

**Ruth Nettles**

090000-07

**From:** McCabe, Thomas M. [thomas.mccabe@tdstelecom.com]  
**Sent:** Monday, September 14, 2009 4:51 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** RE: Undocketed: ETC Post Workshop Comments filed by TDS Telecom on Behalf of the Rural ILECs of FL on Proposed Rule 25-4.066x  
**Attachments:** Rural ILECs of FL Post Workshop Comments (1).pdf

A. Tom McCabe  
Quincy Telephone Company d/b/a TDS Telecom  
1400 Village Square Boulevard  
Suite 3 - Box 329  
Tallahassee, FL 32312-1231

B. Undocketed:

Eligible Telecommunications Carriers

C. TDS Telecom on behalf of the Rural ILECS of FL

D. 7 pages including cover

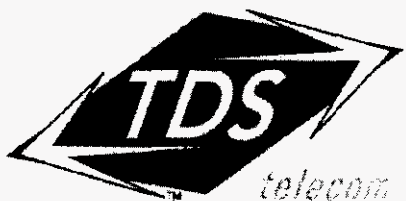
<<Rural ILECs of FL Post Workshop Comments (1).pdf>>

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DOCUMENT NUMBER-DATE

09524 SEP 14 8

FPSC-COMMISSION CLERK



September 14, 2009

Ms. Anne Cole, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: **Undocketed:**  
**In Re: Eligible Telecommunications Carrier Designation**

Dear Ms. Cole:

Enclosed is Post-Workshop comments filed by Quincy Telephone Company d/b/a TDS Telecom on behalf of the Rural ILECs of Florida on proposed Rule 25-4.066X-Eligible Telecommunications Carriers, which we request you file in the above captioned matter.

Thank you for your assistance in this matter. Please do not hesitate to contact me at (850) 875-5207 if you have any questions or need additional information regarding this filing.

Sincerely,

*Thomas M. McCabe*

Thomas M. McCabe  
Manager – External Relations  
TDS TELECOM

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Eligible Telecommunications Carrier ) Undocketed  
Designation )  
September 14, 2009

**Post Workshop Comments of Rural ILECs of Florida**

Now comes, Windstream Florida, Inc., TDS TELECOM/Quincy Telephone Company ("TDS"), Northeast Florida Telecom, GTC, Inc. d/b/a Fairpoint Communications, ITS Telecommunications Systems, Inc., Frontier Communications of the South, LLC, and Smart City Telecommunications, LLC d/b/a/ Smart City Telecom jointly ("Rural ILECs of Florida" or "Rural ILECs") hereby file these post workshop comments on the Florida Public Service Commission's ("FPSC") preliminary rule language concerning the eligibility requirements for a common carrier desiring designation as an eligible telecommunications carrier in Florida.

**General Comments**

The Rural ILECs of Florida support creation of rules regarding requirements of eligible telecommunications carriers (ETC) to the extent such rules are needed. Based on our review of the preliminary rules proposed by the FPSC Staff, the proposed rules generally track the FCC's current rules regarding ETC designation (found in 47 C.F.R. § 54.101 – 54.209) Therefore, if the FPSC adopts rules, it appears carriers will be operating under two sets of rules. While the FPSC proposed rules, in most cases, do not currently conflict with FCC rules, subsequent changes to either set of rules could lead to conflicts. To the extent the FPSC sees the necessity of promulgating rules; the Rural ILECs offer the following suggestions.

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## **Section 1**

It is the understanding of the Rural ILECs that Section 1 is intended only for those common carriers that are seeking new designation as an ETC in Florida and does not apply to existing ETCs. The Rural ILECs believe Section 1 should be clarified to state that this section only applies to new requests for ETC designation. Furthermore, the rules should be clearly identified so as to specifically designate which sections apply to carriers seeking designation as an ETC, which sections contain ongoing requirements for all certified ETCs, and any section or requirement that may or may not apply to a specific group of ETCs.

## **Section 2**

The Rural ILECs of Florida recommend the FPSC mirror the list of supported services adopted by the FCC, and as contained in 47 C.F.R. § 54.101. The FCC, in conjunction with the Federal-State Joint Board on Universal Service, may modify the definition of Universal Service as contained in 47 U.S.C. § 254 (c)(1). This definition will naturally impact the list of supported services as contained in 47 C.F.R. § 54.101. Since the ETCs designated in the state of Florida are required to provide the list of supported services, as adopted by the FCC, in order to continue to receive federal universal service fund (USF) support, any changes made by the FCC to 47 C.F.R. § 54.101 would become new requirements for all ETCs.

As a result of the above discussion, the Rural ILECs of Florida recommend the FPSC revise the proposed rule, Section 2, to instead refer only to the list of supported

services, as currently and in the future contained in 47 C.F.R. § 54.101, or as otherwise adopted by the FCC.

