

State of Florida



## Public Service Commission

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

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**DATE:** September 21, 2006

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

**FROM:** Office of the General Counsel (Cibula)  
Division of Competitive Markets & Enforcement (C. Williams, Casey)  
Division of Economic Regulation (Dickens)

**RE:** Docket No. 060607-TP – Proposed adoption of Rule 25-4.0665, F.A.C., Lifeline Service.

**AGENDA:** 10/03/06 – Regular Agenda – Rule Proposal – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Deason

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\060607.RCM.DOC

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### Case Background

Section 364.10(1)(e), Florida Statutes, requires eligible telecommunications carriers (ETCs) to notify a Lifeline subscriber of the impending termination of Lifeline service. The section requires that this notice be in the form of a letter separate from the subscriber's bill. The section states that the subscriber must be given 60 days to demonstrate continued eligibility.

Section 364.10(1)(e)3. specifically requires the Commission to establish procedures for such notification and termination. Moreover, Section 364.10(3)(j) states that the Commission "shall adopt rules to administer this section." This rulemaking was initiated by staff to develop rules in response to the Legislature's mandate.

On June 21, 2006, staff held a rule development workshop to receive comments on staff's draft rules. A number of ETCs, as well as the Office of Public Counsel (OPC) and AARP, attended the rule development workshop. At the workshop, the Florida Telecommunications Industry Association (FTIA) submitted a document setting forth a number of provisions that it wished to be added to the rulemaking. Initial reaction from other workshop participants indicated that there was disagreement on the provisions proposed by FTIA. Staff informed the workshop participants that an additional workshop may be needed to address FTIA's proposal.

Interested persons were allowed to provide written post-workshop comments on staff's draft rules and FTIA's proposal. A review of the post-workshop comments indicated to staff the need for an additional workshop to discuss certain aspects of the rule development. All participants, however, appeared in agreement with the portion of the draft rules implementing a procedure for the notification and termination of Lifeline service.

This docket addresses staff's recommendations on the portion of the rulemaking addressing the implementation of a procedure for notification and termination of Lifeline service. As indicated above, the Legislature has mandated, pursuant to Section 364.10(1)(e)3., that the Commission must implement such procedures. Staff believes that the Commission should move forward with this portion of the rulemaking as there appears to be agreement on the draft rules.

Staff is moving forward in an undocketed proceeding to address other aspects of the Lifeline rulemaking. In the near future, staff will bring a recommendation in a separate docket addressing whether the Commission should propose the adoption of additional rules to implement the Lifeline service program.

This recommendation addresses whether the Commission should adopt Rule 25-4.0665. The Commission has rulemaking authority pursuant to Sections 120.54, 350.127(2), and 364.10, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission propose the adoption of Rule 25-4.0665, Florida Administrative Code, Lifeline Service?

**Recommendation:** Yes. The Commission should propose the adoption of Rule 25-4.0665 as set forth in Attachment A of this recommendation. (Cibula, C. Williams, Casey, Dickens)

**Staff Analysis:** Staff is recommending the adoption of Rule 25-4.0665. Attachment A contains the rule language staff is recommending. The following is a summary of the rule.

Staff recommends, on page 6, line 2, that ETCs provide 60 days written notice prior to the termination of Lifeline service. This is in accordance with Section 364.10(1)(e)2. which states that an ETC must allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility for Lifeline service.

Staff also recommends, on page 6, line 3, that the termination letter referenced in Section 364.10(1)(e)1. contain the telephone number at which the subscriber can reach the ETC to obtain information on the subscriber's Lifeline service. Staff believes this requirement is necessary to ensure that subscribers who are subject to termination from the Lifeline program are able to obtain immediate assistance from the ETC to: 1) determine whether a mistake has been made in regard to the termination of Lifeline service that might be easily rectified by the ETC; 2) streamline the process for those who must provide verification for continued eligibility for the program; and 3) allow the ETC to inform those subscribers who are indeed no longer eligible for Lifeline service of the availability of transitional Lifeline service.

Staff further recommends, on page 6, line 5, that a provision be included in the rule requiring that the notice of termination inform subscribers of the availability of discounted residential basic local telecommunications service, pursuant to Section 364.105. Staff believes such notice in the termination letter might increase the number of customers who take advantage of this program in their transition from the Lifeline program.

On page 6, beginning on line 8, staff recommends that the Commission adopt rule language requiring ETCs to reinstate the Lifeline service of any subscriber who subsequently presents proof of continued eligibility for Lifeline service after their Lifeline service has been terminated. The rule would apply to those subscribers who failed to initially provide proof of continued eligibility for the program and had their Lifeline service terminated. Under the rule, the ETC must reinstate the Lifeline service as soon as practicable, but no later than 60 days following receipt of proof of eligibility. The ETCs that participated in the rule development workshop indicated that it was their policy to reinstate any such subscribers as soon as possible.

OPC suggested at the workshop that these subscribers be credited for Lifeline service as of the date they submitted proof of continued Lifeline eligibility. Staff agrees with OPC, and language was added, on page 6, line 11, to the rule to reflect OPC's suggestion. Thus, even if the ETC is unable to immediately reinstate the customer in the Lifeline program for some technical

reason, the subscriber will receive a credit for Lifeline service that will be effective as of the date the subscriber submitted proof of continued Lifeline eligibility.

### **Statement of Estimated Regulatory Costs**

The Florida Administrative Procedure Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). The SERC prepared by staff is included as Attachment B.

The SERC states that eligible subscribers will likely experience less difficulty and delay in the Lifeline program because the proposed rule codifies current Lifeline requirements and provides specific consumer protection benefits for those seeking reinstatement in the Lifeline program. Moreover, ETCs will benefit from the proposed rule by having clear and concise direction from the Commission regarding implementation of the Lifeline program.

The SERC also indicates that it is not anticipated that the proposed rule will cause additional costs to the Commission, any other agency, or small businesses, cities, or counties. In fact, the Commission should benefit because it is likely that there will be a reduction in the number of basic procedural inquiries with respect to Lifeline service.

Based on the foregoing, staff recommends that the Commission propose the adoption of Rule 25-4.0665 as set forth in Attachment A of this recommendation.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes, if no requests for hearing are filed, the rule as proposed should be filed with the Secretary of State, and the docket should be closed. (Cibula)

**Staff Analysis:** Unless comments or requests for hearing are filed, the rule, as proposed, may be filed with the Secretary of State without further Commission action. This docket may then be closed.

As mentioned in the case background, staff it is currently moving forward in an undocketed proceeding to develop additional rules to address other aspects of Lifeline service. Once staff has completed the rule development workshop and the SERC in that proceeding, staff will open a docket to bring before the Commission staff's recommendation on any additional rules that may be necessary to implement the Lifeline service program.