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Ms. Blanca Bayo
Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
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RE: Docket No. 040604-TL - In re: Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs.

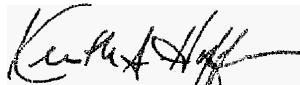
Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket on behalf of TDS Telecom d/b/a TDS Telecom/Quincy Telephone, Alltel Florida, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, and GTC, Inc. d/b/a GT COM are the original and fifteen copies of Small LECs' Response in Opposition to AARP's Motion for Reconsideration/Rescheduling and Removal of Funding Mechanism Issue.

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Sincerely,


Kenneth A. Hoffman

RCA _____ KAH/tls
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs.

Docket No. 040604-TL

Filed: November 20, 2004

SMALL LECS' RESPONSE IN OPPOSITION TO AARP'S MOTION FOR RECONSIDERATION/RESCHEDULING AND REMOVAL OF FUNDING MECHANISM ISSUE

TDS Telecom d/b/a TDS Telecom/Quincy Telephone, Alltel Florida, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, and GTC, Inc. d/b/a GT Com (hereinafter referred to collectively as the "Small LECs") by and through their undersigned counsel, hereby file this Response in Opposition to AARP's Motion for Reconsideration/Rescheduling/and Removal of Funding Mechanism Issue, and state as follows:

1. AARP seeks reconsideration of Order No. PSC-04-1066-PCO-TL issued November 1, 2004, the Order Establishing Procedure issued in this docket. AARP also states that its seeks reconsideration of Order No. PSC-04-1096-PCO-TL issued November 5, 2004, the Order Modifying Procedure changing the prehearing conference date from January 6, 2005 to January 5, 2005. The Order Modifying Procedure made no further modification to the Order Establishing Procedure.

2. The Order Establishing Procedure was issued on November 1. Under Rule 25-22.0376, Florida Administrative Code, AARP had 10 days to file a motion for reconsideration of the Order Establishing Procedure. AARP filed its motion on November 12, 2004, one day after the deadline. Thus, AARP failed to timely seek reconsideration of the Order Establishing Procedure pursuant to Rule 25-22.0376, Florida Administrative Code, and the terms and conditions of the Order Establishing Procedure, at page 10. AARP is not really in fact seeking reconsideration of the

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Order Modifying Procedure. It expresses no objection to the new January 5, 2005 date for the prehearing conference. Instead, AARP is attempting to use a supposed motion for reconsideration of the Order Modifying Procedure as a means to salvage its untimely Motion for Reconsideration of the Order Establishing Procedure. This attempt, all too transparent, should be denied. AARP has failed to timely seek reconsideration of the Order Establishing Procedure and, for that reason alone, AARP's Motion should be denied.¹

3. The purpose of a motion for reconsideration is to identify a point of fact or law which was overlooked or which the prehearing officer failed to consider in rendering his order. **See Stewart Bonded Warehouse, Inc. v. Bevis**, 294 So.2d 315 (Fla. 1974); **Diamond Cap Co. v. King**, 146 So.2d 889 (Fla. 1962); and **Pingree v. Quaintance**, 394 So.2d 162 (Fla. 1st DCA 1981). AARP's Motion for Reconsideration, to the extent it is even considered, should be denied as it fails to meet the standard for reconsideration outlined under Florida law.

4. The Commission issued its Proposed Agency Action Order expanding Lifeline eligibility, Order No. PSC-04-0781-PAA-TL, on August 10, 2004. Protests and petitions for formal administrative hearings were timely filed by a number of parties, including the Small LECs and Verizon Florida Inc ("Verizon"). In their petitions, both Verizon and the Small LECs requested a hearing for consideration of issues related to a state universal service funding mechanism or alternative funding mechanism to recover the costs of the State portion of the Lifeline discount for eligible customers in Florida.

¹See, e.g., Order No. PSC-02-1516-FOF-EI, issued November 5, 2002; 02 F.P.S.C. 11:29, 31-32.

5. On October 7, 2004, staff issued a notice for all Issues Identification Conference to be held on October 20, 2004. AARP failed to submit a preliminary list of issues pursuant to the notice but did appear at the Issues Identification Conference through counsel. At the Issues Identification Conference, the funding issues initially raised by Verizon and the Small LECs were discussed by the parties and staff. AARP did not announce any intention to intervene nor any objection to the inclusion of the state universal service funding or alternative funding issues raised by Verizon and the Small LECs. Nor did AARP raise an objection to the testimony filing dates discussed and agreed to by the parties and staff at the Issues Identification Conference. The funding issue and the prefiled testimony filing dates were ultimately adopted and approved by the prehearing officer in the Order Establishing Procedure.

6. So, contrary to the unfounded finger pointing of AARP, i.e., that Verizon and the Small LEC are trying to “back door” the funding issue into this docket,² this issue was raised from the outset in the petitions filed by Verizon and the Small LECs protesting the PAA Order. There is nothing “last minute and ancillary” about this issue, contrary to the allegations of AARP.³

6. AARP also attempts to support its position by pointing out that a “state lifeline funding mechanism was not mentioned in the PAA Order. . . .”⁴ AARP’s argument has no merit. The Small LECs’ petition raises and explains why the Small LECs’ substantial interests are affected by the preliminary determinations expanding Lifeline eligibility in the PAA Order and why the state

²See AARP Motion, at page 3.

³Id., at page 3.


⁴Id., at page 2.

universal service funding or alternative funding mechanism issue is relevant, timely raised and appropriate for an efficient consideration of the issues in this docket.

7. AARP's attempt to remove this issue on reconsideration should be rejected. AARP is essentially asking the Small LECs to engage in redundant work that has already been performed by filing a new petition in a separate docket so as to allow AARP additional time to prepare testimony when it is AARP that failed to begin its work on the funding issues raised by Verizon and the Small LECs in the initial stages of this proceeding. Requiring the Small LECs to file a separate petition and essentially refile testimony that has already been filed in this docket in a separate docket is a waist of time and resources of the Small LECs, the other parties to this proceeding and the Commission and its staff. That is particularly true where the filing of a separate funding petition in a separate docket would be a logical candidate for consolidation with this docket due to the overlapping, common issues - - leaving the parties in precisely the position they are in today.

WHEREFORE, for the forgoing reasons, AARP's Motion for Reconsideration/Rescheduling and Removal of Funding Mechanism Issue, including its request for an extension of testimony filing dates, should be denied.

Respectfully submitted this 20th day of November, 2004.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via Electronic Mail and U.S. Mail this 20th day of November, 2004 to:

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