Ruth Nettles

From: Martha Johnson [marthaj@fcta.com]
Sent: Friday, June 20, 2008 3:51 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 080159 - Post-Workshop Comments of the Florida Cable Telecommunications Association
Attachments: 080159 FCTA Post-Workshop Comment.pdf

A. The person responsible for this electronic filing is:

David A. Konuch
Senior Counsel, Regulatory Law and Technology
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
850-681-1990
850-681-9676
dkonuch@fcta.com

B. The docket number and title are:

In Re: Docket No. 080159-TP – Joint Petition to Initiate Rulemaking to Adopt New Rule in Chapter 25-24, F.A.C., Amend and Repeal Rules in Chapter 25-4, F.A.C., and Amend Rules in Chapter 25-9, F.A.C. By Verizon Florida LLC, BellSouth Telecommunications, Inc. D/B/A AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company D/B/A TDS Telecom, and Windstream Florida, Inc.

C. This document is filed on behalf of the Florida Cable Telecommunications Association, Inc.

D. The cover letter and Post-Workshop Comments are a total of 22 pages.

E. Attached are the Florida Cable Telecommunications Association's cover letter and Post-Workshop Comments.

Thank you,

Martha Johnson
Regulatory Assistant
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
850/681-1990
850/681-9676 (fax)

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FPSC-COMMISSION CLERK

Florida Cable Telecommunications Association

Steve Wilkerson, President

June 20, 2008

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **Docket No. 080159-TP** – Joint Petition to Initiate Rulemaking to Adopt New Rule in Chapter 25-24, F.A.C., Amend and Repeal Rules in Chapter 25-4, F.A.C., and Amend Rules in Chapter 25-9, F.A.C. By Verizon Florida LLC, BellSouth Telecommunications, Inc. D/B/A AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company D/B/A TDS Telecom, and Windstream Florida, Inc.

Dear Ms. Cole:

Enclosed for electronic filing in the above referenced Docket, please find the Post-Workshop Comments of the Florida Cable Telecommunications Association, Inc.

If you have any questions whatsoever, please do not hesitate to contact me at (850) 681-1990.

Your assistance in this matter is greatly appreciated.

Sincerely,

David A. Konuch
Senior Counsel, Regulatory Law and Technology
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
Phone: 850-681-1990
Fax: 850-681-9676

Enclosures

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080159-TP

In the Matter of:

JOINT PETITION TO INITIATE RULEMAKING TO ADOPT NEW RULE IN CHAPTER 25-24, F.A.C., AMEND AND REPEAL RULES IN CHAPTER 25-4, F.A.C., AND AMEND RULES IN CHAPTER 25-9, F.A.C., BY VERIZON FLORIDA LLC, BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T FLORIDA, EMBARQ FLORIDA, INC., QUINCY TELEPHONE COMPANY D/B/A TDS TELECOM, AND WINDSTREAM FLORIDA, INC.

_____/

POST-WORKSHOP COMMENTS OF FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.

Florida Cable Telecommunications Association, Inc. hereby submits its comments following the rule development workshop that occurred May 14th, 2008, in Docket Number 080159-TP, in which various Florida Incumbent Local Exchange Carriers seek repeal and or modification of various Commission rules and to create a new rule in Chapter 25-24 to hasten de-regulation of the telecommunications industry in Florida.

FCTA represents cable telephony providers throughout the state of Florida who provide, by and large, the only facilities-based mass market telephony competition to Florida's ILECs. The current regulatory regime has enabled FCTA's members to gain an initial foothold in the consumer market for voice telephony. Florida's ILECs now seek massive changes to

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FPSC-COMMISSION CLERK

current regulations, claiming competition makes the regulations obsolete or unnecessary.

The stakes here are quite high. Before the recent successful competition by cable operators, many other competitive providers tried, but failed, to bring mass market telephony competition to Florida. Competition stalled for more than a decade after the 1996 federal Telecommunications Act. Consumer choice did not exist for mass market telephony until recently, after cable operators built networks and found technology solutions that enabled them to provide service with minimal reliance on the networks of incumbent telephony providers. The telephony competition that exists today resulted from efforts and investment by cable operators and careful oversight of ILECs by the Commission and should not be taken for granted.

