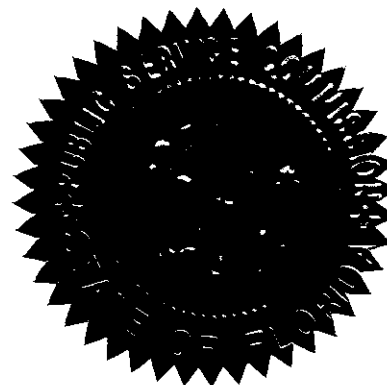


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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.



PROCEEDINGS:                   AGENDA CONFERENCE  
ITEM NO. 3

BEFORE:                         CHAIRMAN MATTHEW M. CARTER, II  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER KATRINA J. McMURRIAN  
COMMISSIONER NANCY ARGENZIANO  
COMMISSIONER NATHAN A. SKOP

DATE:                            Tuesday, September 4, 2008

PLACE:                          Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY:                   LINDA BOLES, RPR, CRR  
Official FPSC Reporter  
(850) 413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION SEP 10 8

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 VICKI GORDON KAUFMAN, ESQUIRE, representing the  
3 Competitive Carriers of the South.

4 TRACY HATCH, ESQUIRE, representing AT&T Florida, Inc.

5 GAIL MARIE PERRY, ESQUIRE, representing the  
6 Communication Workers Council of Florida.

7 CYNTHIA MILLER, ESQUIRE, and DALE MAILHOT,  
8 representing the Florida Public Service Commission staff.

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## P R O C E E D I N G S

1  
2 CHAIRMAN CARTER: Thank you, Commissioners. And with  
3 that, we are on Item 3.

4 MS. MILLER: Cindy Miller with the General Counsel's  
5 Office.

6 CHAIRMAN CARTER: One second. Hang on a second  
7 there, Cindy. Get close to the mike so we can hear you. Okay.

8 MS. MILLER: Item 3 is the recommendation relating to  
9 the joint petition to initiate rulemaking. Staff recommends at  
10 this time the proposal of nine telecommunications rule  
11 revisions and seven rule repeals. The parties are here to  
12 speak.

13 CHAIRMAN CARTER: Okay. Commissioners, why don't we  
14 just hear from the parties, and at that point in time we'll  
15 come back to the bench for any comments or questions or what  
16 have you.

17 Who all, who do we have here? Let's kind of  
18 recognize the parties first of all.

19 MS. KAUFMAN: Vicki Gordon Kaufman. I'm here on  
20 behalf of the Competitive Carriers of the South.

21 MR. HATCH: Tracy Hatch appearing on behalf of AT&T  
22 Florida, Inc.

23 MS. PERRY: Gail Marie Perry with the Communication  
24 Workers Council of Florida.

25 CHAIRMAN CARTER: Any other parties? Okay. Why

1 don't we start with Ms. Kaufman. You're recognized.

2 MS. KAUFMAN: Thank you, Mr. Chairman. Good morning,  
3 Commissioners. As I said, I'm Vicki Gordon Kaufman. I'm with  
4 the Anchor, Smith, Grimsley Law Firm here in Tallahassee, and  
5 I'm appearing on behalf of the Competitive Carriers of the  
6 South, also known as CompSouth.

7 CompSouth does not have any objection to the staff's  
8 recommendation, but we just want to be sure that to the extent  
9 you adopt the recommendation and repeal or amend the rules that  
10 are before you that there are no unintended consequences from  
11 that action. And we mentioned in our written comments and we  
12 discussed at the workshop that was held that many of the  
13 provisions in the SEAM plan, which I now know stands for  
14 self-effectuating enforcement mechanism, the SEAM plan, many of  
15 those provisions are related to provisions that are dependent  
16 on what goes on in the retail market, though the SEAM plan is  
17 intended to deal with and impact wholesale service.

18 We just want to be sure that this repeal or amendment  
19 does not have any impact on the SEAM plan, and we were assured  
20 at the workshop by the ILECs that that would be the case. And  
21 so that that's clear, we would just like to see you include in  
22 your notice of rule adoption and amendment the following  
23 language which we have circulated to your staff, circulated to  
24 the ILECs, and we understand that there, that there is no  
25 objection to that.

1           And so the language that we would suggest for  
2 inclusion would read, "None of the rule amendments or repeals  
3 are intended to impact in any way wholesale service or the SEAM  
4 plan, the SEAM metrics or payments or the type of data that  
5 must be collected and analyzed for purposes of the SEAM plan."  
6 And I think that just would clarify what you all are about in  
7 this docket. And as I said, I believe that there are no  
8 objections to the inclusion of that language. Thank you.

