

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: September 13, 2007

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Scott) *KS DS*
Division of Competitive Markets & Enforcement (Williams, Casey) *EW PK*
Division of Economic Regulation (Dickens) *BRD PS*

[Handwritten signatures]

RE: Docket No. 070572-TL – Proposed amendment of Rule 25-4.0665, F.A.C., Lifeline Service.

AGENDA: 09/25/07 – Regular Agenda – Rule Amendment Proposal - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

CRITICAL DATES: 12/31/07 – Deadline to Adopt Rules

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\070572.RCM.DOC

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COMMISSION CLERK

Case Background

Section 364.10(3)(h), Florida Statutes (“F.S.”), requires each state agency that provides benefits to persons eligible for Lifeline service to promote Lifeline participation with the cooperation of the Department of Children and Families (“DCF”), the Department of Education, the Florida Public Service Commission (“Commission”), the Office of Public Counsel (“OPC”), and telecommunications companies providing Lifeline service.

Furthermore, Section 364.10(3)(h)2, F.S., requires any state agency that determines a person is eligible for Lifeline service to immediately forward the information to the Commission for automatic enrollment. This section specifically requires the Commission to adopt rules

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creating procedures to automatically enroll eligible customers in Lifeline service, no later than December 31, 2007. Hence, this rulemaking was initiated by staff to develop rules in response to the Legislature's mandate.

On July 27, 2007, staff held a rule development workshop to receive comments on staff's draft rules. A number of eligible telecommunications carriers ("ETCs"), as well as the OPC, DCF, and AARP, were in attendance and participated in the discussion. The participants provided staff with feedback regarding the proposed rule language and offered suggestions to improve the language. These comments were taken into consideration by staff, as well as post-workshop comments, which were received on August 10, 2007. Overall, the participants appeared to be in agreement with the draft rule's purpose to implement procedures for the Lifeline service Automatic Enrollment Process.

In addition to the rule that is the subject of this recommendation, staff is currently developing rules to address other aspects of Lifeline service. In the near future, staff will bring a recommendation before the Commission addressing whether the Commission should propose the adoption of additional rules to implement the Lifeline service program.

This recommendation addresses whether the Commission should amend Rule 25-4.0665, Florida Administrative Code ("F.A.C."), with regard to the Lifeline service Automatic Enrollment Process. The Commission has rulemaking authority pursuant to Sections 120.54, 350.127(2), and 364.10, F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-4.0665, F.A.C., Lifeline Service?

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

Staff Analysis: Staff is recommending the amendment of Rule 25-4.0665, F.A.C., to include procedures for the Lifeline service Automatic Enrollment Process. Attachment A contains the rule language staff is recommending. The following is a summary of the proposed rule language.

On page 7, line 15, of Attachment A, staff recommends language requiring all ETCs to participate in the Lifeline service Automatic Enrollment Process. Staff believes that all ETCs are required to participate in the Lifeline service Automatic Enrollment Process, pursuant to Section 364.10(h)1, F.S.

In post-workshop comments, some ETCs suggested that the Lifeline service Automatic Enrollment Process be defined, but not too narrowly because it may hinder the process as it continues to evolve. Staff agrees and recommends that the following language be included in the rule on page 7, lines 16 through 20: "For purposes of this rule, the Lifeline service Automatic Enrollment Process is an electronic interface between the Department of Children and Families, the Commission, and the eligible telecommunications carrier that allows low-income individuals to automatically enroll in Lifeline following enrollment in a qualifying public assistance program." Staff believes that this language captures the essence of the Lifeline service Automatic Enrollment Process without hindering its development.

Beginning on page 7, line 21, through page 8, line 4, staff recommends language laying out the procedures for the Lifeline service Automatic Enrollment Process. The Commission would send an e-mail notification to the ETC when Lifeline service applications are available for the ETC to retrieve from the Commission's secure website. This is the Commission's current practice with Lifeline applications submitted via the Commission's secure website. Staff also proposes language that requires the ETC to enroll the subscriber in the program as soon as practicable, but no later than 60 days from the receipt of the Commission's e-mail notification. Additionally, staff recommends that upon completion of initial enrollment, the ETC should credit the subscriber's bill for Lifeline service as of the date the ETC received the Commission's e-mail notification. Staff believes this language is necessary to promote Lifeline participation.

Staff further recommends, on page 8, lines 5 through 8, language that requires ETCs to maintain a current e-mail address with the Commission. Staff believes this information is necessary because the e-mail address on file with the Commission will be used to inform ETCs that new applications are available for retrieval and processing. In addition, on page 8, lines 9 through 12, staff recommends that ETCs be required to maintain the names, e-mail addresses, and telephone numbers of one primary and one secondary company representative who will manage the user accounts on the Commission's secure website. Staff believes this information is

necessary because it will ensure the continuous flow of Lifeline applications from the Commission's secure website to the ETC.

