

Ruth Nettles

080641-TP

From: Martha Johnson [marthaj@fcta.com]
Sent: Thursday, August 27, 2009 2:00 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 080641 - FCTA's Additional Information on PC Freeze
Attachments: 080641- FCTA's Additional Info on PC Freeze.pdf

A. The person responsible for this electronic filing is:

David A. Konuch
Senior Counsel, Regulatory Law and Technology
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
850-681-1990
850-681-9676
dkonuch@fcta.com

B. The docket title is: **In Re: Docket No. 080641** – Initiation of Rulemaking to Amend and Repeal Rules in Chapters 35-4, F.A.C., Pertaining to Telecommunications

C. This document is filed on behalf of the Florida Cable Telecommunications Association, Inc.

D. This document has a total of 3 pages.

E. Attached is the Florida Cable Telecommunications Association's additional information on PC Freeze.

Thank you,

Martha Johnson
Regulatory Assistant
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
850/681-1990
850/681-9676 (fax)

DOCUMENT NUMBER-DATE

08900 AUG 27 8

FPSC-COMMISSION CLERK



Florida Cable Telecommunications Association

Steve Wilkerson, President

August 27, 2009

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Drive
Tallahassee, FL 32399

RE: **In Re: Docket No. 080641** – Initiation of Rulemaking to Amend and Repeal Rules in Chapters 35-4 and 25-9, F.A.C., Pertaining to Telecommunications

Dear Ms. Cole,

Per Staff's request, enclosed please find the following documents for filing in this docket: Exhibit 1 (Fact Sheet provided to Cindy Miller, Beth Salak, Greg Shafer, and Ray Kennedy at the August 24, 2009 meeting with David Konuch of FCTA); and Exhibit 2 (e-mail from David Konuch to Beth Salak dated August 27, 2009 containing follow-up information from meeting).

Should you have any questions please contact me.

Sincerely,

David A. Konuch
Sr. Counsel, Regulatory Law & Technology
Florida Cable Telecommunications Association
246 E. Sixth Ave,
Tallahassee FL 32303
dkonuch@fcta.com

Enclosures

DOCUMENT NUMBER-DATE

08900 AUG 27 09

FPSC-COMMISSION CLERK

FCTA Analysis of August 6, 2009 Staff Recommendation on PC Freeze

Originally intended as a consumer protection to prevent local slamming, today local PC freezes represent a competitive barrier. **Florida's current PC freeze rules do not allow solicitation of additional PC freezes. These rules work and should not be changed.** Less than 150 total local slamming complaints occurred in 2008, with AT&T generating more (24) than any other provider. Cable served over 700,000 telephony customers in 2008, with only 5 local slamming complaints.

In contrast, ***thousands of customers per year who want to switch to cable telephony are delayed in doing so because of PC freezes issued previously.*** When that happens, the customer must contact the ILEC to have the local freeze removed, creating an undeserved retention marketing opportunity. In 2009, cable now serves over 1 million telephony subscribers in Florida. ***That makes it more difficult for customers to switch, even after they've indicated they want to switch. Thousands of customers per year give up on switching to cable because of the difficulty in undoing PC freezes and retention marketing by ILECs. Changing current law to allow solicitation of PC freezes (as in 8/6/09 Staff Rec) will multiply this problem with no consumer benefits, and give the ILECs license to engage in anticompetitive conduct.***

8/6/09 Staff Rec: "Staff believes that, in order to implement Section 364.603, F.S., the offer of a PC-Freeze must be a mandate. The law requires the Commission to adopt rules to prevent slamming and take other actions, such as requiring the companies to notify subscribers of the ability to freeze the subscriber's choice of carriers."

FCTA Comment: Ch. 364.603 was enacted in 1998 and implemented correctly then. The time to implement 364.603 has long past. No need to second-guess what Commission did then by adding new subsection 1. If Staff believes cleanup is needed, it should be in a separate rulemaking just on PC freeze.

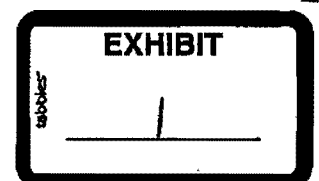
8/6/09 Staff Rec: Staff believes it can delete the "no solicitation" requirement (subs. 5) because other safeguards exist, including 364.603, and requirement that solicitations be non-misleading: "If there are abusive or anticompetitive practices that are alleged [including related to solicitations], the Commission is required by Section 364.603, F.S., to resolve on an expedited basis any complaints of anticompetitive behavior concerning a local PC-Freeze."

FCTA Response: ***The changes to 364.603 do not address this problem.*** SB 2626 enables FCTA to quickly bring a complaint over anti-competitive conduct and PC freeze generally, and to question whether a customer *actually requested* a freeze. However, it's possible to craft a non-misleading solicitation that still would get customers to choose PC freezes, even though local slamming is no longer a problem. ***Allowing solicitations, even if non-misleading, will lead to more PC freezes, and unnecessary hurdles for customers who want to switch providers. Many more customers will see their choice of switching providers thwarted. TO AVOID HARMING COMPETITION AND CONSUMERS, THE BAN ON SOLICITING PC FREEZES SHOULD BE RETAINED.***

DOCUMENT NUMBER - DATE

08900 AUG 27 08

FPSC-COMMISSION CLERK



Martha Johnson

From: David Konuch
Sent: Thursday, August 27, 2009 10:10 AM
To: bsalak@psc.state.fl.us
Subject: Arguments in Support of Keeping Ban on Soliciting PC Freezes

Hi, Beth,

As a follow up to our meeting earlier this week, here is some additional support for FCTA's arguments concerning PC freeze:

- PC freezes on existing accounts require extra handling for nearly 5,000 customer orders per year, for just two of FCTA's three largest members, for orders going to AT&T alone. (This is a conservative estimate of orders affected, because it does not include data from cable telephony providers Cox, Mediacom, or Atlantic Broadband, nor does it include orders containing PC freezes for other ILECs, such as Verizon and Embarq/CenturyTel, or any CLEC orders). Of the 5,000 orders, approximately one-third of customers ultimately decide not to switch providers. Thus, even with the "no solicitation" rule in place, between 1,000 and 2,000 customers ultimately are dissuaded from exercising their right of choice because of difficulties in undoing a PC freeze such as contacting the existing provider, waiting on hold, etc.
- Weighing any scant protective value against a consumer's unfettered right to choose their service provider, at least two states – Oklahoma and Georgia, have decided to prohibit local PC freezes. FCTA is unaware of any consumer outcry or concern on behalf of any party as a result of Oklahoma and Georgia doing away with the local PC freeze.
- If the "no solicitation" rule were rescinded (as the 8/6/09 Staff Rec recommends), it would reverse sound existing policy and do so absent any compelling justification. ILECs would then be able to solicit, market, and even induce their customers to place PC freezes, which would no doubt result in additional PC freezes and additional lost orders for competitors. Allowing solicitation of PC freezes moves affirmatively in the wrong direction, creates an anticompetitive tool for ILECs, and will inconvenience customers who have chosen to switch providers, all the while delivering, at best, illusory consumer benefits. Accordingly, the PSC should retain the "no solicitation of PC freezes" rule.

On behalf of FCTA and its members, thanks very much for listening to and considering our views.

Dave Konuch

David A. Konuch
Sr. Counsel, Regulatory Law & Technology
Florida Cable Telecommunications Association
246 E. Sixth Ave,
Tallahassee FL 32303
dkonuch@fcta.com
850-681-1990

