

State of Florida



Public Service Commission

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

DATE: January 31, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Competitive Markets & Enforcement (P. Lee, King)
Office of the General Counsel (McKay, Teitzman)

RE: Docket No. 070671-TL – Petition for approval to eliminate intraLATA toll customer contact protocols, by Verizon Florida LLC.

AGENDA: 02/12/08 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: McMurrian

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: PLEASE PLACE DOCKET NO. 070671-TL ON THE AGENDA IMMEDIATELY AFTER DOCKET 070646-TL

FILE NAME AND LOCATION: S:\PSC\CMP\WP\070671.RCM.DOC

Case Background

On October 31, 2007, Verizon Florida LLC (Verizon Florida) filed a petition to eliminate its customer contact protocols for intraLATA¹ long distance services. Specifically, Verizon Florida would like to eliminate the scripting requirements for intraLATA long distance services

¹ LATA stands for local access and transport area, also called by some telephone companies as service areas. A LATA is a contiguous geographic area within which an incumbent local exchange company (LEC) may offer telecommunications services – local or long distance.

to achieve consistency in its intraLATA and interLATA customer contact procedures across the Verizon Florida footprint.²

In Docket No. 930330-TP, Order No. PSC-95-0203-FOF-TP, issued February 13, 1995, the Florida Public Service Commission (FPSC) found that intraLATA presubscription was in the public interest and was an important step toward full competition in the long distance market. Presubscription is the ability of a telephone customer to preselect a telecommunications company to carry that customer's toll calls by dialing the digit "1", the area code, and the called number. This dialing pattern is referred to as "1+" dialing. The FPSC also concluded that dialing parity with interLATA³ calls would give carriers an incentive to provide new and innovative services.

In Docket No. 960658-TP, Order No. PSC-96-1569-FOF-TP, issued December 23, 1996, the FPSC ordered BellSouth (now known as AT&T Florida) to adopt a carrier-neutral business practice for communicating information to new customers regarding choices of available intraLATA carriers. The company was ordered to (1) advise new customers that they now had an option of selecting a long distance carrier for their local toll calls, (2) offer to read the list of available carriers, (3) read the list if requested, and (4) if the customer did not pick a carrier, repeat the process and inform the customer that dialing an access code would be required on all intraLATA calls until a presubscribed carrier was chosen. BellSouth was prohibited from marketing its own intraLATA service unless the customer introduced the subject. In addition to requiring these customer contact protocols, BellSouth was prohibited from initiating marketing efforts designed to retain customers who decided to switch their intraLATA toll service from BellSouth to another carrier for a period of 18 months.

In Docket No. 970526-TP, Order No. PSC-98-0710-FOF-TP, issued May 22, 1998, the FPSC approved an agreement wherein the other LECs, including GTE Florida (now known as Verizon Florida), would communicate information to new customers about intraLATA toll choices in a manner consistent with and in compliance with the competitively neutral script required of BellSouth. The procedures were the same in that the LEC would ask each customer if they had a choice of intraLATA carrier. If the customer did not, then the LEC would read a random list of carriers.

In Docket No. 011497-TL, Order No. PSC-02-0362-PAA-TL, issued March 19, 2002, the FPSC found that Verizon Florida's market data illustrated a significant increase in consumer awareness of intraLATA toll competition and intraLATA toll market share held by competitors. This led the FPSC to conclude that customers had become sufficiently informed to make educated choices despite any inherent advantage Verizon Florida had due to its gatekeeper status, being the first entity most consumers approach for phone service by virtue of it being a LEC. The FPSC also noted that the objectives underlying the customer contact restrictions, assuring customer awareness of their intraLATA choices and allowing the interexchange companies (IXCs) to establish themselves in the intraLATA market, had been met. Verizon Florida was

² AT&T Florida filed a similar request in Docket No. 070646-TL.

³ Presubscription for interLATA toll calls was implemented beginning in 1984 in conjunction with the divestiture of the Bell Operating Companies from AT&T and the advent of competition in the toll market. While 1+ was available early on for interLATA toll traffic, all 1+ intraLATA toll traffic had to date been reserved to the serving LEC.

allowed to recommend its own intraLATA toll service on new customer contacts after it informed customers that they had a choice of local toll providers, and offered to read a list of all available intraLATA toll providers. These safeguards, the FPSC held, would ensure that consumer awareness of intraLATA toll competition remained high.

