

RADEY THOMAS YON CLARK

Attorneys & Counselors at Law

POST OFFICE BOX 10967 (32302)
301 SOUTH BRONOUGH STREET, SUITE 200
TALLAHASSEE, FLORIDA 32301
www.radeylaw.com

850-425-6654 phone
850-425-6694 fax

KAREN ASHER-COHEN	CHRISTOPHER B. LUNNY
DONNA E. BLANTON	ELIZABETH McARTHUR
SUSAN F. CLARK	STEPHEN K. McDANIEL
EDWARD B. COLE	TRAVIS L. MILLER
BERT L. COMBS	JOHN RADEY
THOMAS A. CRABB	LISA C. SCOLES
TONI A. EGAN	HARRY O. THOMAS
JEFFREY L. FREHN	DAVID A. YON

lscoles@radeylaw.com

October 31, 2008

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

*Re: Docket No. 080641-TP In re: Initiation of rulemaking to amend and repeal rules
in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications*

Dear Ms. Cole:

Attached are the Post-Workshop Comments of 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., following the October 10, 2008, workshop in the above-referenced docket.

Please contact me if you have any questions or concerns. Thank you.

Sincerely,



Lisa C. Scoles
Radey, Thomas Yon & Clark, P.A.
Attorney for the Petitioners

Attachment

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of rulemaking to amend) and repeal rules in Chapters 25-4 and 25-9,) F.A.C., pertaining to telecommunications) <hr style="width: 100%; border: 0.5px solid black; margin-bottom: 0;"/>)	DOCKET NO. 080641-TP FILED: 10-31-08
--	---

Petitioners' Post-Workshop Comments
(October 10, 2008, Workshop)

I. Introduction

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. (collectively, the "Petitioners"¹) submit these Post-Workshop Comments. At the conclusion of the Florida Public Service Commission's ("Commission") October 10, 2008, workshop, Staff stated that post-workshop comments were not required because the parties already had commented on the proposed rules following previous workshops. The Petitioners therefore stand on their previous comments in Docket No. 080159-TP and file these comments only to address one argument made by the Office of Public Counsel ("OPC") at the workshop and to confirm their position regarding certain rules.

II. Response to OPC's Argument

OPC argued that because the Petitioners and the Competitive Carriers for the South ("CompSouth") have agreed that the proposed rule changes would not affect wholesale performance measures for Verizon Florida LLC, AT&T Florida and Embarq Florida, Inc., it

¹ The companies listed are the petitioners in Docket No. 080159-TP, in which amendment or repeal of the rules at issue in this docket was first proposed.

would not be appropriate to eliminate retail service objectives.² Specifically, OPC's counsel stated:

So what they've done [through the ILECs' stipulation with CompSouth] . . . is affirmed the appropriateness and necessity of those [service quality] measurements on the wholesale side, and it seems a bit anomalous that having done that for the wholesale side, they then want to eliminate it on the residential side. . . . So I think the stipulation is important . . . as an affirmation of the necessity and appropriateness of measuring service quality and having consequences flow for them.³

OPC ignores the purposes served by the wholesale performance measures on the one hand and retail service objectives on the other. In fact, they address different markets and serve different policy goals.

Wholesale performance measures were developed during the implementation of the 1996 Telecommunications Act (the "Act") to monitor whether Incumbent Local Exchange Carriers ("ILECs") were providing Competitive Local Exchange Carriers ("CLECs") with nondiscriminatory access to their Operating Support Systems. Nondiscriminatory access was thought necessary to give CLECs using ILECs' systems (for example, to resell services or lease unbundled network elements) a meaningful opportunity to compete with their wholesale providers. Moreover, the wholesale service quality measures and self-effectuating enforcement mechanisms adopted by BellSouth Telecommunications, Inc. (now doing business as AT&T Florida) enabled it to demonstrate that it had met the 14 point checklist under section 271 of the Act, which was required before the company could offer in-region long distance service. In short, wholesale performance measurement requirements were developed to measure ILECs' compliance with federal law that required them to provide access to competitors that requested to use their systems.

² Transcript ("T") at 37-38.

³ T.38.

