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State of Florida



Public Service Commission

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: October 6, 2011

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Gervasi) *DS AMC*
Division of Regulatory Analysis (Trueblood) *AT*
Office of Public Information (DeMello, Muir) *MS*

RE: Docket No. 090082-TL – Petition by BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast for waiver of Rule 25-4.040(2), Florida Administrative Code.

Docket No. 100327-TL – Petition by Verizon Florida LLC for waiver of Rule 25-4.040(2), F.A.C.

AGENDA: 10/18/11 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\090082.RCM.DOC

Case Background

On February 13, 2009, BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T Florida), an incumbent local exchange telecommunications company (ILEC), filed a petition for a permanent rule waiver pursuant to section 120.542, Florida Statutes (F.S.), and Rule 28-104.002, Florida Administrative Code (F.A.C.). In the petition, AT&T Florida sought relief from Rule 25-4.040(2), F.A.C., which requires that each subscriber is furnished a copy of a telephone directory that lists local residential and business telephone

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numbers. By Order No. PSC-09-0492-PAA-TL,¹ the Commission denied AT&T Florida's request for a permanent rule waiver and instead granted a temporary rule waiver for a period of two years, which two year period expired on July 30, 2011.

On June 14, 2010, Verizon Florida LLC (Verizon), another ILEC, filed a petition seeking the same relief from Rule 25-4.040(2), F.A.C., as was sought by AT&T Florida in 2009. By Order No. PSC-10-0599-PAA-TL,² the Commission also denied Verizon's request for a permanent rule waiver and instead granted a temporary rule waiver for a period of two years, which two year period expires on October 24, 2012.

During the rule waiver periods, the ILECs and staff were instructed to seek input from Florida consumers regarding the discontinuance of the delivery of an up-front copy of the residential white pages directory. The dockets have remained open and feedback received from consumers has been reviewed and shared with Commissioners and agency management.

Effective July 1, 2011, Chapter No. 2011-36, Laws of Florida, created the Regulatory Reform Act, which revised the Commission's authority over telecommunications companies. Accordingly, on September 23, 2011, the Commission repealed a number of rules which no longer have implementing authority, including Rule 25-4.040, F.A.C. The rule repeal is effective October 13, 2011. With the passage of the Regulatory Reform Act and consequent repeal of Rule 25-4.040, F.A.C., the Commission no longer has the authority to require telecommunications companies to provide directories to subscribers. Therefore, this recommendation is to close Docket Nos. 090082-TL and 100327-TL.

¹ Issued July 8, 2009, in Docket No. 090082-TL, In Re: Petition by BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast for waiver of Rule 25-4.040(2), Florida Administrative Code, and consummated by Order No. PSC-09-0529-CO-TL, issued July 31, 2009.

² Issued September 30, 2010, in Docket No. 100327-TL, In Re: Petition by Verizon Florida LLC for waiver of Rule 25-4.040(2), F.A.C., and consummated by Order No. PSC-10-0635-CO-TL, issued October 25, 2010.

Discussion of Issues

Issue 1: Should Docket Nos. 090082-TL and 100327-TL be closed?

Recommendation: Yes. With the passage of the Regulatory Reform Act and consequent repeal of Rule 25-4.040, F.A.C., the Commission no longer has the authority to require telecommunications companies to provide directories to subscribers. Therefore, these dockets should be closed. (Gervasi, Trueblood)

Staff Analysis: Effective July 1, 2011, Chapter No. 2011-36, Laws of Florida, created the Regulatory Reform Act, which revised the Commission's authority over telecommunications companies. Accordingly, on September 23, 2011, the Commission repealed a number of rules which no longer have implementing authority, including Rule 25-4.040, F.A.C. The rule repeal is effective October 13, 2011.

AT&T Florida and Verizon received temporary waivers from the requirements of Rule 25-4.040(2), F.A.C. Docket Nos. 090082-TL and 100327-TL remained open to gather information on whether a permanent waiver of the rule would be appropriate. However, with the passage of the Regulatory Reform Act and consequent repeal of Rule 25-4.040, F.A.C., the Commission no longer has the authority to require telecommunications companies to provide directories to subscribers. Therefore, Docket Nos. 090082-TL and 100327-TL should be closed.