On page 8, lines 13 through 23, staff recommends language that will require the ETC to fax to the Commission, within 20 calendar days of receiving the Commission's e-mail notification, the names, addresses, telephone numbers, and date of the application for: 1) misdirected applications; 2) applications for customers currently receiving Lifeline service; and 3) rejected applicants, including the reason(s) the applicants were rejected. The ETC would send this information via the Commission's dedicated Lifeline service facsimile. The ETC also has the option of filing this information with the Office of Commission Clerk.

Originally, staff proposed that the ETC fax the information described above within 10 days of receiving the Commission's e-mail notification. ETCs suggested at the workshop, and in post-workshop comments, that the number of days be increased to 20 days because 10 days would be burdensome. Staff is recommending that ETCs be required to fax information to the Commission within 20 calendar days. Staff believes that 20 calendar days should be sufficient time for the ETCs to respond to the Commission with this information.

AT&T Florida, Inc. suggested at the workshop, and in post-workshop comments, that additional language be included in the proposed rule addressing the confidentiality of responses to the Commission under subsection (3)(e) of the proposed rule. Staff agrees and recommends the language on page 8, line 25 through page 9, line 6, addressing the applicability of Section 364.107, F.S., to responses filed in compliance with the proposed rule. Essentially, any response filed by an ETC in accordance with the rule is confidential and exempt from the public records requirement; however, the information contained in the response may be disclosed to the Commission, pursuant to the criteria set forth in Section 364.107(3)(a)4, F.S.

On page 9, line 7 through 10, staff recommends that all ETCs be required to provide current Link-Up and Lifeline service company information to the Universal Service Administrative Company ("USAC") at www.lifelinesupport.org. Staff believes that the posting of this information on the USAC consumer website will further promote participation in the Lifeline program.

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 to this recommendation.

The SERC states that the proposed rule language will benefit customers eligible for Lifeline service by expediting the process used to enroll in Lifeline service. Moreover, Florida ratepayers will experience greater access to and affordability of telephone service.

The SERC also indicates that there will be both incremental costs and benefits to the Commission. Additional Commission staff time and resources will be needed to maintain the Lifeline service Automatic Enrollment Process. The Commission will benefit by facilitating participation in Lifeline service.

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Furthermore, ETCs will experience some transactional costs by complying with subsection 3(e) of the proposed rule language. ETCs will have to allocate resources to compile Lifeline data in connection with the process.

Customers should have minimal transactional costs associated with the proposed rule language. There should be no negative impact on local governments.

Based on the foregoing, staff recommends that the Commission propose the amendment of Rule 25-4.0665, F.A.C., 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 language as proposed should be filed with the Secretary of State, and the docket should be closed. **(Scott)**

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 is developing additional rules relating to other aspects of Lifeline service. Once a final draft of those rules is complete, along with a SERC, staff will open a docket and bring a recommendation before the Commission.

25-4.0665 Lifeline Service

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(1) An eligible telecommunications carrier must provide 60 days written notice prior to the termination of Lifeline service. The notice of pending termination shall contain the telephone number at which the subscriber can obtain information about the subscriber's Lifeline service from the eligible telecommunications carrier. The notice shall also inform the subscriber of the availability, pursuant to Section 364.105, F.S., of discounted residential basic local telecommunications service.

(2) If a subscriber's Lifeline service is terminated and the subscriber subsequently presents proof of Lifeline eligibility, the eligible telecommunications carrier shall reinstate the subscriber's Lifeline service as soon as practicable, but no later than 60 days following receipt of proof of eligibility. Irrespective of the date on which the eligible telecommunications carrier reinstates the subscriber's Lifeline service, the subscriber's bill shall be credited for Lifeline service as of the date the eligible telecommunications carrier received the proof of continued Lifeline eligibility.

(3) All eligible telecommunications carriers shall participate in the Lifeline service Automatic Enrollment Process. For purposes of this rule, the Lifeline service Automatic Enrollment Process is an electronic interface between the Department of Children and Families, the Commission, and the eligible telecommunications carrier that allows low-income individuals to automatically enroll in Lifeline following enrollment in a qualifying public assistance program.

(a) The Commission shall send an e-mail to the eligible telecommunications carrier informing the eligible telecommunications carrier that Lifeline service applications are available for retrieval for processing.

(b) The eligible telecommunications carrier shall enroll the subscriber in the

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 Lifeline service program as soon as practicable, but no later than 60 days from the receipt of
2 the e-mail notification. Upon completion of initial enrollment, the eligible
3 telecommunications carrier shall credit the subscriber's bill for Lifeline service as of the date
4 the eligible telecommunications carrier received the e-mail notification from the Commission.

5 (c) The eligible telecommunications carrier shall maintain a current e-mail address
6 with the Commission, which the Commission will use to inform the eligible
7 telecommunications carrier that new Lifeline service applications are available for retrieval for
8 processing.