Cable operators built their own facilities and networks to provide competitive VoIP service. Yet, even though cable operator and ILEC networks are separate, ILECs still possess the power unilaterally to delay or prevent customers from switching to competitors. A recent AT&T "software upgrade" needed for customers to switch to competitive telephony providers contained numerous bugs and resulted in thousands of lost orders. *See* Docket No. 000121A-TP, *Investigation into the establishment of operations support systems permanent incumbent local exchange telecommunications companies*, (investigating AT&T OSS interface problems that resulted in lost orders of competitive providers). Competitors have begun referring to the

event as the "OSS Train Wreck," and more than one month after it began occurring, AT&T has yet to resolve fully the problem. Cable operators filed recent complaints over ILEC failures to provide subscriber listing information at market rates, and over ILEC use of confidential network information for retention marketing. As recent events have shown, the competition that exists today is insufficient to replace the Commission's careful oversight. For instance, the Office of Public Counsel recently sought a $6.5 million fine against Verizon for violating service quality standards. According to an article in yesterday's Tampa Tribune, these service quality problems not just in Florida, but nationwide. *See* "Verizon Quality Issues Have Gone Long Distance," Richard Mullins, the Tampa Tribune, June 19, 2008, Ex. A hereto ("Lately, state regulators across the country are complaining loudly about those problems, calling for hearings, investigations and millions of dollars in fines for lax phone service. Utility regulators in Maine, Maryland, Massachusetts, New York, Oregon, West Virginia, Ohio and New Jersey, to name a few, have weighed in on Verizon.)"

Although the ILECs assert their competitors are not subject to the rules at issue here, that misses the point. To encourage the development of competition and new technology, competitors, such as the FCTA's member operators, are subject to different regulation than the ILECs at the state and federal level. Some measure of deregulation for the ILECs may be appropriate someday after resolution of competitive and other disputes.

Cable operators generally favor deregulation, and it may be that some rules here may be uncontroversial. However, the ILEC petition contains insufficient legal analysis to identify which rules are or are not controversial as to be candidates for repeal. As the OSS "train wreck," OPC's fines, and the ongoing litigation over retention marketing all demonstrate, competition has yet to displace the need for regulation. And, some rules will be needed to ensure fair competition. Now is not the time to re-invent the wheel by throwing out the rule book.

Accordingly, FCTA proposes the following:

1. The Commission lacks authority to adopt and should reject as unnecessary the ILECs' proposal for a new regulation to measure competition.

2. The Commission should hold hearings on these issues and not act in haste.

3. The ILECs should be required to provide additional background and analysis for each of the rules they seek to repeal or modify.

4. Instead of a new rule to measure competition, the Commission should evaluate each ILEC request for a rule waiver or modification on its own merits, using existing administrative procedures, regardless of the number of providers in a specified market.

5. The Commission should always consider the practical effect on competition and consumers of the ILECs' proposed rule changes.

I. FACTORS TO CONSIDER WHEN EVALUATING THE ILECS' PROPOSALS

In addition to its comments on specific proposals, the FCTA believes the Commission should consider the following principles in evaluating the ILECs' proposal:

1) **The Commission lacks authority to adopt and should reject as unnecessary the ILECs' proposal for a new regulation to measure competition.** The Florida ILECs assert they need fewer regulations to compete with cable telephony providers and petitioned for the creation of this rulemaking. Ironically, to achieve deregulation, the ILECs propose a new rule to measure the competition in Florida, and a complex rulemaking to determine whether dozens of existing rules should be modified or repealed.

In addition to the irony of adopting a rule for use in deleting other allegedly unnecessary rules, the ILECs' proposal to create a new "competitive trigger" rule lacks any valid statutory basis. Under Chapter 120, a grant of rulemaking authority "is necessary but not sufficient" to allow an agency to adopt a new rule. 120.52(8)(f). Rather, "a specific law to be implemented is also required." *Id.* This rule commands that agencies implement specific statutory commands, but prohibits an agency from "improvising" a rule to further a general statutory purpose. *See e.g. Board of Internal Trustees of the Internal Improvement Fund v. Day Cruise Association, Inc.*, 794 So.2d 696, 699 (Fla. 1st DCA 2001) (agency action violated APA because, although

statute permitted regulation generally, it provided no specific authority to enact rule prohibiting "cruises to nowhere"). By proposing a "competitive trigger" that does not appear in the statute, the ILECs are requesting this Commission improvise a new rule based on a general legislative purpose, in violation of the APA.