Verizon Florida is asking the FPSC to eliminate the scripting requirement for intraLATA services to achieve consistency in its intraLATA and interLATA customer contact procedures across the Verizon footprint as a result of a recent Federal Communications Commission (FCC) decision concluding that scripting requirements for interLATA long distance service are no longer necessary in today's competitive environment.⁴ Staff's recommendation addresses whether the Commission should relieve Verizon Florida from the intraLATA scripting requirements.

The Commission has jurisdiction in this matter pursuant to Section 364.01, Florida Statutes.

⁴ FCC 07-179, Memorandum Opinion and Order, In the Matters of Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services, WC Docket No. 06-120, released August 31, 2007. (Long Distance Order)

Discussion of Issues

Issue 1: Should Verizon Florida's petition to eliminate intraLATA toll customer scripting requirements from its customer contact protocols be approved?

Recommendation: Yes. Verizon Florida should be permitted to eliminate the scripting requirements for intraLATA long distance service from its customer contact protocols. (Lee)

Staff Analysis: Verizon Florida seeks relief from the FPSC's intraLATA toll customer contact protocols. Specifically, Verizon Florida is requesting that the FPSC eliminate the scripting requirement⁵ for intraLATA long distance services. Verizon Florida asserts that this action would be consistent with recent action taken by the FCC in its Long Distance Order where the FCC held that the scripting requirements for interLATA long distance services are no longer justified in today's competitive environment, and granted the Bell Operating Companies (BOCs) forbearance from their continued application. Verizon Florida asserts that the public interest served by elimination of these requirements applies equally at the federal and state levels. (Petition at p. 1)

In its Long Distance Order, the FCC found:

- The scripting requirement was designed to foster fair competition in the provision of stand-alone long distance service at a time when there was very little competition in the provision of stand-alone long distance services. Market conditions have since changed, greatly reducing the benefits of the requirement.
- The stand-alone long distance competition that the scripting requirement was designed to protect has given way to competition between service bundles that include both local exchange and long distance service or "any distance" minutes that can be used for both local exchange and long distance calling.
- Consumers that still take stand-alone long distance services now have additional options available for making long distance calls, such as subscribing to wireless services or using prepaid calling cards.
- The current scripting requirement focuses solely on one type of competitive alternative (wireline long distance provider) rather than increasing consumer awareness of all available alternatives. This narrow focus may lead to customer confusion and cause customers to inadvertently not investigate other alternative means of making long distance calls, such as with cable operators, interconnected VoIP providers, and prepaid long distance providers.
- Even without the scripting requirement, the BOC's local customers retain the right to obtain long distance service from a long distance carrier other than the BOC.

⁵ LECs are required to inform customers calling to obtain new local exchange service that they may obtain stand-alone long distance service from the LEC or other wireline carriers, and to read the customers a list of carriers offering long distance service in their area upon request.

In support of its petition, Verizon Florida relies heavily on the analysis and reasoning in the FCC's Long Distance Order eliminating the requirement for interLATA toll service. Verizon Florida asserts that the intraLATA scripting requirement should be eliminated because 1) the requirement has outlived its purpose for the reasons cited by the FCC in its Long Distance Order; (2) retaining the scripting requirement would undermine the effectiveness of the FCC's elimination of the parallel requirements for interLATA toll service; and 3) eliminating the scripting requirements would be consistent with the deregulatory approach adopted by the Florida legislature. Verizon Florida asserts:

- The scripting requirement for intraLATA long distance service, like the requirement for interLATA long distance service, focuses only on one set of competitive alternatives, omitting other options, such as wireless carriers, Voice over Internet Protocol (VoIP) providers, cable companies, and prepaid service providers.
- The intent behind intraLATA scripting requirements, to protect intraLATA stand-alone long distance competition, is no longer served by their continued application. Consumers are well aware of their choices for communications service and are selecting carriers and plans that best meet their needs.
- The majority of customers subscribe to bundled local and long distance services, not stand-alone long distance service. Service bundles are increasingly available from cable operators and interconnected VoIP providers; wireless providers provide "any distance" minutes that can be used for local or long distance calling.
- Those customers that take stand-alone long distance service have additional options available for making long distance calls, including wireless services and prepaid calling cards.
- Continued application of the requirement for intraLATA long distance service, while it has been eliminated for interLATA service, could likely confuse if not mislead customers by focusing exclusively on intraLATA toll service, to the exclusion of other long distance services.
- Regulatory consistency dictates that intraLATA scripting requirements should be eliminated to parallel the elimination of similar interLATA requirements.
- Legislative actions taken in 2003 and 2005 recognized the competitiveness of the intrastate toll market by exempting intrastate interexchange companies from substantial regulation and exempting intrastate interexchange telecommunications services from FPSC oversight except to the extent delineated in Chapter 364, Florida Statutes, or specifically authorized under federal law.