9 (d) The eligible telecommunications carrier shall maintain with the Commission
10 the names, e-mail addresses and telephone numbers of one primary and one secondary
11 company representative who will manage the user accounts on the Commission's secure
12 website.

13 (e) Within 20 calendar days of receiving the Commission's e-mail notification that
14 the Lifeline service application is available for retrieval, the eligible telecommunications
15 carrier shall provide a facsimile response to the Commission via the Commission's dedicated
16 Lifeline service facsimile telephone line at (850) 413-7142, identifying the customer name,
17 address, telephone number, and date of the application for:

- 18 1. misdirected Lifeline service applications;
19 2. applications for customers currently receiving Lifeline service; and
20 3. rejected applicants, which shall include the reason(s) why the applicants were
21 rejected.

22 In lieu of a facsimile, the eligible telecommunications carrier may file the information with the
23 Office of Commission Clerk.

24 (f) Pursuant to Section 364.107(1), F.S., information filed by the eligible

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1 telecommunications carrier in accordance with subsection (3)(e) of this rule is confidential and
2 exempt from Section 119.07(1), F.S. However, the eligible telecommunications carrier may
3 disclose such information consistent with the criteria in Section 364.107(3)(a), F.S. For
4 purposes of this rule, the information filed by the eligible telecommunications carrier will be
5 presumed necessary for disclosure to the Commission pursuant to the criteria in Section
6 364.107(3)(a)4, F.S.

7 (4) All eligible telecommunications carriers shall provide current Lifeline service
8 company information to the Universal Service Administrative Company (USAC) at
9 www.lifelinesupport.org so that the information can be posted on the USAC's consumer
10 website.

11 Specific Authority 350.127(2), 364.10(3)(j), F.S.

12 Law Implemented 364.10, 364.105, FS

13 History New 1-2-07, Amended XX-XX-XX.

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

DATE: September 7, 2007
TO: Office of General Counsel (Scott)
FROM: Division of Economic Regulation (Dickens) *BD*
RE: Proposed Rule Amendment 25-4.0665 Lifeline Service

DETAILED DESCRIPTION OF THE PROPOSED RULE

1. Why it is being proposed?

In October 2006, the FPSC implemented an automatic Lifeline enrollment process through the Commission's website. The rule amendment is proposed to facilitate enrollment for Lifeline-eligible subscribers in Florida.

2. What does the rule do and how does it accomplish its goal?

The proposed rule language implements procedures for the Lifeline service Automatic Enrollment Process as mandated by the Legislature in Section 364.10(3)(h)2.

Within 20 calendar days of receiving the Commission's e-mail notification that the Lifeline service application is available for retrieval, eligible telecommunication carriers (ETCs) shall provide to the Commission thru a dedicated facsimile telephone number or electronic transmission data identifying the customer name, address, telephone number and date of the application for:

- Misdirected Lifeline service application (if applicable)
- Applications for current Lifeline Customers
- Rejected Lifeline Applications, including reasons for why such customers were rejected

IMPACT ON THE PSC

Incremental costs

The proposed rule amendment will likely result in additional Commission staff time and resources in order to ascertain the reasons why Lifeline applications were rejected.

Incremental benefits

Implementation of the rule amendment will benefit the Commission by facilitating subscriber participation in the Lifeline program.

WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSAL

Utilities

The proposed rule amendment requires compliance for all eligible telecommunication carriers (ETCs) operating in Florida.

Customers

The proposed rule amendment will benefit Lifeline-eligible customers by expediting the process subscribers can use to enroll in Lifeline service. This benefit for Florida ratepayers will foster greater access and promote affordability.

Outside business and local governments

There should be no negative impacts on small businesses, small cities, or small counties.

HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

Estimated transactional costs to individuals and entities

Utilities

There will be some transactional costs to ETCs for compliance with section 3(e) of the proposed rule amendment. The proposed rule amendment will require carriers to allocate resources in compiling Lifeline data to support the automatic enrollment process.

Customers

Customers should have minimal transactional costs associated with the proposed rule amendment. The confidentiality of Lifeline customers is protected through the secured PSC website where Lifeline information will be transmitted between the carrier and the designated state agency that verifies a customer's eligibility.

Outside business including specifically small businesses

There will likely be minimal transactional costs for small businesses with the adoption of the proposed rule amendment.

Local governments

There should be no negative impact for small cities, and small county entities resulting from implementation of the proposed rule amendment.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSED RULE

Lower cost methods of enrollment which do not involve an automatic process have not facilitated growth in Lifeline participation. These lower cost methods generally involve a paper-based enrollment. By moving to an automatic process, Lifeline participation for eligible consumers should be enhanced.

BD:kb

cc: Mary Andrews Bane
Chuck Hill
Robert Casey
Curtis Williams
Hurd Reeves