The ILECs cite 364.01(4)(f) Florida Statutes as their basis for seeking repeal or modification of the dozens of rules in response to their competitive trigger. ILEC Petition for Rulemaking at 12. That provision, however, which concerns the elimination of "any rules or regulation which will delay or impair the transition to competition," does not form a positive basis for adopting a completely new rule.

In contrast, Section 364.13, concerning "Emerging and advanced services," states that "Broadband service and the provision of voice-over-Internet-protocol (VoIP) shall be free of state regulation." 364.13, F.S. Although the ILECs decry the different regulatory treatment of VoIP providers, unlike the ILECs' authority for creating a new "competitive trigger," the lack of state regulation of advanced services such as VoIP derives directly from statute. Thus, although it may be possible to consider repeal or modification of individual rules on their own merits, the Commission lacks any statutory authority for creating the new "competitive test" sought by the ILECs.

Even if statutory authority existed to adopt it – which the FCTA disputes - the proposed new rule, the so called "competitive test," is flawed.

The ILECs' expert witness, Mr. Taylor, testified this test is met if three competitors exist anywhere in a geographic region, even if the third competitor that the ILEC faces is its own wireless affiliate. Testimony of Dr. Taylor, Workshop Transcript at 121 (stating "the bottom line is wireless affiliates, fine" for purposes of ILEC competitive test). The test also allows the ILEC to choose the geographic region, whether it is by state, wire center, or other division. The result is that presence of a competitor anywhere in the state leads to a finding of competition everywhere. That test merely enables the ILECs to describe the status quo – whatever and wherever it is – as competition, even if no meaningful competition exists in a market, regardless of market power. Indeed, the ILECs' expert witness, Dr. Taylor, rejected a test that would require an express economic determination of market power essentially as being overly difficult. *See* Transcript at 135 (stating "simply counting noses" would be easier than attempting determination of "strange things [such as] market power").

Dr. Taylor claims that "vigorous competition under asymmetric rules" will make consumers worse off. Workshop Transcript at 111. That proposition is far from self-evident, however, and Dr. Taylor offers no proof to support it. Indeed, the legislature adopted differential treatment of VoIP as opposed to wireline phone to encourage the development of competition, which is beginning to occur now. *See e.g.* 364.13, F.S. The "vigorous competition" described by Dr. Taylor is not something to be feared, but rather, is an end in itself, which resulted from a specific policy adopted by the legislature in 364.13, F.S.

The ILECs' "competitive test" does not ensure a level of competition that will allow the market to function effectively. It also does nothing to prevent anticompetitive activity by the ILECs. In fact, among the scores of rules that the ILECs seek to repeal are anti-trust type rules designed to ensure fair competition and a level playing field. Repealing those rules would undermine the very competition that the Commission seeks to promote, and ultimately lead to less competition and a greater need for regulation.

2) **The Commission should hold hearings on these issues and not act in haste.** The ILECs seek massive change to the current regulatory regime. Because the current regulatory regime enabled competition to take root, and took nearly twelve years to reach its present state of budding competition, the Commission should not act in haste to change it. Due to the sheer number of ILEC proposals, the workshop provided only a few minutes to discuss each one. Some of the proposals may ultimately be found uncontroversial, and indeed, the Staff has already recommended repeal of a handful of rules identified by the ILECs. Other proposals are highly contentious, while the effect of still others cannot be predicted.

Unless the outcome of this proceeding is for the Staff merely to adopt those uncontroversial rule repeals, determining whether these rules could be repealed without detriment to competition and consumers is well beyond the achievable scope of a workshop like this one. Instead, the Commission

should hold hearings, set a longer term briefing schedule, and consider bi-furcating the current proceeding into one or more separate dockets to enable more detailed consideration of each proposal.