9           CHAIRMAN CARTER: Thank you.

10          Mr. Hatch.

11          MR. HATCH: Mr. Chairman, thank you.

12          AT&T Florida supports the staff recommendation. We  
13 don't have any objections to that obviously. I'm also here to  
14 reiterate that we don't object to the language that the  
15 CompSouth folks want in there. None of the rule amendments  
16 were ever intended to affect what happens on the wholesale side  
17 and the SEAM plan, the SQM stuff.

18          CHAIRMAN CARTER: Thank you. Ms. Perry.

19          MS. PERRY: Gail Marie Perry with the Communication  
20 Workers of America Council of Florida.

21          We've been very concerned and we did fully  
22 participate in the workshops that took place. We have great  
23 concerns in regards to the customer service portion of, of what  
24 is taking place in the docket.

25          One of our biggest concerns, however, all along has

1 been the infrastructure of the communications system within the  
2 State of Florida. And I know right now you have oversight of  
3 that infrastructure to make sure that infrastructure is good,  
4 sound, kept working, maintained, and that the consumers that  
5 currently are under the local exchange company do have service  
6 quality standards that are, they depend upon 24-hour repair,  
7 three, three-day installation. We know that the infrastructure  
8 that's in place, the hard wire that's in place, the backbone of  
9 the communications system has your oversight at the current  
10 time to make sure that backbone is maintained and secure. And  
11 we're a little bit, maybe more than a little bit concerned  
12 about some of the things that are in the docket that are going  
13 to do away with your oversight of knowing how good that  
14 backbone is.

15           We're about to move into a new world where data, and  
16 our nation is moving towards data, so it's wonderful that we're  
17 moving towards data, and the communication workers definitely  
18 believe that progress is an asset for all of our employees, but  
19 we also want to maintain that we're keeping good oversight of  
20 that infrastructure. We did stress in the workshops that maybe  
21 if some of the penalties for the companies not maintaining what  
22 they have to under your rule, maybe they were a little too  
23 strict, and rather than throwing everything out, maybe it would  
24 be good just to lessen the penalties involved.

25           I know that January 1st the carrier of last resort is

1 going away on the state level. It still is maintained on the  
2 national level. And to say that Florida is not going to keep  
3 track, that they have a good infrastructure for communications  
4 in the State of Florida worries me, worries my members, worries  
5 me to death, to be honest with you, and I have great concern  
6 that none of the consumers know what's going on. And I  
7 wondered under the, under some of the provisions in the bill of  
8 education of the consumer if any of this has been sent out to  
9 the consumers in their flyers regarding the docket that we have  
10 here.

11           Again, we're concerned that you're going to do away  
12 with oversight and the infrastructure that's in place will not  
13 be maintained to the top that it, that it should be, that the  
14 consumers have expected and demanded. The Public Service  
15 Commission surely has taken the phone calls that are necessary  
16 from the consumers in regards to maintaining the infrastructure  
17 and maintaining their consumer services, you take thousands of  
18 calls a year. And, again, I do know that the carrier of last  
19 resort is up for, in the Florida law this January, but there  
20 still is the federal law. And for you just to even make sure  
21 that you have the paperwork on how many orders are being held  
22 or for cable facility problems or how many orders they missed  
23 maybe not with great penalty, like I don't know if y'all got  
24 the paperwork that I presented to the staff when we were doing  
25 the workshop, but I had chosen some pages from your last two

1 state of the state of the Public Service Commission that you  
2 put out every year and it did show the penalties that were  
3 given to the local exchange companies during that year. So I  
4 just want to say that we are very worried. I'm so glad that  
5 the, the young lady brought up that caveat. I just really hope  
6 that you take a look at what you're doing. Make sure that you  
7 have at least the oversight. If you don't want to fine people,  
8 that's, that's fine, but make sure you do have at least the  
9 oversight to make sure that infrastructure is sound for the  
10 consumers in the State of Florida.

11 CHAIRMAN CARTER: Thank you, Ms. Perry.

12 Commissioners? Commissioner Argenziano, you're  
13 recognized.

14 COMMISSIONER ARGENZIANO: I need to ask staff a  
15 question. Are we, are we removing all, are we removing -- I  
16 think what you're saying is that you feel that we're removing  
17 oversight of quality of service?

