at this time. Additionally, they contend that the billing systems for toll calls would have to be extensively overhauled. To describe this situation, BellSouth stated in its petition:

Toll limitation services require the ability, on the part of the local exchange company, to monitor the toll charges of each subscriber. In order to accomplish this, the local exchange company must receive recording and rating information on an hourly basis from every interexchange carrier used by the subscriber during each billing cycle, including those interexchange carriers for whom BellSouth does not bill. Without this information, the local exchange company has no way of knowing the amount of toll usage that has been incurred by the subscriber during the billing cycle. (BellSouth petition, October 23, 1997, pp. 2-3)

As outlined in FCC Order 97-157, ¶388, states may grant waivers to carriers that are technically incapable of providing toll limitation services while they upgrade their switches to enable them to provide those services. The FCC made it clear that:

this is not an exception to eligible telecommunications carriers' general obligation to provide toll-limitation services; rather, it is a transitional mechanism to allow eligible telecommunications carriers a reasonable time in which to replace existing equipment that technically prevents the provision of service. (Order 97-157, ¶388)

Presently, Florida LECs can provide toll blocking, but not toll control. We believe that carriers desirous of receiving federal support should provide the services upon which that support is contingent. Carriers who cannot provide all toll limitation services at this time should provide us with a plan and time line

for their provision. The FCC has agreed that carriers providing voluntary toll limitation should be compensated from universal service support mechanisms for the incremental cost of providing toll-limitation services. (FCC Order 97-157, ¶386) No intrastate funding for toll-limitation services is available in Florida.

Several companies also pointed out that petitions have been filed with the FCC asking it to reconsider its toll limitation requirements. Although the requirements for federal funding may be changed, we may still wish to retain toll control as part of Florida's lifeline plan. We support the toll limitation requirements as currently framed in the FCC's Order. Accordingly, we believe that ETCs should continue with plans for implementation of full toll limitation services regardless of the FCC's decision on the matter.

We do believe that it is appropriate to grant waivers to allow companies time to make necessary plans for implementation of full toll limitation services. As noted above, only Sprint requested a waiver for more than one year. We believe that it would be appropriate for all ETCs to be on the same schedule initially, as this would allow waivers to be tracked and processed in an efficient manner.

For these reasons, we grant the current ETCs, which include all incumbent LECs, waivers from implementation of toll control for a period of one year, beginning January 1, 1998. During that time, all ETCs must provide voluntary toll blocking at no charge to Lifeline subscribers, in exchange for a zero deposit, as previously set forth in Order No. PSC-97-1262-FOF-TP.

Based on the foregoing, it is


ORDERED that the petitions for waiver of the implementation of toll control filed by all Florida local exchange carriers is granted for a period of one year, beginning January 1, 1998. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

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ORDERED that Docket No. 970744-TP shall remain open pending resolution of outstanding petitions. Docket No. 970644-TP shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of January, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This

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petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 26, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.