3) The ILECs should be required to provide additional background and analysis for each of the rules they seek to repeal or modify. In addition, the ILECs should provide answers in writing the Staff's questions about burdens versus benefits of repealing or modifying the rules. Laws and regulations respond to a need for oversight. Knowing why the rule was needed in the first place helps regulators determine if the rule is still needed or can be repealed with no adverse affect on consumers. The staff provided this information for some, but not all, of the rules during the workshop. The ILECs seek numerous changes to the regulatory regime, including adoption of a new, multi-part rule, and repeal or modification of 53 other rules. Docket No. 080159-TP, Notice of Rule Development at 6. Yet, their petition contains only three pages of analysis of as to why the rules should be modified or deleted, most of which consists merely of a listing of the rules themselves. *See e.g.* ILEC Petition at 19-21. Similarly, Appendices B and C, though voluminous, mostly list the text of each rule, with most rules receiving only a sentence or two of analysis, and little if any citation of legal authority. *See e.g.* ILEC Petition, Attachment B at 30 (sole analysis of rule reads "This rule should not apply to competitive markets or Streamlined Regulation companies" with no other analysis of rule.) Rule 25-4.046, concerning incremental cost data used to prevent predatory pricing in competitive markets receives exactly one sentence, with no citation of legal authority. *See* ILEC Petition, Attachment C at 28,

concerning use of incremental cost methodology to prevent predatory pricing (sole analysis consists of the following sentence "This rule should be deleted and the issue should be addressed on a complaint basis.") The ILECs should be required to provide additional background information and legal analysis for each of the rules at issue here.

4) Instead of a new rule to measure competition, the Commission should evaluate each ILEC request for a rule waiver or modification on its own merits, using existing administrative procedures, regardless of the number of providers in a geographic area. Rules that have outlived their purpose should be repealed, but only after all existing administrative procedures for evaluating them have been followed, including placing on the ILECs the burden of proving that the rules no longer are necessary. In fact, Chapter 120.542 provides procedures for seeking waiver of these rules. Those procedures apply here, and the Commission should require the ILECs to adhere to these established procedures, rather than creating an entirely new and untested framework such as the ILECs have proposed. *See e.g.* 120.542(2), F.S. (requiring person seeking waiver to demonstrate "that the purpose of the underlying statue will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship").

Rules implementing existing statutory requirements must be retained, as the Commission possesses no discretion to delete them. Similarly, rules intended to prevent cross-subsidies or predatory pricing or

other anti-competitive activity should be retained. The Commission should also consider retaining any rules at issue that enable customers to gain information necessary to make an informed choice about providers.

5) The Commission should always consider the practical effect on competition and consumers of the ILECs' proposed rule changes. The FCTA attended the workshop to listen, to learn, and to comment if necessary. After participating in the workshop, FCTA members have many questions about how the ILEC proposals would work in practice. Repeal of a regulation presumably means that the conduct that rule prohibited now is legal, thereby placing the ILECs and others on the "honor system" concerning the former legal obligation. The ILECs seek repeal of Rule 25-4.083, which requires customer consent and notification before placing a PC freeze on a customer's account. Repeal of this rule could lead to chaos in competitive markets, as it would enable ILECs to place a PC freeze on every customer's account, without their consent, thus stopping competition in its tracks.

The FCC's rules, 47 C.F.R. §64.1190, require recorded consent for PC freezes. Automatic PC freezes would be a disaster for the number porting process, as it raises the prospect that every carrier would PC freeze and no one would be able to change carriers without the losing carrier being involved in the discussion. That would be a retention marketing nightmare. Disputes like the current one between Verizon and FCTA members Bright

House and Comcast over retention marketing would multiply. Competition and consumers would suffer.

II. FCTA COMMENTS ON STAFF'S ATTACHMENT B

Attachment B consists of rules the ILECs believe may be deleted if their flawed "competitive trigger" test is met. The ILECs seek repeal of several Truth-in-billing and anti-slamming rules. These rules mirror ones adopted by the FCC earlier this decade to prevent slamming (unauthorized changes to a subscriber's choice of carrier), cramming (i.e., including services on a bill that a subscriber did not order), and rules concerning accounting treatment of intercompany fund transfers, among others. Although the ILECs claim the anti-slamming rules merely duplicate the federal rules, in fact this Commission and the FCC possess different jurisdictional grants, so deleting the state version of the rules would make it, at best, unclear as to whether the federal prohibitions applied to intrastate activity.