18 MS. PERRY: I keep saying all, but it's a whole  
19 bunch.

20 COMMISSIONER ARGENZIANO: And, staff, could you go  
21 down the list of what we are eliminating?

22 MR. MAILHOT: Yes. This is Dale Mailhot with staff.

23 Most of the rules that we're changing today involve  
24 recognizing that companies that are price cap regulated have,  
25 that there are rules in our, in Chapter 25-4 that do not apply



1 to them. So we're making that clear. There are a few rules  
2 that we are repealing, and we consider those rules to be  
3 unnecessary because they're either duplicative -- I think  
4 there's one rule in particular on held applications for service  
5 that's, it's really duplicative of other rules that we already  
6 have. We're not doing away with any reporting requirements  
7 today in this recommendation. There are other rules that are  
8 the subject of this docket that would involve oversight of  
9 service quality, but those really aren't in today's  
10 recommendation.

11 COMMISSIONER ARGENZIANO: Mr. Chair.

12 CHAIRMAN CARTER: You're recognized.

13 COMMISSIONER ARGENZIANO: That's just what I want to  
14 make clear. And if, maybe you want to be more specific because  
15 I'm trying to find what you're indicating, and that's why I  
16 want to go -- I want to get it out now while we have the  
17 opportunity. So if you can be more specific as to which --

18 MS. PERRY: Well, I know on the held -- this is Gail  
19 Marie Perry with the Communication Workers. I know with the  
20 held orders -- a held order means that somebody has applied for  
21 service and there's not facilities or there's repairable  
22 hopefully facilities in the area.

23 I truly believe with the held orders that you have a  
24 clear picture on the infrastructure that needs repair. If  
25 you're finding a lot of people are moving into an area and you

1 find a lot of held facilities within that area, then there's  
2 either repair or replacement that needs to be done in the  
3 system. Or held orders could also be for a new project that's  
4 happening. I know that with the carrier of last resorts going  
5 away, we, we will see pockets of consumers in the State of  
6 Florida that won't have a wireline service.

7 COMMISSIONER ARGENZIANO: Mr. Chair.

8 CHAIRMAN CARTER: You're recognized.

9 COMMISSIONER ARGENZIANO: So then you are trying to  
10 figure out and narrow down where it is and what we're repealing  
11 that is the troublesome part, and you're saying it's the held  
12 orders. Excuse me.

13 MS. PERRY: Yes.

14 COMMISSIONER ARGENZIANO: And if staff could address  
15 that, I'd appreciate it.

16 MR. MAILHOT: Yes. Specifically the held orders --  
17 it's called -- the rule is titled Held Applications for  
18 Service. We have another rule, it's 25-4.066 that's called  
19 Availability of Service. And within the Availability of  
20 Service rule our specific reporting requirements on held  
21 applications for service, the companies are required to report  
22 to us quarterly on an age, all these held applications, all the  
23 held applications that are over 30 days old or over 60 days  
24 old, they're required to provide an explanation of why they're  
25 over 60 days old, why they've been held that long.

1           But those are all in a different rule. That's not in  
2 the rule that we're trying to repeal today. The rule that  
3 we're trying to repeal today is it's not as specific as the  
4 rule that's going to remain on the books. It's -- so that's  
5 why the rule that we're repealing today is really, it's just  
6 redundant and it's unnecessary, or at least that's our belief.

7           COMMISSIONER ARGENZIANO: Mr. Chair.

8           CHAIRMAN CARTER: Yes.

9           COMMISSIONER ARGENZIANO: With that explanation, if  
10 Ms. Perry would like to respond to that.

11          CHAIRMAN CARTER: Ms. Perry.

12          MS. PERRY: I have read over the 25-4.066, which is,  
13 I believe is the rule that they want to go, to go away; is that  
14 correct?

15          MR. MAILHOT: That's one of the rules that the  
16 company has asked to waive ultimately in their petition.  
17 There's a lot of rules they've asked to waive, but that's  
18 really not the subject of this recommendation.

19          COMMISSIONER ARGENZIANO: Mr. Chair.

20          CHAIRMAN CARTER: Commissioner.

21          COMMISSIONER ARGENZIANO: But that's the one that  
22 we're, that's one that we're repealing? I think that was the  
23 question. Is that the one?

24          MS. MILLER: If I may, it's Rule 25-4.024 that we're  
25 recommending you propose to repeal. So the 4.066 would still

1 be on the books. And we do have a full workshop on, a full  
2 Commission workshop next Wednesday on the rest of those rules  
3 in the packet.

4 COMMISSIONER ARGENZIANO: Well, I guess, Mr. Chair,  
5 what I'm trying to do is find out if our problem is alleviated,  
6 knowing that, that that's not the statute that has been, is  
7 being repealed or if she's --

8 MS. PERRY: I felt .066 was a little bit stronger  
9 than the language that they -- a little bit stronger in  
10 language than what they had pointed out to me that they were  
11 changing.

