

**REQUEST FOR CHANGE TO AGENDA CONFERENCE
HAND DELIVER**

Date of Request: 8/17/2009 Date of Agenda Conference: 8/18/2009 Item No. 5/Issue 2

Docket No.: 080641-TP Brief Title: Initiation of Rulemaking to amend telecom rules

Requested by: Staff Other FCTA
(Name)

Please attach a copy of the written documentation filed (IF OTHER)

STAFF's Recommendation to Executive Suite (IF OTHER) Approve Request Deny Request

ACTION REQUESTED [see APM 2.11]

- Defer Item to Agenda Scheduled Date: 9/15/2009
- Change Order of Item or Take Up at Time Certain
- Withdraw Item (not expected to return to Agenda)
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) A copy of the front page of the recommendation must be provided to the Commission Clerk by 12 noon on the regular filing date for use as a place-holder during agenda preparation.
- Add Item to Published Agenda [see Section 120.525(2), F.S.] - Issue an ADDENDUM and give Legal NOTICE
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] - Issue an ADDENDUM and Give Fair NOTICE

Concise explanation, justification or comments (attach additional sheet if necessary):

FCTA wants ONLY Issue 2 of Item 5 deferred. See attached e-mail from FCTA . According to JAPC, this issue may be deferred but it must be stated at agenda conference it is being deferred to the Sept. 15 agenda conference.

RECEIVED-FPSC
09 AUG 18 AM 8:23
COMMISSION CLERK

Signature (Technical Staff): Gale Mitchell

Initials (Division Director or Designee): GM

Signature (Legal Staff): Chip Miller

Initials (General Counsel or Designee): CM

EXECUTIVE DIRECTOR:

Recommendation to the Chairman's Office

Initials: AM

Comments:

Approve Request Deny Request

Date: 8/17/09

CHAIRMAN'S OFFICE:

Initials: WCB

Approve Request Deny Request

Date: 8/17/09

Executive Suite will send the original to the Office of Commission Clerk and return copy to the requesting staff after the Chairman's Office takes action on this request. Requesting staff should distribute copies to the Division Directors (OPR & OCR) and Attorney assigned to the docket.

**CLK AGENDA
STAFF COPIED**

DOCUMENT NUMBER-DATE
08551 AUG 18 8

Cindy Miller

From: David Konuch [dkonuch@fcta.com]
Sent: Monday, August 17, 2009 3:42 PM
To: Cindy Miller
Cc: Jorge Chamizo; FCTA
Subject: Rationale for deferral of Item 5, Issue 2 (changes to Commission's PC Freeze regime)

Hi, Cindy,

You requested that I explain in writing why FCTA believes that Item 5, Issue 2 from tomorrow's agenda conference should be deferred. FCTA believes that the status quo should be retained and that the rule should stay as it is, with the exception that the Commission can drop subsection 9 which has to do with the requirement that a provider retain records showing a customer requested a PC freeze for one year. FCTA's main concern is that the Commission retain its prohibition on marketing or soliciting existing customers to execute PC freezes. The Staff Recommendation would delete that prohibition, which would enable ILECs to begin soliciting PC freezes of current customers, something which they are not permitted to do today. This would make it more difficult for customers to switch to new providers, as it would clear the way for ILECs to send out mass mailings encouraging customers to execute PC freezes. It also would have no consumer benefits, because the existing rule has been working extremely well to prevent slamming and cramming. Complaints of slamming and cramming have *decreased dramatically under the status quo rules that the Staff Rec seeks to change.*

Complaints over slamming and cramming have ceased dramatically because most carriers now provide both local and long distance service, and therefore, there is very little opportunity for "slamming" of service. The only reason to solicit a customer to execute a PC freeze today is to try to make it more difficult for that customer to switch to a new provider. Cable telephony providers have frequently seen that customers who wish to switch to cable cannot because of a PC freeze executed to their accounts perhaps years ago. When the customer then calls cable wanting to switch, the prior PC freeze has to be undone, a time-consuming and often difficult process. Allowing solicitation of PC freezes would simply magnify this problem, but with no consumer benefits.

The Florida Legislature made changes to the state's PC freeze regime earlier this year by amending 364.603 to place the burden of proof on a provider who claims that their customer has executed a PC freeze. FCTA supported that change. The Staff Recommendation used that change to the law as a rationale for allowing deleting the "no solicitation of PC freezes" rule on ground that it created an additional consumer protection. That rationale was used for the first time in the August 7, 2009 Staff Recommendation. However, FCTA believes that the changes to 364.603 do not support allowing ILECs to solicit PC freezes, and would like the opportunity to make that case to the Staff – which we have not had an opportunity to do in the short period between August 7 and the August 18 agenda. The deferral of just Item 5, Issue 2 would provide FCTA with additional time to make that case to the Staff.

I hope you find this e-mail helpful. Thank you for your time and attention to this request.

Sincerely,

David A. Konuch
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8/17/2009