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January 26, 1998

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket Nos. ~~970644-TP~~ and 970744-TP

Dear Ms. Bayo:


Enclosed for filing in the above-styled docket are the original and fifteen (15) copies of Limited Petition on Proposed Agency Action.

We are also submitting the Petition on a 3.5" high-density diskette generated on a DOS computer in WordPerfect 5.1 format.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,


J. Jeffrey Wahlen

ACK

AFA

APP

CAF Enclosures

CMU cc: All parties of record

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

01359 JAN 26 1998

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of eligible
telecommunications carriers)
pursuant to Section 214(e) of the)
Telecommunications Act of 1996.)
_____)

DOCKET NO. 970644-TP

In re: Implementation of changes)
in the Federal Lifeline Assistance)
Plan currently provided by)
telecommunications carriers of)
last resort.)
_____)

DOCKET NO. 970744-TP
FILED: January 26, 1998

LIMITED PETITION ON PROPOSED AGENCY ACTION

Pursuant to Rules 25-22.029 and 25-22.036, Florida Administrative Code, ALLTEL Florida, Inc. ("ALLTEL"), Northeast Florida Telephone Company ("Northeast") and Vista-United Telecommunications ("Vista") (collectively, the "Petitioners") submit this Limited Petition on Proposed Agency Action Order No. PSC-98-0026-FOF-TP, issued January 5, 1998 ("Order"), and state:

Introduction

1. This protest addresses the portion of the Order that directs ETCs to continue with plans for implementation of full toll limitation services regardless of the FCC's decision on the matter. See Order at page 5. This protest does not extend to any other part of the Order.

2. The provision of the Order being protested affects the substantial interests of each of the Petitioners by requiring each of the Petitioners to continue with plans for implementation of full toll limitation services even though the FCC has ruled that doing so is not necessary.

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FPSC-RECORDS/REPORTING

3. Each of the Petitioners is an incumbent local exchange telecommunications company within the meaning of Chapter 364, Florida Statutes (1997), and provides local exchange telecommunications services under the regulation of this Commission. Their principal offices are shown in paragraph 4, below.

4. All pleadings, orders, notices and other papers filed or served in this docket should be served on each of the following persons:

Harriet E. Eudy
ALLTEL Florida, Inc.
Post Office Box 550
Live Oak, FL 32060

Lynne G. Brewer
NEFTC
Post Office Box 485
Macclenny, FL 32063-0485

Lynn B. Hall
Vista-United Telecommunications
Post Office Box 10180
Lake Buena Vista, FL 32830

Lee L. Willis
J. Jeffrey Wahlen
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

5. Each of the Petitioners received the Order by mail on or about January 10, 1998.

Background

6. In its Report and Order on Universal Service (CC Docket No. 96-45, FCC Order No. 97-157, Released May 8, 1997) ["First FCC Order"], the FCC required that all Eligible Telecommunications Carriers ("ETCs") offer toll limitation services as part of their Lifeline plans. The First FCC Order identified two types of toll limitation services: Toll Blocking and Toll Control.

7. By Order No. PSC-97-1262-FOF-TP, issued October 14, 1997 ("ETC Order"), the FPSC designated the incumbent LECs in Florida as ETCs. In addition, the Commission directed the ETCs to file

petitions requesting a waiver if they were unable to provide the toll limitation services outlined in the First FCC Order.

8. By petitions filed with the FPSC on or about October 23, 1997, each of the Petitioners requested a waiver of the requirement to provide full toll limitation services. Therein, the Petitioners stated that they were able to provide Toll Blocking as required in the First FCC Order, but that they would not be able to provide Toll Control as described in the First FCC Order. Each of the Petitioners indicated that the FCC might reconsider its decision on toll control and submitted a plan that involved monitoring the activity of the FCC to determine whether the FCC would reconsider its Order as it relates to Toll Control.

9. On January 5, 1998, the FPSC issued the Order. Therein, the Commission granted the waivers requested by the Petitioners and other ETCs and directed the Petitioners and the other ETCs to continue with plans for implementation of full toll limitation services regardless of the FCC's decision on the matter.

10. On December 30, 1997, the FCC released its Fourth Order on Reconsideration in CC Docket No. 96-45 ("Reconsideration Order"). Therein, the FCC reconsidered its previous ruling on toll limitation services, noted that a large number of carriers are unable to provide Toll Control, and held that a qualifying ETC must either provide Toll Blocking or Toll Control, but not both. Under the Reconsideration Order, an ETC is only required to seek a waiver of the toll limitation requirements from a state commission if it cannot provide either Toll Blocking or Toll Control.

11. Each of the Petitioners can and does provide Toll Blocking. Under the FCC's Reconsideration Order, it is only necessary for an ETC to provide Toll Blocking or Toll Control, not both. Consequently, the Petitioners are now in compliance with the FCC's requirements for the provision of toll limitation services by ETCs. Nevertheless, the Order directs the Petitioners and the other ETCs to continue with plans for implementation of full toll limitation services regardless of the FCC's decision on the matter.