12 COMMISSIONER ARGENZIANO: Now I'm really confused.

13 CHAIRMAN CARTER: Cindy, can you help us?

14 MS. MILLER: If I could, so the rule that we're  
15 recommending be repealed or proposed for repeal is 25-4.024.  
16 The other rule is still remaining, the 4.066.

17 COMMISSIONER ARGENZIANO: Mr. Chair, I guess what I'm  
18 trying to find out from Ms. Perry is which rule gives her  
19 heartburn. Which one is it that is giving you the heartburn  
20 about repealing?

21 MS. PERRY: The 24 is what they're repealing.

22 COMMISSIONER ARGENZIANO: The .024, yes. And that's  
23 the one that gives you some angst?

24 MS. PERRY: Yes. Doing away with anything having to  
25 do with oversight in regards to the infrastructure.

1 COMMISSIONER ARGENZIANO: Okay. But, and the reason  
2 I asked is staff had explained that there was another rule that  
3 stays in place that still has the reporting quarterly; is that  
4 correct?

5 MR. MAILHOT: Yes.

6 MS. PERRY: It may have the reporting, but it goes  
7 into it a little bit better in the .024. Although they're  
8 saying .026, I do believe, takes up for it, replaces it or they  
9 use it instead of. But we believe that the language in 24 --

10 COMMISSIONER ARGENZIANO: Okay.

11 CHAIRMAN CARTER: You're recognized.

12 COMMISSIONER ARGENZIANO: Mr. Chair, what I'm trying  
13 to get at is the specifics of that. If staff now could tell me  
14 the differences between .024 and the one that we're repealing.

15 MS. PERRY: Thank you.

16 COMMISSIONER ARGENZIANO: And I heard you indicate  
17 before that it's redundant and that's what I'm trying to get  
18 at. If, if the one that we're repealing is less stringent or I  
19 guess less -- what word am I looking for --

20 CHAIRMAN CARTER: You're right.

21 COMMISSIONER ARGENZIANO: -- stringent, can you show  
22 us the differences?

23 MR. MAILHOT: Okay. For example, in .024 the  
24 language is, "Upon request, each company shall prepare and  
25 furnish to the Commission a report by exchange of held

1 applications." That's just upon request. Okay.

2 Specifically Rule 4.066 requires the companies to  
3 file periodic reports on a PSC form, it's PSC Form 28, and that  
4 form, the instructions for that form tell them specifically to  
5 file it every quarter.

6 COMMISSIONER ARGENZIANO: Okay. So then, Mr.  
7 Chairman, if I may.

8 CHAIRMAN CARTER: You're recognized.

9 COMMISSIONER ARGENZIANO: To try to get to the nut  
10 under the shell here, what you're saying then is if we were to  
11 repeal, let's see, .024, then can we upon request still ask for  
12 any information with the remaining rule?

13 MR. MAILHOT: Yes.

14 COMMISSIONER ARGENZIANO: So we'd still be able to  
15 request, but it would just be then mandatory quarterly  
16 reporting, but the request portion could still be, we could  
17 always go back and still request.

18 MR. MAILHOT: Right. Under the statute we can always  
19 go and request information that we need to carry on our  
20 functions.

21 COMMISSIONER ARGENZIANO: Okay. Then I don't see the  
22 difference. So that's -- but I wanted to make sure that our  
23 concern was addressed. And going through the whole thing, I  
24 hate to take the time, but actually gets to the nut and now I  
25 understand. So I think that should help Ms. Perry also.

1 MS. PERRY: Thank you very much. We've got on the  
2 record that you could go back and ask, and really that was my  
3 main point.

4 CHAIRMAN CARTER: Thank you, Commissioner. Thank  
5 you, Commissioner Argenziano. Thank you, Ms. Perry.

6 Commissioners? Commissioner Edgar.

7 COMMISSIONER EDGAR: Mr. Chairman, if, if there are  
8 no further questions, then I would make a motion in favor of  
9 the staff recommendation, with the request of the language that  
10 has been discussed added to the NPRM, notice of proposed  
11 rulemaking, NPRM, excuse me, regarding the SEAM.

12 COMMISSIONER SKOP: Second.

13 CHAIRMAN CARTER: It's been moved and properly  
14 seconded. Commissioners, any further discussion? Hearing  
15 none, all those in favor, let it be known by the sign of aye.

16 (Unanimous affirmative vote.)

17 All those opposed, like sign. Show it done.

18 Thank you. And staff will work to get that language  
19 incorporated.

20 (Agenda Item 3 concluded.)

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1 STATE OF FLORIDA        )  
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 2 COUNTY OF LEON         )                    CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 10<sup>th</sup> day of September,

2008.

Linda Boles  
 LINDA BOLES, RPR, CRR  
 FPSC Official Commission Reporter  
 (850) 413-6734