Knowing the history of these rules highlights the importance of knowing *why* a particular rule was adopted in the first place. For instance, rules preventing imposing a preferred carrier ("PC") freeze on a customer's account serve a dual purpose. They protect consumers by ensuring that no "slamming" of a customer, *i.e.*, the unauthorized switch of a customer's carrier, can occur. The rule also safeguards competition and ensures a level playing field because the current rule prevents a carrier from imposing a PC freeze on a customer without that customer's consent. Were it otherwise,

carriers could unilaterally prevent any customer from switching to a competitor by imposing a PC freeze without the subscriber's consent, thereby stopping competition in its tracks. Although the ILECs state two sets of rules exist at the federal and state level, they provide no analysis of how the two regimes differ and what difference it might make if the state rules are deleted. Instead, they simply state without elaboration that "two sets of rules on both the federal and state levels are not needed." *See* ILEC Petition, Attachment B, at 8-9. The PC freeze and other anti-slamming rules were the product of several complex rulemakings at the state and federal levels. Deleting the rules without engaging in similar deliberation would likely result in anti-competitive practices and uncertainty for customers and the industry.

For other rules, the effect of deleting them simply cannot be predicted. For instance, what effect would deleting rule 25-14.010, which governs the Effect of Debt on Federal Corporate Debt have on competition or consumers? It is impossible to determine based on the general lack of a record here. Similarly, the ILECs propose to delete Rule 25-14.001, covering scope of regulation, and it exempts certain types of carriers such as IXCs and Alternate Access Vendors and others from regulation. Without this rule exempting them, it would be arguable that these formerly exempted providers would now become subject to additional regulatory obligations absent the rule that previously exempted them. This would do little more

than create confusion for competitors, with no corresponding benefit for customers.

At a minimum, the ILECs should be required to provide more than the sparse analysis contained in their petition. The Staff should require the ILECs to explain in writing, for each rule, when and why it originally was adopted, the benefits they will achieve from its repeal, the effect on consumers and competition if the rule is deleted, whether the rule at issue implements a statute, and identify a statutory basis, if any exists, for repealing or modifying any given rule. The Commission should then set a hearing schedule, including testimony and cross-examination opportunities for interested parties, prior to making any determination on repeal or modification of any of these rules.

III. FCTA's COMMENTS ON "STAFF'S ATTACHMENT 'C'"

Staff's Attachment C consists of rules the ILECs argue may be deleted or modified without reference to competition and with no adverse impact on competition or consumers. To evaluate fully these rules, Staff should require the ILECs to list the original purpose of the rule and the costs and benefits of retaining it, and the legal basis for deleting it. FCTA reserves the right to change its position on the rules once the ILECs have submitted that information. Based on the research done to date, FCTA's current positions on the ILEC proposals in Attachment C are as follows:

25-4.002, Application and Scope. No position at this time.

25-4.003, Definitions. No position at this time.

25-4.006, Issuance of Certificate. No position at this time.

25-4.007, Reference to Commission. This rule should be retained. The ILECs' competitive test proposal contains numerous fatal flaws. Even if the competitive test were meaningful, the presence of competition would form no basis for repealing a rule that merely enables a party to make a written request for a rule interpretation from the Commission. Its language is not identical to that of 120.565, F.S., concerning declaratory statements. Moreover, the presence or absence of competition has no bearing on whether a particular rule is clear or requires additional explanation. Deleting this rule would cast doubt upon whether one could apply in writing for a rule interpretation from the Commission. No valid basis exists for repeal of this rule.

25-4.017, Uniform System of Accounts. FCTA agrees with staff that no change to this rule is necessary.

25-4.0174, Uniform System of Accounts – Depreciation. FCTA believes the Florida ILECs should explain when and why the Commission adopted this rule, how the rule benefits consumers, what benefits the ILEC would receive if it is modified, and why modification is necessary.

25-4.0175, Depreciation. FCTA believes the Florida ILECs should explain when and why the Commission adopted this rule, how the rule benefits

consumers, what benefits the ILEC would receive if it is modified, and why modification is necessary.

0178, Retirement Units. FCTA believes the Florida ILECs should explain when and why the Commission adopted this rule, how the rule benefits consumers, what benefits the ILEC would receive if it is modified, and why modification is necessary.

25-4.019, Records and Reports in General. This rule implements a statutory provision requiring utilities to submit information, and requires the ILECs to provide a comfortable workspace similar to that provided to outside auditors for Commission staff to review ILEC documents if necessary. Does deletion of this rule mean that the ILECs would be free to provide Commission staff with uncomfortable space if an audit is necessary? FCTA believes the Florida ILECs should explain when and why the Commission adopted this rule, how the rule benefits consumers, what benefits the ILEC would receive if it is modified, and why modification is necessary.

