

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition of
Citizens of Florida; Robert A.
Butterworth, Attorney General of
the State of Florida; and
American Association of Retired
Persons to expand lifeline
assistance plan eligibility
criteria so customers with
existing debts to local exchange
companies may no longer be
denied lifeline service as long
as they subscribe to toll
blocking service.

DOCKET NO. 990694-TL
ORDER NO. PSC-99-2503-PAA-TL
ISSUED: December 21, 1999

The following Commissioners participated in the disposition of
this matter:

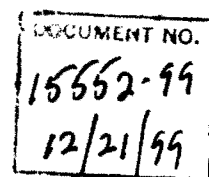
JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
GRANTING JOINT PETITION FOR EXPANSION OF LIFELINE PROGRAM

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.

On May 28, 1999, the Citizens of Florida; Robert A.
Butterworth, Attorney General of the State of Florida; and the
American Association of Retired Persons (collectively Joint
Petitioners) filed a petition to expand Lifeline Assistance Plan
eligibility criteria so that customers with existing debts to local
exchange companies (LECs) may no longer be denied Lifeline service
as long as they subscribe to toll blocking.



ORDER NO. PSC-99-2503-PAA-TL
DOCKET NO. 990694-TL
PAGE 2

Effective in 1995, Section 364.10(2), Florida Statutes, mandated that the carrier of last resort provide Lifeline service to qualified residential subscribers. BellSouth had already implemented its program in 1994 as part of its rate stabilization plan. The remaining LECs implemented the program with tariff filings in 1995. Subsequently, the FCC instituted several changes to the existing Lifeline program in its Report and Order on Universal Service issued in CC Docket No. 96-45, FCC Order 97-157, released May 8, 1997 (Order). We adopted those requirements in Order No. PSC-97-1262-FOF-TP, issued October 14, 1997 in Docket No. 970744-TP. Among the provisions was a requirement that local service for Lifeline customers may not be disconnected for non-payment of toll charges, the "no disconnect" rule; however, toll service may be disconnected for non-payment of toll charges.

On July 30, 1999, the United States Court of Appeals for the Fifth Circuit found that the FCC "exceeded its jurisdiction when it imposed the 'no disconnect' rule." Order No. 97-60421, p. 50. Accordingly, that portion of the FCC's Universal Service Order was reversed. However, Section 364.604(4), Florida Statutes, also prohibits disconnection of Lifeline service for nonpayment, stating that "[a] billing party shall not disconnect a customer's Lifeline local service if the charges, taxes, and fees applicable to basic local exchange telecommunications service are paid." Thus, it goes one step further than the former federal "no disconnect" rule, in that a Lifeline subscriber cannot be disconnected for nonpayment of any charges other than those specifically related to basic local service. It appears that if a Lifeline subscriber has Caller ID, for example, and has not paid the bill for that service, basic local service cannot be disconnected. This does not, however, seem to preclude disconnection of the Caller ID. We note that this and other provisions of Section 364.604, Florida Statutes, are currently the subject of rulemaking in Docket No. 990994-TP. Unless a hearing is requested, the rule is slated to be filed for adoption on March 31, 2000.

The current Lifeline plan provides a credit of up to \$10.50 on the local telephone bill to eligible customers. Subscribers with only basic local service and toll blocking would receive a bill of less than \$5, plus applicable taxes. However, the Joint Petitioners point out that "[a]lternative carriers are proliferating in Florida to provide toll-blocked local service to such customers at up to \$59.95 per month." They believe this is a result of previously incurred unpaid debts which are preventing eligible persons from receiving Lifeline service.

The Joint Petitioners stated that

Our experience indicates that the refusal of local telecommunications companies in Florida to provide lifeline service to customers with preexisting debts is a huge obstacle to expanding subscribership of lifeline service in Florida. Some companies have discretionary internal policies allowing customers with past debts to obtain lifeline service if (1) the past-due debt has not been sent to a bill collection agency, (2) the customer begins a plan to pay off the debt over a 4 to 6 month period, and (3) the customer agrees to toll limitation or toll restriction. However, this practice still uses the prospect of local phone service as leverage to obtain payment for past charges, including past-due long distance charges, and does not go far enough to encourage lifeline service in Florida.

Potential users of lifeline service have often been disconnected in the past for nonpayment of long distance charges. Lifeline provides little use for these persons if the local exchange companies refuse to provide them lifeline service on account of the previous debt. Both the Joint Board and the Federal Communications Commission have found that disconnection for nonpayment of long distance charges is a significant cause of low subscribership among low-income consumers. (Petition at page 4)

Data provided by BellSouth for a four-year period from July 1994 through June 1998 show that 81,526 Lifeline customers were disconnected for nonpayment. This was by far the most prevalent reason for disconnection, representing some 58 percent of all Lifeline disconnects. The second most common reason was moving out of the region, at 8.3 percent. No data are available for other LECs.

The Joint Petitioners point out that the penetration rates in Florida are dropping. In 1995, 93.9 percent of the households in Florida subscribed to telephone service. The percentages dropped steadily over the ensuing years to 92.6 percent in 1998, as reported by the FCC in its report, *Telephone Subscribership in the United States*, May 1999. They further note that the national average in 1998 was 94.1 percent.

