



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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JUL 23 11:15 AM
RECORDS AND REPORTING

DATE: JULY 23, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (ISLER) *PJC*
DIVISION OF LEGAL SERVICES (COX) *MAC MCB*

RE: DOCKET NO. 980478-TL - PETITION FOR WAIVER OF RULE 25-4.081, F.A.C., EMERGENCY 911 ACCESS, BY FRONTIER COMMUNICATIONS OF THE SOUTH, INC.

AGENDA: 08/04/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: JULY 1, 1998 - STATUTORY DEADLINE WAIVED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980478.RCM

CASE BACKGROUND

On January 6, 1997, the Commission adopted Rule 25-4.081, Florida Administrative Code (Emergency 911 Access). This rule requires that telecommunication providers maintain "911" access for temporarily disconnected phone lines.

Frontier Communications of the South, Inc., discovered that it is unable to comply with the rule with its current equipment. The company filed a petition on April 2, 1998, for a waiver of Rule 25-4.081, F.A.C. (Attachment A). The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 14, 1998. The comment period ended May 8, 1998, and no comments were received. The statutory deadline for the Commission's decision regarding this petition was July 1, 1998, which was waived by the company. (ATTACHMENT B) On July 13, 1998, the company filed a supplement to its petition. (ATTACHMENT C)

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FPSC-RECORDS/REPORTING

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This is staff's recommendation regarding Frontier's petition for waiver of Rule 25-4.081, F.A.C., Emergency 911 Access.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Frontier Communications of the South, Inc.'s petition for a waiver of Rule 25-4.081, Florida Administrative Code, until than May 31, 1999?

RECOMMENDATION: Yes. Staff recommends the Commission grant Frontier's petition for a waiver until May 31, 1999. (Isler)

STAFF ANALYSIS: Rule 25-4.081, Florida Administrative Code, Emergency 911 Access, states:

(1) Access to emergency 911 services shall be provided by the local exchange company to basic local exchange company subscribers.

(2) By July 1, 1997, access to 911 shall be maintained for the duration of any temporary disconnection for non-payment of a subscriber's local residential service, except that small local exchange companies as defined by Section 363.052(1), Florida Statutes, shall have until July 1, 1998, to comply.

On April 2, 1998, Frontier filed a request for a waiver of Rule 25-4.081, F.A.C. On July 13, 1998, Frontier filed a supplement to its petition. According to the petition, Frontier cannot comply with the rule until a software change to its Siemens Stromberg Carlson DCO switch is implemented. The modification will not be available until sometime in the third quarter of 1999. Frontier believes that it will be able to comply with the rule within 60 days of the installation.

Frontier's current software is Release Level 20, which does not have the technical capability to automatically provide access to 911 to residential customers whose service has been temporarily disconnected. Instead, the company would have to initiate manual procedures to provide access to 911.

Frontier stated that when a customer's service is temporarily disconnected, the disconnected number would have to be assigned a new screen class. The old screen class would have to be recorded and then reused when the number is placed back into service. In addition, "termination barred" must be placed on the number to prevent incoming calls to the disconnected line. Also, all custom calling features the customer may have must be recorded before the line is disconnected because some of the features, such as 3-way

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calling and custom code restriction, must be removed from the line due to software conflicts that arise when placing termination barred on the line. Frontier stated that accurate records must be retained for each line because if all line neumonics are not reinstalled once the service is restored, the features may not work properly, possibly causing toll billing errors.

Frontier estimated that it would require four man hours per disconnected telephone number to manually do the work required to give the customer access to 911 and an additional one-quarter hour to reestablish the connection. Siemans Stromberg Carlson advised Frontier that the software upgrade is due out sometime in the first quarter of 1999. Frontier believes that it can comply with the Commission rule within 60 days after the new equipment is installed.

Staff believes that it is the public interest to grant Frontier the waiver even though it means that 911 access will not be available to its customers whose service has been temporarily disconnected until approximately May 31, 1999. The only other options available would be to require Frontier to allow non-paying customers to continue to have outward-dialing capability or to require Frontier to manually disconnect and restore service.

Staff believes that the most cost-effective and logical method to resolve Frontier's inability to comply with Rule 25-4.081, F.A.C., is to grant the waiver with an expiration of May 31, 1999. Staff believes that Frontier has demonstrated that enforcement of the rule would cause substantial hardship due to the cost associated with immediate compliance. In addition, Frontier has demonstrated in its supplement to its petition, that with this waiver, "the underlying purpose of the statute to be achieved by reasonable means, at a reasonable cost, without creating unintended consequences and possible unintended departures from tariff provisions or other rule or statutory requirements" would be served.