Protest

12. As noted above, this protest addresses the portion of the Order that directs ETCs to continue with plans for implementation of full toll limitation services regardless of the FCC's decision on the matter. See Order at page 5. This protest does not extend to any other part of the Order.

13. The Commission should rescind the portion of the Order that directs ETCs to continue with plans for implementation of full toll limitation services regardless of the FCC's decision should be on the matter, because (1) providing Toll Control is not necessary to qualify as an ETC if the carrier can provide Toll Blocking, which each of the Petitioners can, and (2) implementing full toll control services would be prohibitively expensive, time consuming, and perhaps impossible without a coordinated, nationwide effort involving LECs, IXCs and vendors.

14. The known disputed issues of material fact include:

- (a) Whether Toll Control is technically feasible.
- (b) Whether it is feasible for ETCs in the State of Florida

to develop a system for Toll Control without the full cooperation and participation of IXCs and vendors around the country.

- (c) What are the costs of developing a system for Toll Control and how would those costs be recovered by the ETCs?
- (d) Whether there are lower cost alternatives that allow low income subscribers to control their toll usage.
- (e) Whether the benefits of a Toll Control system exceed the costs of developing a Toll Control system.

15. The statutes, rules and orders entitling the Petitioners to relief are Chapters 120 and 364, Florida Statutes, and the Order and the FCC's Reconsideration Order.

Conclusion


16. To implement Toll Control as envisioned by the FCC in the First FCC Order, a new process will have to be developed. IXCs will need to receive and rate each message and then transfer the resulting charge for each toll message to the responsible LEC on a real time basis. LEC provided intraLATA toll would also need to be rated on a real time basis. The responsible LEC will then have to accumulate each customer's IXC and LEC provided toll on a real time basis and compare the results to the preset limit on toll for low income subscribers. Once the limit is reached, the low income subscriber's ability to make toll call will need to be discontinued on a real time basis. Developing such a system will take a nationwide network similar to the one being established for local

number portability; however, doing so will be more complex since it would require many more processes than the "single dip" process being planned for local number portability.

17. The systems and technology necessary to implement Toll Control are not available at this time. The cost of developing the technology and systems will be staggering. The Petitioners are not aware of any industry plans to develop these systems and do not anticipate the development of the necessary technology and systems in the foreseeable future. It would be prohibitively expensive and perhaps impossible for the ETCs in Florida to undertake the development of a workable Toll Control system without a coordinated nationwide effort. Accordingly, the Petitioners request that the FPSC rescind the portion of the Order that directs ETCs to continue with plans for implementation of full toll limitation services regardless of the FCC's decision.

DATED this 26th day of January, 1998.

Respectfully submitted,



J. JEFFRY WAHLEN
LEE L. WILLIS
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115

ATTORNEYS FOR ALLTEL,
NORTHEAST AND VISTA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been served by U. S. Mail or hand delivery (*) on this 26th day of January, 1998 to the following:

Mr. Will Cox*
Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Ms. Ann Marsh*
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

ATTORNEY



jjw\all\970744.pat



Public Service Commission

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

DATE: January 16, 1998
TO: Parties of Record and Interested Persons in Dockets 951560-TP, ~~960833-TP~~, 960847-TP, 970157-TP, 970281-TL, 970604-TP, 970644-TP, and 970744-TP
FROM: Blanca S. Bayó, Director of Records and Reporting *BSB*
RE: Contact Regarding Employment

Section 5.02 B.1.c. of the Commission's Administrative Procedures Manual requires that all parties and interested persons in affected dockets be notified if a staff member involved in any of those dockets indicates he or she has been approached regarding employment by a party in the dockets.

As a party in the referenced dockets, you were notified by memorandum dated January 6, 1998 that David Dowds, Public Utilities Supervisor in the Division of Communications, had advised the Commission that he was contacted by BellSouth Telecommunications, Inc., regarding employment. Mr. Dowds has now advised the Commission that he has withdrawn his name from consideration for the position with BellSouth.

BSB:kf

cc: Walter D'Haeseleer
Sally Simmons
William D. Talbott
James A. Ward
Mary A. Bane
Robert D. Vandiver
David Dowds



Public Service Commission

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

DATE : January 14, 1998
TO : Bianca Bayo, Director, Records and Reporting
FROM : Sally Simmons, Bureau Chief, Communications SAS
RE : Reporting Requirement per Section 5.02, A.P.M

As a follow-up to my January 5, 1998 memo, I wanted to let you know that Dave Dowds has advised Nancy Sims of BellSouth that he is withdrawing from consideration for the position which she had described. I would appreciate it if you would notify the parties as appropriate. If you need anything further, please let me know. Thank you.

c: Mr. Talbott
Dr. Bane
Mr. D'Haeseleer

RECEIVED

JAN 14 1998

FPSC - Records/Reporting