

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: January 20, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Casey, Bulecza-Banks)
Office of the General Counsel (Teitzman, Scott)

RE: Docket No. 040604-TL – Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs.

AGENDA: 02/01/05 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Attachments not available on-line.

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040604.RCM.DOC

Case Background

On August 10, 2004, Proposed Agency Action Order No. PSC-04-0781-PAA-TL was issued for the purpose of adopting the National School Lunch program and an income-based eligibility criterion for consumers with incomes at or below 135% of the Federal Poverty Guidelines. Additionally, the Order allowed Florida consumers, who qualify for Lifeline assistance, the option of electing a self-certification process. The Order required Eligible Telecommunications Carriers (ETCs) to disclose to consumers both Lifeline certification processes available, along with the Lifeline credits available under each process. Additionally, ETCs were required, on an annual basis, to file reports identifying the number of applicants applying for Lifeline and Link-up, the number of applicants approved for Lifeline/Link-up, the method of certification the applicant used, and whether the approved applicant received \$8.25 or \$13.50 in assistance.

On August 31, 2004, BellSouth Telecommunications, Inc. (BellSouth), Verizon Florida, Inc. (Verizon), the Florida Office of the Public Counsel (OPC) on behalf of the Citizens of Florida, Quincy Telephone Company d/b/a TDS Telecom, GTC, Inc. d/b/a GT COM and ALLTEL Florida, Inc., and Sprint-Florida, Inc. filed protests in response to Order No. PSC-04-0781-PAA-TL requesting a formal hearing pursuant to Section 120.57, Florida Statutes. Pursuant to the above-listed entities' protests, this matter was scheduled for an administrative hearing on January 20-21, 2005.

Subsequent to the protest, AARP, Northeast Florida Telephone Company d/b/a NEFCOM, the Florida Cable Telecommunications Association (FCTA), Florida Digital Network, Inc. (FDN), MCI, the Florida Competitive Carrier Association/Competitive Carriers of the South (FCCA/CompSouth), and AT&T filed petitions requesting intervention and were granted intervenor status in this docket.

Direct testimony in this docket was filed November 17, 2004 with rebuttal testimony filed December 17, 2004. BellSouth witness Deyonker's direct testimony included an alternate proposal for Lifeline self certification. After reviewing the witness' testimony, staff believed BellSouth's alternate proposal should be explored further. On January 5, 2005, after the prehearing in this docket, a meeting was conducted to discuss the proposals set forth in the direct testimony filed on behalf of BellSouth and to discuss the possibility of settling unresolved issues with BellSouth. Participation was limited to staff and BellSouth; however, interested parties were allowed to attend. At the conclusion of the meeting, staff requested that BellSouth submit its settlement proposal in writing to the Commission, with copies to the parties, by January 7, 2005. The parties were asked to file their comments regarding BellSouth's settlement proposal by January 11, 2005.

In their comments, Verizon and Sprint proposed settlement agreements similar to BellSouth's proposed settlement. A conference call was conducted on January 13, 2005, to discuss the settlement proposals with all parties. This recommendation addresses the BellSouth, Verizon, and Sprint proposed settlements and the comments of the parties.

Discussion of Issues

Issue 1: Should the Commission approve the BellSouth, Verizon, and Sprint proposed settlement agreements?

Recommendation: Yes. The Commission should approve the BellSouth, Verizon, and Sprint proposed settlement agreements. BellSouth, Verizon, and Sprint should file tariffs reflecting the Commission decision within 15 days of the issuance of a Commission Order, with the tariffs becoming effective 30 days from the filing of the tariffs, and remain in effect through the evaluation period after one year. The instant docket should be held in abeyance for a period of at least one year from the effective date of the tariffs. A review of the simplified certification process should be held after six months from the effective date of the tariffs, or earlier if necessary. At the review, or when the Florida Supreme Court rules on consolidated Case Nos. SC04-9, SC-04-10, and SC04-946 (the access rate reform cases), whichever is earlier, the parties will revisit the issue of adding the National School Lunch Program and an income-based criterion of 135% of the Federal poverty level as additional eligibility criteria. BellSouth, Verizon, and Sprint should commit to working with staff and OPC to include a school outreach effort in the Lifeline education program. BellSouth, Verizon, and Sprint should notify staff of any modifications to the simplified certification process 60 days prior to any modifications, unless extraordinary circumstances warrant less notification, and will notify staff 90 days prior to any cancellation of the simplified-certification process. (Casey, Bulecza-Banks)

Staff Analysis: As mentioned in the case background, BellSouth witness Deyonker's direct testimony included an alternate proposal for Lifeline self certification. BellSouth's alternate proposal would allow eligible Lifeline subscribers to enroll in the Lifeline program by simply signing a document certifying "under penalty of perjury" that the customer participates in one of the Florida Lifeline eligible programs and identifying the qualifying program. All a customer will have to do is request the form from BellSouth, and it will be sent to the applicant within three business days. Forms will also be available through various outreach programs. Once the form is received by BellSouth, the customer would be enrolled in the Lifeline program and receive a \$13.50 Lifeline credit each month. This process is in contrast to the present process whereby Lifeline applicants must provide proof that they are enrolled in one of the qualifying programs.

Subsequent to receiving BellSouth's settlement proposal, Verizon and Sprint also submitted proposed settlement agreements reflecting a simplified certification process. The BellSouth, Verizon, and Sprint settlement proposals are attached to this recommendation. The following are highlights of the settlement proposals:

- Tariffs would be filed within 15 days of a Commission Order implementing the simplified certification process for a period of one year from the effective date of the tariff, which will be 30 days after the filing. The Lifeline/Link-Up credit would apply after the customer signs on a document certifying "under penalty of perjury" that the customer participates in one of the Florida Lifeline eligible programs and identifies the qualifying program.
- Docket No. 040604-TL would be held in abeyance in its entirety for all parties for a period of one year.