Accordingly, staff recommends that the Commission grant Frontier's waiver as petitioned until May 31, 1999.

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DATE: July 23, 1998

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. (Cox)

STAFF ANALYSIS: This docket should be closed if no person, whose interests are substantially affected by the proposed action, files a protest within the 21 day protest period.

CMU

David B. Erwin
Attorney-at-Law

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Fax: 850.926.8448
derwin@lewisweb.net

April 2, 1998

Blanca Bayo
Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

980478-TL

Re: Docket No.:
Petition of Frontier Communications of the South, Inc.
For Rule Waiver

Dear Ms. Bayo:

Enclosed find an original and 15 copies of this Petition for Waiver of Rule 25-4.081, F.A.C., by Frontier Communications of the South, Inc.

Sincerely,



David B. Erwin

DBE:jm
Enclosures
froAp2

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rule Waiver)
by Frontier Communications of the South))

Docket No.:

Filed: April 2, 1998

PETITION FOR RULE WAIVER

Frontier Communications of the South, Inc. (Frontier), pursuant to Section 120.542(5), F.S., files this Petition for Waiver of Rule 25-4.081, F.A.C., and states as follows:

1. Frontier is subject to regulation by Public Service Commission rules contained in Chapter 25-4, F.A.C.

2. Frontier requests a waiver of Rule 25-4.081, F.A.C., which states as follows:

(1) Access to emergency 911 services shall be provided by the local exchange company to basic local exchange company subscribers.

(2) By July 1, 1997, access to 911 services shall be maintained for the duration of any temporary disconnection for non-payment of a subscriber's local residential service, except that small local exchange companies as defined by Section 364.052(1), Florida Statutes, shall have until July 1, 1998, to comply.

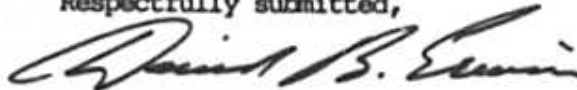
3. Frontier is unable to comply with the rule at the present time. In order to comply, Frontier must make a software change to its Siemens Stromberg Carlson DOD switch, and Frontier has been advised that the software change necessary will not be available until sometime in the first quarter of 1999. See the attached letter from Larry Lassiter, dated March 23, 1998. Frontier believes that no more than 60 days after installation of the software change, Frontier could comply with the rule.

ATTACHMENT A
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4. Failure to grant this petition for waiver would create a "substantial hardship," as defined by Section 120.542(2), F.S.

In consideration of the above, Frontier respectfully requests approval of this Petition for Waiver of Rule 25-4.081, F.A.C.

Respectfully submitted,



David B. Erwin
127 Riversink Road
Crawfordville, FL 32327
Phone: 850.926.9331

Attorney for
Frontier Communications
of the South, Inc.
180 S. Clinton Avenue
Rochester, NY 14646

JULY 23, 1998

FRONTIER

716 325 1355 P.02

Frontier Corporation

frontier

180 South Clinton Avenue
Rochester NY 14646

March 23, 1998

Kelly Goodnight
Regulatory Matters
Frontier Telephone Group
180 S. Clinton Avenue
Rochester, New York 14646

Dear Kelly:

For Frontier Communications of the South, Inc. to comply with Florida Public Service Commission's Order No. PSC098-1640-FOF-TL, Docket No. 860371-TL, to provide access to E911 service to residential temporary disconnects by July 1, 1998, Frontier will need make a software upgrade to our Siemens Stromberg Carlson DCO switch. Currently, Frontier Communications of the South, Inc. is at Release Level 20.

In a conversation with Mr. Tom Nicholson on March 2, 1998, Siemens Stromberg Carlson has made a verbal commitment that Release Level 22 will contain the software needed to provide E911 access to residential temporary disconnects. Mr. Nicholson has stated that Release Level 22 is due out sometime in the first quarter of 1999.

Sincerely,



Larry Lassiter
Network Facilitator
Frontier Communications of the South, Inc.