Analysis:

The FPSC established competitively neutral scripting requirements out of a concern that incumbent LECs would use their status as "gatekeeper" of local phone service (i.e., the first company most new phone customers have contact with) to unduly influence new customers into selecting their own intraLATA toll service. Incumbent LECs were required to: 1) inform each

customer they now had a choice of intraLATA toll carriers; 2) offer to read the customer a list of available carriers; and 3) if the customer did not choose a prescribed carrier, offer to read the list again and if the customer remained noncommittal, explain that a carrier access code would have to be used for intraLATA toll calls absent selecting a long distance carrier. The FPSC found that the objectives underlying the customer contact restrictions were to assure customer awareness of their intraLATA choices and to allow IXCs to establish themselves in the intraLATA toll market. The FPSC intended to limit the scripting requirements when actual market data proved that the objectives had been met.⁶

In Order No. PSC-02-0362-PAA-TL, issued March 19, 2002, in Docket No. 011497-TL, the FPSC concluded that the objectives underlying the scripting requirement for Verizon Florida had been met. The FPSC found that Verizon Florida's market data illustrated that customer awareness of intraLATA toll competition and IXC intraLATA toll market share had increased significantly. Accordingly, the FPSC allowed Verizon Florida to recommend its own intraLATA toll service, but only after it informed customers they had a choice of intraLATA toll carriers and offered to read a list of available carriers. This safeguard was required to ensure that customer awareness of intraLATA toll competition remained high.

Verizon Florida was asked to provide market data that supports the elimination of the scripting requirements for intraLATA long distance service. While the specific responses are proprietary, the data indicates that new long distance residential customers choosing packages of local and long distance increased nearly threefold from 2005 to 2007. Additionally, a majority of Verizon Florida's local customers in October 2007 reportedly chose local and long distance packages.⁷ Staff also reviewed the publicly available data compiled by the University of Florida's Bureau of Economic and Business Research in its BEBR Consumer Survey. Data for the January through June 2007 period indicates that nearly 40 percent of the 573 Verizon Florida local customers surveyed used wireless services to make long distance calls. Staff believes both the proprietary and public data support the assertion that few customers are using stand-alone long distance. The data also supports the conclusion that customers are educated about long distance competition, and competitive alternatives are prevalent. Those consumers taking stand-alone long distance services have additional options available for making long distance calls, such as using wireless services or prepaid calling cards. As noted by the FCC, the scripting requirement narrowly focuses on only alternative wireline long distance providers, leaving out other viable alternatives.

Verizon Florida states that if the scripting requirement is eliminated, its procedures and practices will be to initially assume that if a customer is calling Verizon Florida to establish new service or to transfer existing service, the customer wants Verizon Florida products and services and wants the same carrier for intraLATA and interLATA long distance services. Rather than informing the customer at the outset that he or she has a choice of service providers and volunteer to read the random list, it will be up to the customer to specifically request this

⁶ Order Nos. PSC-96-1569-FOF-TP and PSC-98-0710-FOF-TP, issued December 23, 1996, and May 22, 1998, respectively, in Docket Nos. 960658-TP and 970526-TP.

⁷ Verizon Florida verbally advised staff that it considers any estimated percentages derived from the provided data to be proprietary. Staff notes however that "majority" is defined in the Merriam-Webster On-Line dictionary as being more than half, implying in excess of 50 percent.

information. Verizon Florida requires that the service representative confer with the customer and recap all orders at the time of sale, thereby giving the customer another opportunity to choose an alternative long distance carrier if desired. Staff notes that the recap discloses both the product and service ordered as well as the applicable rates. In this manner, customers are not assigned to Verizon Florida by default.

Consistent with AT&T Florida's request to eliminate its intraLATA scripting requirement, staff believes that elimination of Verizon Florida's scripting requirement should not adversely affect the market because the market data shows few customers opting for stand-alone long distance service. Further, Verizon Florida states that safeguards will remain in place to ensure consumer awareness of intraLATA toll competitors remains high. Customers will continue to retain the right to obtain long distance service from a carrier other than Verizon Florida. Verizon Florida remains obligated to read the list of alternative long distance carriers, if requested, not assign customers to itself by default, and comply with the nondiscrimination obligations of § 251(g) of the Act.

With the above safeguards in place, staff recommends that Verizon Florida should be permitted to eliminate the scripting requirements for intraLATA long distance service from its customer contact protocols.

Docket No. 070671-TL

Date: January 31, 2008

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (McKay, Teitzman)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.