

State of Florida



Public Service Commission

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COMMISSION CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: August 18, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Cibula) *SMC. DS*
Division of Competitive Markets & Enforcement (Bulecza-Banks, Casey, Maduro, Mann, Williams) *CW*
Division of Economic Regulation (Hewitt) *CEA / JWA / RD*

RE: Docket No. 040451-TP – Petition by Citizens of Florida to initiate rulemaking that would require local exchange telecommunications companies to provide Lifeline service within 30 days of certification.

AGENDA: 08/30/05 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

RULE STATUS: May be deferred

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\040451.RCM.DOC

Case Background

On May 13, 2004, the Office of Public Counsel (OPC) filed a petition to initiate rulemaking. By its petition, OPC requested that the Commission adopt a rule that would require local exchange telecommunications companies to provide Lifeline service within 30 days of certification of a customer's eligibility for Lifeline service under section 364.10(3)(a), Florida Statutes. On July 6, 2004, the Commission voted to grant OPC's petition and rulemaking was initiated.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Docket No. 040451-TP

Date: August 18, 2005

Commission staff held rule development workshops on August 9, 2004, and November 5, 2004, to obtain comments on OPC's proposed rule. At both workshops, OPC and the local exchange companies indicated a willingness to resolve the concerns raised in OPC's petition through means that would not require a rule and expressed to Commission staff their desire to work on their own to resolve the matter. On July 15, 2005, Commission staff counsel received a letter from OPC, which is included with this recommendation as Attachment A, indicating that the local exchange companies had improved the processing of Lifeline applications and that, due to these improvements, rulemaking was no longer necessary.

This recommendation addresses whether this docket should be closed. The Commission has jurisdiction pursuant to sections 120.54 and 364.10, Florida Statutes.

Discussion of Issues

Issue 1: Should this docket be closed?

Recommendation: Yes. This docket should be closed. (Cibula, Casey, Williams)

Staff Analysis: As stated in the case background, OPC petitioned the Commission to initiate rulemaking in regard to the processing of Lifeline applications. In its petition, OPC stated that while section 364.10(3), Florida Statutes, requires it to certify and maintain claims submitted by a customer for eligibility under the income test set forth in the statute, there was no date by which local exchange telecommunications companies must begin providing Lifeline service after receiving the notice of eligibility from OPC. OPC requested that the Commission adopt the following rule:

Provision of Lifeline Service After Certification of Eligibility. Each local exchange telecommunications company providing Lifeline service under an income test shall provide Lifeline service to the customer within 30 days of receiving certification of eligibility from the Office of Public Counsel.

The Commission voted to initiate rulemaking at its July 6, 2004, agenda conference. Commission staff held two rule development workshops to obtain comments on OPC's rule proposal. At each of the workshops, OPC and the local exchange companies indicated a willingness to resolve the concerns raised in OPC's petition through means that would not require a rule and expressed to Commission staff their desire to work on their own to resolve this matter.

On July 15, 2005, staff counsel received a letter from OPC indicating that "it is no longer necessary to go forward with rulemaking in this docket." The letter stated that OPC had "worked hard with the local exchange companies to improve the processing of income-based Lifeline applications" and that OPC is satisfied with the improvements made by the companies.

Staff recommends that this docket should be closed. As stated above, OPC requested the initiation of rulemaking to address concerns pertaining to the Lifeline application process. OPC now indicates that the local exchange companies have satisfactorily addressed these concerns and that rulemaking is no longer necessary.

Staff notes that the Legislature in its 2005 Session made changes to Chapter 364 which added new provisions pertaining to Lifeline service. Some of these provisions instruct the Commission to develop rules to implement the new laws. Staff is currently reviewing the new laws and will initiate a separate rulemaking to develop rules in accordance with the Legislature's decree.

TOM LEE
President



Harold McLean
Public Counsel

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ALLEN BENSE
Speaker



Charles J. Beck
Deputy Public Counsel

July 7, 2005

Samantha Cibula, Esq.
Florida Public Service Commission
2740 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket 040451-TP

Dear Samantha:

Docket 040451-TP was opened on May 13, 2004, in response to our petition to initiate rulemaking. The petition asked the Commission to adopt a rule which would require local exchange telecommunications companies to provide Lifeline service within 30 days of certification.

Since that time we have worked hard with the local exchange companies to improve the processing of income-based Lifeline applications. We are satisfied with these improvements and believe it is no longer necessary to go forward with rulemaking in this docket.

Sincerely,

A handwritten signature in cursive script that reads "Charles J. Beck".

Charles J. Beck
Deputy Public Counsel

CJB:bsr

cc: all parties of record