ATTACHMENT B
DOCKET NO. 980478
JULY 23, 1998

David B. Erwin
Attorney-at-Law

127 Riversink Road
Crawfordville, Florida 32327

Phone 850 926 9331
Fax 850 926 8448
derwin@lewisweb.net

June 4, 1998

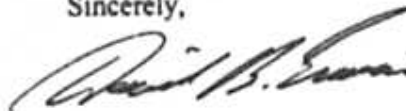
Blanca Bayo
Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

In re: Docket No. 980478-TL

Dear Ms. Bayo:

In order to give ample time to consideration of the rule waiver request by Frontier Communications of the South, Inc. (Frontier), in Docket No. 980478-TL, Frontier waives the provisions of Section 120.542(8), Florida Statutes. Frontier hereby waives any right it has to insist that the Commission grant or deny its petition within 90 days. Frontier intends to file a Supplement to its Petition for Rule Waiver to expand upon its allegations in the original petition by providing certain substantiating factual information.

Sincerely,



David B. Erwin

DBE:jm
Copy to: Will Cox, Attorney, FPSC
Kelly Goodnight, Frontier

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DOCUMENT FILED DATE

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ATTACHMENT C
DOCKET NO. 980478-
JULY 23, 1998

David B. Erwin
Attorney-at-Law

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Phone 850.926.9331
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July 13, 1998

Blanca Bayo
Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

In re: Docket No. 980478-TL

Dear Ms. Bayo:

Frontier herewith files its Supplement to its Petition for Rule Waiver to expand upon its allegations in the original petition by providing certain substantiating factual information. I indicated in my letter dated June 4, 1998, waiving the provisions of Section 120.542(8), Florida Statutes, that this Supplemental Petition would be forthcoming.

Sincerely,



David B. Erwin

DBE:jm

Copy to:

Will Cox, Attorney, FPSC
Kelly Goodnight, Frontier

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rule Waiver)
by Frontier Communications of)
the South)
_____)

Docket No.: 980478-TL

Filed: July 13, 1998

**SUPPLEMENT TO PETITION
FOR RULE WAIVER**

Frontier Communications of the South, Inc. (Frontier), hereby files this Supplement to the Petition for Rule Waiver previously filed April 2, 1998, in Docket No. 980478-TL. Frontier believes that it would be appropriate to expand upon its allegations in the original petition that failure to grant the petition for waiver would create a "substantial hardship" and that granting the petition would not do violence to the concept that waivers should be granted only where the underlying purpose of the statute will be achieved by other means. Consequently, Frontier submits the following supplemental information:

1. If Frontier is allowed to wait for Siemens Stromberg Carlson Release Level 22 for its switch, then the procedures set forth in paragraph 2, below, could be avoided.
2. If Frontier is not allowed to wait for and use Release 22, Frontier would face initiating and maintaining cumbersome and complicated manual procedures of questionable efficacy that might create a different set of problems, such as incorrect toll billing, in order to attempt to comply with the rule for which waiver has been sought. Frontier would have to undertake the following procedures for each customer involved:
 - a) Temporary disconnects will require the disconnected number to be assigned a new screen class. The old screen class must be recorded and reused when the directory number is placed back into service. Termination barred must be placed on the disconnected number to prevent

- incoming calls on each temporary disconnected line. All features must be recorded before the customer's line is temporarily disconnected, because some features (such as caller name and number, 3-way calling, code restriction and other class features) must be removed from the line as a result of software conflicts that arise when placing termination barred on the line.
- b) Accurate records must be retained for each customer's line, because all line neumerics must be put back on each customer's line when full service is restored. Failure to do this will result in features not working properly, with toll possibly being billed incorrectly on the customer's phone number.
- c) For the billing cycle ending May 20, 1998, Frontier had 63 disconnects. If Frontier were to attempt a front end work around (not necessary with Release 22), it would require approximately 4.0 man hours of work per customer and an additional .25 man hours to reestablish the connection. This process, even if it did not create unintended adverse consequences, would be expensive and disruptive.
3. Frontier submits that granting the petition would allow the underlying purpose of the statute to be achieved by reasonable means, at a reasonable cost, without creating unintended consequences and possible unintended departures from tariff provisions or other rule or statutory requirements. Frontier submits that the provisions of Section 120.542(2), F.S., were not intended by the Legislature to create problems through a legalistic and unreasonable application of the law. Rather, the intent of the statute would appear to be a removal of burdensome or technically difficult or impossible requirements, as sought by the petition for waiver in this case.

Respectfully submitted,



David B. Erwin