25-4.021, System Maps and Records. FCTA has no position concerning Rule 25-4.021 at this time.

25-4.022, Complaint - Trouble Reports. FCTA opposes this proposal to the extent that it would get rid of an obligation to keep records of *wholesale* provisioning complaints. This rule tracks requirements of the statute. To the extent it applies only to retail service, FCTA has no position.

25-4.024, Held Applications for Service. No position at this time.

25-4.034, Maintenance of copies of tariffs at business offices. No position at this time.

25-4.039, concerning instructing call center personnel to comply with existing statutes on maintaining the secrecy of communications. No position at this time.

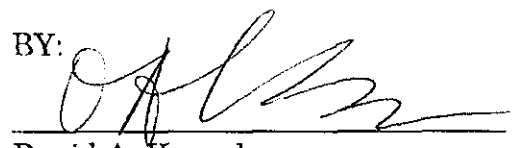
25-4.040, Telephone Directories; Directory Assistance. No position.

25-4.046 Incremental Cost Data Submitted by Local Exchange Companies. This rule implements a statute and contains a methodology, *i.e.*, incremental cost, for creating a price floor for individual services. It is an antitrust type rule designed to prohibit predatory pricing and appears to implement a statutory provision. The ILECs identified this rule as one that should be deleted irrespective of whether competition exists, but did not quantify the burdens the rule placed on them or explain the legal basis for repealing a rule that implements a statute. In fact, this rule expresses the legislature's intent to ensure fair competition. No incentive exists to price below cost unless competition exists, and thus, the existence of competition heightens this rule's importance. The ILECs propose abolishing this rule and permitting competitors to seek the same information through a complaint proceeding. That would accomplish nothing other than shifting the burden of proof from the ILEC to the competitor to demonstrate whether

the rates were above cost and not predatory, and would be contrary to the legislative purpose for this provision.

For the remainder of the proposals in attachment C, FCTA has no position at this time.

RESPECTFULLY SUBMITTED this 20th day of June, 2008.

BY: 

David A. Konuch
Senior Counsel for Regulatory Law & Technology
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
850-681-1990
850-681-9676 (fax)
dkonuch@fcta.com

EXHIBIT A

Verizon Quality Issues Have Gone Long Distance

By RICHARD MULLINS | The Tampa Tribune

Published: June 19, 2008

Verizon's customers in Florida have complained for months about delays in fixing basic phone service, erroneous bills and discount deals that never materialized. Now, some of those problems with Verizon are appearing across the nation.

Regulators in at least 10 states say the telephone giant's drive to sell more lucrative cable TV and broadband Internet access is leaving behind millions of other traditional telephone customers with service that's "disturbing," "habitually poor," and a "failure."

While Verizon executives say their traditional land-line phone service is good and will improve, more consumer watchdogs and regulators say Verizon's phone service has taken a sharp turn south, with the company too often taking a week or more to restore broken phone lines, raising public safety issues.

The problems come at a vital time for New York-based Verizon Communications Inc., as more people drop their home phone for a cellular phone and others switch to cable TV providers or free Internet phone service. To compete, the company is making a high-stakes bet, spending $20 billion nationwide to build a new fiber optic network for cable TV, Internet and phone service called "FiOS."

"They've really been selling the heck out of FiOS, but everyplace they start offering it creates a strain on their system that they're not prepared to handle," said Bob Williams, a director at Consumers Union in Washington. "Especially for older folks who are not going to go with just a cell phone, that basic phone is their lifeline to the world. If regulators and public officials aren't concerned about this, they should be."

Verizon executives defend the company's overall service quality.

"Verizon offers phone service that is superior to our competitors, most of whom are not required to answer to state regulatory commissions nearly to the degree as Verizon — if they do at all," said Verizon spokeswoman Sharon Shaffer. "More importantly, customers who don't like the service they're getting — or the price they're paying — can and do change providers."

Building a state-of-the-art fiber optic network, Verizon officials say, will ultimately mean fewer breakdowns, more robust competition for cable TV service and an overall boost to local economies needing better communications networks.

That project is vital for Verizon to survive against cable companies that also offer phone, Internet and TV service, said Jeff Kagan, an independent telecommunications analyst in Atlanta. "Verizon is spending a ton of time, money and effort to compete," Kagan said. "They can't just sit back and let cable companies like Comcast win their business."