The service objectives at issue in this docket and in Docket No. 080159-TP apply to retail, not wholesale, customers. The Petitioners therefore have not raised any issues in this docket or in Docket No. 080159-TP concerning whether competitive *wholesale* alternatives are available to CLECs or whether CLECs should continue to have access to ILECs' networks. What the Petitioners have addressed are the competitive *retail* alternatives available to Florida consumers from multiple providers competing fiercely for their business. This retail competition is highly relevant to the question of whether retail service objectives should be eliminated because retail competition disciplines behavior and drives competitors to provide optimal service levels. The wholesale issues raised by OPC, on the other hand, have no relevance here and should be disregarded because they pertain to nondiscriminatory access to ILEC systems.

III. Petitioners' Position on Specific Rules

Staff has asked the Petitioners to confirm that they do not object to the retention of three rules that they previously had sought to repeal. Accordingly, the Petitioners withdraw their request to repeal the following rules: Rules 25-4.202, F.A.C., Construction; 25-4.210, F.A.C., Service Evaluations and Investigations; and 25-4.214, F.A.C., Tariff Filings.

Staff has also asked the Petitioners to respond to Staff's proposed rule revisions to Rules 25-4.071, F.A.C., Adequacy of Service, and 25-4.074, F.A.C., Intercept Service. The Petitioners provide their response in Attachment 1.

Finally, Staff requested that Petitioners state their position on which rules in Parts II and IV of Chapter 25-4 should apply to residential services only. As a preliminary matter, Petitioners note that they have requested that many of the rules in Parts II and IV be repealed and, to the extent their request is granted, the scope of those rules obviously would be moot.

Without waiving their request for repeal of those rules in Parts II and IV, Petitioners state that, if not repealed, the following rules should apply to residential services only:

- Rule 25-4.0185, F.A.C., Periodic Reports
- Rule 25-4.021, F.A.C., System Maps and Records⁴
- Rule 25-4.024, F.A.C., Held Applications⁵
- Rule 25-4.066, F.A.C., Availability of Service⁶
- Rule 25-4.0665, F.A.C., Lifeline Service⁷
- Rule 25-4.067, F.A.C., Extension of Facilities – Contributions in Aid of Construction⁸
- Rule 25-4.070, F.A.C., Customer Trouble Reports
- Rule 25-4.073, F.A.C., Answering Time
- Rule 25-4.077, F.A.C., Metering and Recording Equipment⁹
- Rule 25-4.085, F.A.C., Service Guarantee Program

IV. Conclusion

The Petitioners appreciate the opportunity to make these comments and look forward to continuing to work with Staff and the other parties in this docket.

Respectfully submitted,

/s/ Susan F. Clark

Susan F. Clark

Lisa C. Scoles

Radey Thomas Yon & Clark, P.A.

301 S. Bronough Street, Suite 200

Tallahassee, Florida 32301

(850) 425-6654 (phone)

Attorneys for the Petitioners

⁴ See Commission Order PSC-08-0604-NOR-TP, which proposed repeal of this rule.

⁵ See Commission Order PSC-08-0604-NOR-TP, which proposed repeal of this rule.

⁶ The Petitioners note that this rule, if not repealed, may need to be reassessed in light of the sunseting of the ILECs' Carrier of Last Resort obligations.

⁷ The Petitioners are *not* suggesting that this rule be repealed, but that the rule applies to residential services only.

⁸ The Petitioners note that this rule may need to be reassessed in light of the sunseting of the ILECs' Carrier of Last Resort obligations.

⁹ See Commission Order PSC-08-0604-NOR-TP, which proposed repeal of this rule.

/s/ Dulaney L. O'Roark III
Dulaney L. O'Roark III
P. O. Box 110, MC FLTC0007
Tampa, Florida 33601-0110
(678) 259-1449 (phone)
Attorney for Verizon Florida LLC

/s/ E. Earl Edenfield, Jr.
E. Earl Edenfield, Jr.
Tracy W. Hatch
Manuel A. Gurdian
c/o Gregory R. Follensbee
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301
(305) 347-5558 (phone)
**Attorneys for BellSouth Telecommunications,
Inc. d/b/a AT&T Florida**

/s/ Lisa S. Foshee
Lisa S. Foshee
J. Phillip Carver
AT&T Southeast
675 West Peachtree Street, Suite 4300
Atlanta, Georgia
(404) 335-0710 (phone)
**Attorneys for BellSouth Telecommunications,
Inc. d/b/a AT&T Florida**

/s/ Susan S. Masterton
Susan S. Masterton
1313 Blair Stone Road
Tallahassee, FL 32301
(850) 599-1560 (phone)
Attorney for Embarq Florida, Inc.