To help reverse this undesirable trend, the Joint Petitioners ask that past debts "no longer be used by the LECs as a basis for denying Lifeline service to subscribers who would otherwise be eligible for the service." (Petition at page 4)

Section 364.604(4), Florida Statutes, does not address customers who were disconnected for nonpayment prior to becoming eligible for Lifeline. Nevertheless, fairness would dictate that such customers should be treated in the same manner as a customer who is already subscribing to Lifeline when the bill becomes delinquent.

As a result of meetings with our staff, it has been determined that the parties are in agreement on the following points:

1. LECs will not refuse to connect, reconnect, or provide Lifeline service because of unpaid toll charges or local charges other than basic local service.
2. LECs may require payment arrangements to be made for outstanding debt associated with basic local service and associated taxes and fees. Such arrangements will be made in a manner consistent with the company's tariff. If there are no tariffed provisions, payment arrangements are to be made for a period of not less than four months.
3. LECs will not require payment arrangements to be made on other unpaid amounts as a condition of receiving basic local service. This provision should not preclude LECs from collecting other portions of the outstanding debt by using any other methods as are customary for non-Lifeline subscribers.
4. Any payment made by the customer on the past-due amount will first be credited to unpaid basic local service charges.
5. If a Lifeline customer fails to pay charges for basic local service, the customer's Lifeline service may be disconnected. The customer will then be treated in the same manner as any other existing Lifeline subscriber with regard to reconnection after a disconnect for nonpayment; i.e., if Lifeline customers are required to pay outstanding basic local service charges before reconnection, this provision would apply to all Lifeline

customers equally regardless of previous outstanding debts.

6. LECs may decline to provide other local services, including ancillary services, if the customer has outstanding debt for local service. Such service may not be declined for nonpayment of toll service.

7. LECs may require toll blocking if the customer has prior unpaid toll charges.

8. For customers subject to mandatory toll blocking as a result of unpaid toll charges, LECs may require payment of all unpaid toll charges and an adequate deposit prior to the removal of toll blocking.

9. LECs will publicize the availability of Lifeline for customers with prior unpaid bills in the same manner as they publicize Lifeline in general. In particular, companies are required to include information about Lifeline in their directories and provide a bill message/insert on an annual basis, pursuant to FPSC Order No. PSC-97-1262-FOF-TP, in Docket No. 970744-TP, issued October 14, 1997.

In addition to the requirement that LECs include the new information in their advertising on Lifeline, such information will also be added to the FPSC Lifeline brochure as soon as is practicable.

We emphasize that Section 364.10(2), Florida Statutes, requires the carrier of last resort to provide Lifeline; thus, it is not mandatory for ALECs to provide this service so long as they do not serve as carrier of last resort. Additionally, LECs in Florida have been designated as eligible telecommunications carriers (ETCs) for purposes of the federal universal service programs, including Lifeline. No ALEC in Florida currently has that designation; thus, no ALEC can receive federal funding for Lifeline. Data received from the LECs indicates that resale of Lifeline is negligible, with fewer than 100 access lines for Lifeline being resold. Furthermore, Section 364.604(4), Florida Statutes, which prohibits disconnection for nonpayment of any charges other than for basic local service, applies to all billing parties, and could apply to ALECs. However, we note that, typically, service provided by ALECs is a prepaid local service

ORDER NO. PSC-99-2503-PAA-TL
DOCKET NO. 990694-TL
PAGE 6

with toll blocking. Thus, it would be unlikely that ALECs will have customers with unpaid past due bills for toll or other services. Currently, the alternative for disconnected customers is to obtain service from alternative providers at many times the Lifeline amount, or to do without service.

Concern was also raised over those subscribers who are disconnected for not having satisfied payment arrangements and, subsequently, seek to be reconnected. We find it appropriate that all the original payment commitments must be satisfied before such customers are reconnected.

The provisions of this Order will provide an opportunity to many former customers to obtain Lifeline service, and reestablish their credit with the telephone companies. The unpaid debts of the past are an insurmountable obstacle for many in obtaining service. Accordingly, we will require the LECs to provide Lifeline service to eligible customers who have been previously disconnected for nonpayment of their telephone bills, with the provisions enumerated in this Order. Appropriate tariffs are to be filed and these requirements are to be implemented within ninety (90) days of the issuance of the order.

Based on the foregoing, it is

ORDERED that all LECs shall provide Lifeline service to eligible customers who have been previously disconnected for nonpayment of their telephone bills, provided that those customers also subscribe to toll blocking service. It is further

ORDERED that a customer who has been disconnected for nonpayment under a prior arrangement for paying past due bills, may be required to satisfy those arrangements prior to reconnection. It is further

ORDERED that the nine points of agreement set forth in the body of this Order shall become binding guidelines for the Lifeline program. It is further

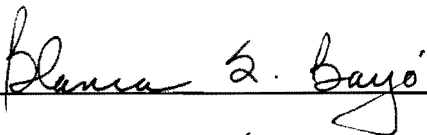
ORDERED that appropriate tariffs be filed and the provisions of this Order be implemented within 90 days of the issuance date of this Order. It is further

ORDERED that this docket shall be closed upon issuance of a Consumating Order if no person whose substantial interest are

ORDER NO. PSC-99-2503-PAA-TL
DOCKET NO. 990694-TL
PAGE 7

affected files a protest within 21 days of the issuance of this Order.

By ORDER of the Florida Public Service Commission this 21st day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CLF

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response 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 11, 2000.

ORDER NO. PSC-99-2503-PAA-TL
DOCKET NO. 990694-TL
PAGE 8

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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.