### **Section 3**

The FPSC has been certifying the eligibility of the Rural ILECs of Florida to receive universal service funds since 2001. We believe the process that has been in place for the last eight years for the Rural ILECs has been an efficient and cost effective process to meet the FCC requirements. The Rural ILECs seek clarification that the existing process that has been used to date for the certification of the Rural ILECs will not change with the adoption of the proposed rules. With that understanding, we offer the following suggestions to Section 3.

Section 3 (a) outlines the ongoing annual certification requirements for an ETC. Currently, the Rural ILECs of Florida file an annual certification based on requirements in Order No. PSC-05-0824-FOF-TL in Docket No. 010977-TL. Most of the requirements in Section 3 (a) are duplicative of the requirements in Order No. PSC-05-0824-FOF-TL, however, Section 3(a)1 requires a five-year service quality improvement plan. The Rural LECs of Florida, in lieu of filing and providing updates to a five-year service quality improvement plan, have supplied statements in the annual affidavits provided to the FPSC regarding the certification of ETCs. The FPSC, as recently as July 21, 2009 (Order No. PSC 09-0514-FOF-TL in Docket No. 090168-TL) has accepted the statements provided by the Rural LECs in certifying the continued eligibility of Florida ETCs to receive federal USF.

We seek clarification that the Rural ILECs of Florida will continue to file annual certifications based on the requirements in Order No. PSC-05-0824-FOF-TL, and will be able to continue to provide statements in lieu of providing a five-year service quality improvement plan. A significant difference in the use of federal USF support for the Rural ILECs and that of other ETCs that receive high cost support is that fact the Rural ILECs' federal USF support is based on actual costs, and is the result of annual filings made in compliance with FCC rules, and that are or can be reviewed at several levels. In fact, the universal service support is designed for the recovery of costs incurred during the prior two years, whereas the high cost support for competitive ETCs is based on the costs of the Rural LECs and has no reflection on the actual costs of the competitive ETC.

#### **Section 5**

Section 5 sets forth specific requirements for publicizing the availability of Lifeline Services which go beyond the FCC rules. The FCC rule contained at 47 C.F.R. § 54.405 (b) simply requires ETCs to publicize the availability of Lifeline service in a manner reasonably designed to reach those that likely qualify for the service. We believe that the FCC rule provides flexibility for each company to develop their own program to publicize Lifeline service in a cost efficient manner. For example, the Rural ILECs believe Section 5, which requires an ETC to notify each of its new customers in writing of the availability of Lifeline and Link-up assistance programs within 30 days after receiving service, will have no measurable affect on Lifeline subscribership while increasing the costs for Rural ILECs. Today, the Rural ILECs already provide an annual bill insert/message advertising the availability of Lifeline service.

The Rural ILECs believe that Section 5 should be stricken and replaced with the FCC language if the Commission believes a rule is necessary at all. The FCC rule clearly requires that ETCs publicize the availability of Lifeline which we believe sufficiently sets forth the obligation of ETCs. The Rural ILECs believe this will provide companies the flexibility to develop cost efficient Lifeline notification programs. This is especially important to those ETCs that operate in multiple jurisdictions. The FCC rules provide one set of requirements that ETCs must meet rather than developing potentially fifty different advertising programs. The Rural ILECs have been and will continue to be subject to audits by the Universal Service Administrative Company (USAC). As part of these audits, USAC verifies compliance with the FCC's Lifeline rules, and therefore we believe the potential for a USAC audit adequately ensures that Lifeline service will be advertised without the need for Section 5 of the proposed Staff rules.

If the Commission feels compelled to have specific rules for notification of Lifeline availability, the Rural ILECs of Florida suggest Section 5 simply be reworded to allow ETCs to advertise the availability of the Lifeline and Link-Up programs in media of general distribution. We believe the use of media such as newspapers, radio commercials, etc. will reach all consumers in its service areas including targeted consumers those identified in the proposed rule.

#### **Section 8**

Section 8 requires any ETC to provide 12 months advance notice to the Commission in writing if it seeks to relinquish its designation for any particular area. By way of contrast, 47 C.F.R. §54.205(a) only requires that an ETC provide a maximum of 12 months advance notice if it is seeking to relinquish its designation for an area. The

Rural ILECs of Florida request that this requirement be modified to be consistent with the FCC requirement.

**Conclusion**

The Rural ILECs appreciate the opportunity to offer these post-workshop comments. The Rural ILECs support the Staff's efforts to set forth ETC rules to better identify the expectations of common carriers that seek to be an ETC in Florida. However, in an effort to develop rules, Staff should not lose sight of the fact that for the past eight years, the Rural ILECs have been certified by the FPSC as eligible ETCs. We believe that the proposed rules should not impact the process that has been employed during that time nor should the rules impose any additional requirements on the Rural ILECs that did not already exist.