/s/ Peter R. Healey
Peter R. Healy
525 Junction Road, Suite 7000
Madison, WI 53717
(608) 664-4117 (phone)
Attorney for TDS Telecom

/s/ J. Jeffrey Wahlen

J. Jeffrey Wahlen

Ausley & McMullen

P. O. Box 391

Tallahassee, FL 32302

(850) 224-9115 (phone)

Attorney for Windstream Florida, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via electronic mail or U.S. Mail this 31st day of October, 2008, upon the following:

Cynthia Miller, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
cmiller@psc.state.fl.us

Ms. Gail Marie Perry
Communications Workers of America
PO Box 1766
Pompano Beach, FL 33601
cwacouncil@earthlink.net

Kathryn Cowdery, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
kcowdery@psc.state.fl.us

Michael B. Twomey, Esq.
AARP
P.O. Box 5256
Tallahassee, FL 32314-5256
miketwomey@talstar.com

J.R. Kelly
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
OPC_WEBSITE@LEG.STATE.FL.US

Bill McCollum, Esq./Cecilia Bradley, Esq.
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1052
iwmjr@cfl.rr.com
cecilia.bradley@myfloridalegal.com

David A. Knouch, Esq.
Florida Cable Telecomm. Assoc. Inc.
246 E. 6th Avenue
Suite 100
Tallahassee, FL 32303
dkonuch@fcta.com

Vicki Gordon Kaufman, Esq.
Competitive Carriers of the South, Inc.
c/o Anchors Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
vkaufman@asglegal.com

Marsha E. Rule, Esq.
Rutledge Law Firm
215 South Monroe Street
P.O. Box 551
Tallahassee, FL 32302-0551
marsha@reuphlaw.com

Mr. Wink Infinger
Department of Management Services
4030 Esplanade Way, Suite 160C
Tallahassee, FL 32399-0950
Wink.Infinger@dms.myflorida.com

Scott Boyd, Esq.
Administrative Procedures Committee
Holland Building, Room 120
Tallahassee, FL 32399-1300
Boyd.scott@leg.state.fl.us

Ms. Carolyn Mason
Department of Management
Communication & Information Technology
4030 Esplanade Way
Suite 125
Tallahassee, FL 32399-0950
Carolyn.mason@dms.myflorida.com

Floyd R. Self, Esq.
Messer Law Firm
2618 Centennial Place
Tallahassee, FL 32308
fself@lawfla.com

Ms. Carolyn Ridley
Time Warner Telcom
555 Church Street
Suite 2300
Nashville, TN 37219
Carolyn.Ridley@TWTelecom.Com

Mr. Douglas C. Nelson
Sprint Nextel
233 Peachtree St., NE, Suite 2200
Atlanta, GA 30303
douglas.c.nelson@sprint.com

Ms. Rebecca Ballesteros
Intrado Communications, Inc.
1601 Dry Creek Drive
Longmont, CO 80503
Rebecca.Ballesteros@Intrado.com

Howard E. Adams, Esq.
Pennington Law Firm
Post Office Box 10095
Tallahassee, FL 32302-2095
gene@penningtonlaw.com