In these early stages, "that's where the problems occur that they need to fix," he said, "and they have to do that without damaging their existing brand."

Lately, state regulators across the country are complaining loudly about those problems, calling for hearings, investigations and millions of dollars in fines for lax phone service. Utility regulators in Maine,

EXHIBIT A

Maryland, Massachusetts, New York, Oregon, West Virginia, Ohio and New Jersey, to name a few, have weighed in on Verizon.

In Oregon, for example, Verizon went from being best among four telephone providers to worst, state regulators say, behind CenturyTel Inc., Qwest Communications International Inc. and Embarq Corp. (formerly Sprint).

In Indiana, Verizon has been providing "erratic and very poor" service and maneuvers around the rules to "just barely exceed the minimum standards," said Beth Roads, assistant general council for Indiana's Utility Regulatory Commission.

Roads said phone service from Indiana's other phone providers, Embarq Corp. and AT&T Corp., hasn't slipped, and Verizon only agreed to an improvement plan when Indiana threatened public investigations, she said.

In the past few months, Verizon's quality has improved, which Roads said shows "they can improve things if they're focused on them."

In Tampa, Verizon officials acknowledged that it sometimes took a week or longer to restore broken phone service at some homes because the company shifted so many technicians to installing new cable TV and other fiber optic services.

At the same time, Verizon's own promotional programs have broken down this year, with Verizon taking months to ship the free TVs it offered customers in exchange for signing up for package deals. Verizon employees in Tampa have picketed the company, protesting that they're pushed relentlessly to sell customers new services, rather than fix billing problems or answer questions.

Florida's attorney general has called for an investigation into Verizon's phone service breakdowns and called for $6.5 million in fines for what he called "repeated willful violations" of basic service standards.

Officials Cite Public Safety Concerns

Regulators in states far from Florida are raising similar concerns.

In Maryland, Verizon executives were chastised during a two-hour, heated public hearing last fall, and regulators demanded to know why some residents were waiting a week or more for Verizon to repair broken phone lines.

"For a person who doesn't have phone service for five days — an elderly person — that's the kind of thing we need to be concerned about," said Maryland Public Service Commission Chairman Steven B. Larsen. "Not having service is a public safety concern."

Verizon vice president and general counsel Leigh Hyer called those faults "rare exceptions."

Not persuaded, Maryland opened two formal probes of Verizon: one into repair delays and another into reports that Verizon would tear out a customer's existing copper phone lines when they sign up for FiOS, meaning extra expenses if customers ever switch back to traditional phone service.

New Jersey regulators say complaints about Verizon have doubled in the past five years. And Virginia regulators this February rejected Verizon's argument that investment in its new FiOS service "justified

EXHIBIT A

Verizon's failure to meet [standards]" with its basic phone service.

Verizon Says Complaints Are Rare

Typically Verizon executives respond this way when regulators start raising questions about Verizon service complaints:

First, Verizon officials have argued in several states that customer complaints are rare, but any complaint is taken seriously. Second, the company says other factors should be taken into account, such as bad weather that damages lines and keeps repair crews grounded. Finally, Verizon executives have argued in several states that regulators should credit Verizon for building a new fiber optic network.

Meanwhile, Verizon is overhauling some aspects of its customer service approach.

Verizon is experimenting with new "Personal Account Managers." These contract employees are hired to be advocates for customers – sidestepping Verizon's own internal customer service departments. Verizon also started publicizing new toll-free numbers for special teams of representatives, assigned only to untangling things such as billing mistakes or repair problems.

Meanwhile, in Florida, where Verizon now faces formal complaints by the state attorney general, the company called state complaints "deeply flawed" and due to a "misunderstanding" of state rules.

Verizon is only required to make "reasonable efforts" to meet benchmarks under "normal circumstances," such as good weather, argued Dulaney L. O'Roark III, Verizon's vice president and general counsel in the Southeast, in a written response to Florida's complaints. Florida regulators, he argued, should "take into account Verizon's massive investment in [FiOS]" fiber optic services.

Customers, he wrote, will provide "ultimate penalty by choosing one of the many alternative providers if they are dissatisfied with Verizon's performance."

The report includes information from The Star-Ledger of New Jersey and The Washington Post. Reporter Richard Mullins can be reached at (813) 259-7919 or rmullins@tampatrib.com.