- A review of the simplified certification process would be held after six months with the findings of the first six months being presented to staff and the parties to the docket. If circumstances arise that warrant a review earlier than six months, such a review would be held with the staff and parties to the docket.
- At the six-month review or when the Florida Supreme Court rules on consolidated Case Nos. SC04-9, SC04-I0 and SC04-946 (the access rate reform cases), whichever is earlier, the parties would revisit the issue of adding the National School Lunch Program and an income-based criterion of 135% of the federal poverty level as additional eligibility criteria.
- BellSouth, Verizon, and Sprint would commit to working with the staff and the OPC to include a formal school outreach effort in the Lifeline education program.

The following are comments received from the parties in this docket regarding the proposed settlements of BellSouth, Verizon, and Sprint:

Office of Public Counsel:

OPC accepts the Bellsouth, Verizon, and Sprint proposals.

TDS Telecom d/b/a TDS Telecom/Quincy Telephone, ALLTEL Florida, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, and GTC, Inc. d/b/a GT COM, Smart City Telecommunications, LLC d/b/a Smart City, ITS Telecommunications Systems, Inc. and Frontier Communications of the South, LLC (the "Small LECs")

The Small LECs support the BellSouth, Verizon, and Sprint proposals with the understanding and caveat that the Small LECs reserve their right to pursue the establishment by the Commission of a competitively neutral interim state universal service fund or state lifeline funding mechanism to recover the state \$3.50 credit to lifeline customers, either in this docket or in a separate docket. The Small LECs have agreed to participate in a school outreach effort for the Lifeline education program.

The Competitive Carriers of the South, Inc., AT&T Communications of the Southern States, LLC, MCImetro Access Transmission Services, LLC, and MCI WorldCom Communications, Inc., and Florida Digital Network, Inc. d/b/a FDN Communications (collectively the "Joint CLECs")

The Joint CLECs do not object to the BellSouth, Verizon, or Sprint proposals.

Florida Cable Telecommunications Association (FCTA)

The FCTA sees no problem with the BellSouth, Verizon, or Sprint proposals.

Staff Conclusion: Staff believes that the BellSouth, Verizon, and Sprint settlement proposals are a step in the right direction on how best to achieve the goals of maximum participation in the Lifeline and Link-Up programs. The settlement proposals will bring the Lifeline simplified certification process benefits to the citizens of Florida quickly, making enrollment much easier for the applicants. The one-year trial period will allow all parties to assess the costs associated with the simplified certification process and determine the corresponding benefits in terms of increased subscribership.

BellSouth, Verizon, and Sprint have agreed to file tariffs reflecting the Commission decision within 15 days of the issuance of a Commission Order, and make the tariffs effective 30 days from the filing date of the tariffs. They have also agreed to submit copies of their draft simplified certification letters to staff for review.

BellSouth, Verizon, and Sprint have agreed to meet with staff after the one-year trial period of the simplified certification process to evaluate the program and determine if any changes are necessary. However, if BellSouth, Verizon, or Sprint believe any changes are necessary during the course of this trial period, they should notify staff of any planned modifications to the simplified certification process 60 days prior to any modifications, unless extraordinary circumstances warrant less notification, and should notify staff 90 days prior to any planned cancellation of the simplified-certification process.

The proposals do not include the National School Lunch program and an income-based criterion of 135% of the Federal Poverty Level as additional eligibility criteria; however, the parties agree to revisit the issue of adding these additional criteria at the program review six months after the effective date of the tariffs implementing the simplified certification process, or earlier if the Supreme Court acts on the access rate reform cases. BellSouth, Verizon, and Sprint presently enroll Lifeline applicants based on an income-based criterion of 125% of the Federal Poverty Level. Should the Supreme Court uphold the Commission's Order on the access rate reform cases, BellSouth, Verizon, and Sprint have all previously agreed, in the the access rate reform case dockets, to increase the eligibility criteria for income-based criterion to 135% of the Federal Poverty Level.

Based on the above, staff recommends that the Commission approve the BellSouth, Verizon, and Sprint proposed settlement agreements. BellSouth, Verizon, and Sprint should file tariffs reflecting the Commission decision within 15 days of the issuance of a Commission Order, with the tariffs becoming effective 30 days from the filing of the tariffs, and remain in effect through the evaluation period after one year. The instant docket should be held in abeyance for a period of at least one year from the effective date of the tariffs. A review of the simplified certification process should be held after six months from the effective date of the tariffs, or earlier if necessary. At the review, or when the Florida Supreme Court rules on consolidated Case Nos. SC04-9, SC-04-10, and SC04-946 (the access rate reform cases), whichever is earlier, the parties will revisit the issue of adding the National School Lunch Program and an income-based criterion of 135% of the Federal poverty level as additional eligibility criteria. BellSouth, Verizon, and Sprint should commit to working with staff and the OPC to include a school outreach effort in the Lifeline education program. BellSouth, Verizon, and Sprint should notify staff of any modifications to the simplified certification process 60 days

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prior to any modifications, unless extraordinary circumstances warrant less notification, and will notify staff 90 days prior to any cancellation of the simplified-certification process.

Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves Issue 1, this docket should be kept open to monitor the Lifeline simplified certification process trial period. If the Commission does not approve Issue 1, a hearing tract should be reinstated with hearing dates of February 21-22, 2005. (Teitzman, Scott)

Staff Analysis: No. If the Commission approves Issue 1, this docket should be kept open to monitor the Lifeline simplified certification process. If the Commission does not approve Issue 1, a hearing tract should be reinstated with hearing dates of February 21-22, 2005.