/s/ Susan F. Clark

Susan F. Clark

ATTACHMENT 1

Staff's Proposed Change	ILECs' Proposed Change	Comments
<p>25-4.071 Adequacy of Service.</p> <p>(1) Each telecommunications company shall provide switching equipment, trunks, and associated facilities within its operating territory for the handling of local and toll traffic, designed and engineered on the basis of realistic forecasts of growth so that during the average busy season busy hour at least 97 percent of all calls offered to any trunk group (toll connecting, inter-office, extended area service) shall not encounter an all-trunk busy condition.</p> <p>(2) Telephone calls to valid numbers should encounter a ring-back tone, line busy signal, or non-working number intercept facility (operator or recording) after completion of dialing. The call completion standards established for such calls by category of call is as follows:</p> <p>(a) Intra-office Calls—95 percent;</p> <p>(b) Inter-office Calls—95 percent;</p> <p>(c) Extended Area Calls—95 percent; and</p> <p>(d) Intra-LATA-DDD Calls—95 percent.</p> <p>(3) All telephone calls to invalid telephone numbers shall encounter an operator or suitable recorded intercept facility, preferably a recording other than the non-working number recording used for valid number calls.</p> <p>(4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C.</p> <p>(35) A line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks, or equipment where the quantity is controlled by the customer is in use.</p>	<p>25-4.071 Adequacy of Service.</p> <p>(1) Each telecommunications company shall provide switching equipment, trunks, and associated facilities within its operating territory for the handling of local and toll traffic, designed and engineered on the basis of realistic forecasts of growth so that during the average busy season busy hour at least 97 percent of all calls offered to any trunk group (toll connecting, inter-office, extended area service) shall not encounter an all-trunk busy condition.</p> <p>(2) Telephone calls to valid numbers should encounter a ring-back tone, line busy signal, or non-working number intercept facility (operator or recording) after completion of dialing. The call completion standards established for such calls by category of call is as follows:</p> <p>(a) Intra-office Calls—95 percent;</p> <p>(b) Inter-office Calls—95 percent;</p> <p>(c) Extended Area Calls—95 percent; and</p> <p>(d) Intra-LATA-DDD Calls—95 percent.</p> <p>(3) All telephone calls to invalid telephone numbers shall encounter an operator or suitable recorded intercept facility, preferably a recording other than the non-working number recording used for valid number calls.</p> <p>(4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C.</p> <p>(25) A line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks, or equipment where the quantity is controlled by the customer is in use.</p>	<p>The ILECs object to Staff's proposed change.</p> <p>The ILECs continue to believe that this rule is not needed because in a competitive environment, companies must provide an acceptable level of service; otherwise, customers can and will switch to competitors. In addition, even without this rule, if an issue arose that needed to be addressed, the Commission could address it in a specific review or when a complaint was raised.</p> <p>Further, section (2) and the new section (3) of the rule, as revised by Staff, are unnecessary in that they do nothing more than repeat agreed upon industry standards that companies already follow.</p> <p>The ILECs have no objection to Staff's proposed change, proposed October 30, 2008.</p>
<p>25-4.074 Intercept Service.</p> <p>(1) Intercept service shall be engineered to provide a 90 percent completion for changed numbers (with the exception of the 30-day period immediately following an inter-office transfer with directory) and for vacant or non-working numbers.</p> <p>(2) Subscriber lines which are temporarily disconnected for nonpayment of bills shall be placed on intercept (preferably operator intercept).</p> <p>(3) All private branch exchanges and In-Dial Paging Systems, whether provided by the company or customer and which are equipped for direct in-dialing and installed after the effective date of these rules, shall meet the service requirements outlined herein prior to the assignment of a number block by the telephone company.</p> <p>(4) With the exception of numbers that are changed coincident with the issuance of a new directory, intercept service shall be provided by each telephone company in accordance with the following:</p> <p>(1a) Intercept service shall be provided for non-working, vacant, non-assigned and changed numbers until assigned, re-assigned, or no longer listed in the directory.</p>	<p>The ILECs do not propose any alternative language regarding this rule.</p>	<p>The ILECs have no objection to Staff's proposed change, proposed October 30, 2008.</p>

ATTACHMENT 1

Staff's Proposed Change	ILECs' Proposed Change	Comments
<p>(2) Subscriber lines which are temporarily disconnected for nonpayment of bills shall be placed on intercept.</p> <p>(3) Intercept service shall be provided for calls to invalid numbers.</p> <p>(4b) Any 7 digit number (or other number serving a public safety or other emergency agency) when replaced by the universal emergency number "911" shall be intercepted by either a telecommunications company assistance of a public safety agency operator or special recorded announcement for at least one year or until the next directory issue. Also, intercept service or alternative routing to a default number shall be provided for the universal emergency telephone number "911" shall be provided in central offices where the number is inoperable. The intercept service may be automated with a message indicating the "911" emergency number is inoperable in that area and to consult the directory for the appropriate emergency number or if a directory is not available to dial operator for assistance.</p>		