

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of
Rule 25-4.081, F.A.C., Emergency
911 Access, by Frontier
Communications of the South,
Inc.

DOCKET NO. 980478-TL
ORDER NO. PSC-98-1162-FOF-TL
ISSUED: August 25, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER OF RULE 25-4.081

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. BACKGROUND

On January 6, 1997, the Commission adopted Rule 25-4.081, Florida Administrative Code, Emergency 911 Access. This rule requires that telecommunication providers maintain "911" access for temporarily disconnected phone lines.

Frontier Communications of the South, Inc. (Frontier), discovered that it is unable to comply with the rule with its current equipment. Frontier filed a petition on April 2, 1998, for a waiver of Rule 25-4.081. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly on April 14, 1998. The comment period ended

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May 8, 1998, and no comments were received. The statutory deadline for the Commission's decision regarding this petition was July 1, 1998, which was waived by Frontier. On July 13, 1998, Frontier filed a supplement to its petition.

II. DISCUSSION

Rule 25-4.081, Florida Administrative Code, Emergency 911 Access, states:

(1) Access to emergency 911 services shall be provided by the local exchange company to basic local exchange company subscribers.

(2) By July 1, 1997, access to 911 shall be maintained for the duration of any temporary disconnection for non-payment of a subscriber's local residential service, except that small local exchange companies as defined by Section 363.052(1), Florida Statutes, shall have until July 1, 1998, to comply.

In its petition, Frontier claims that it cannot comply with the rule until a software change to its Siemens Stromberg Carlson DCO switch is implemented. The modification will not be available until sometime in the first quarter of 1999. Frontier believes that it will be able to comply with the rule within 60 days of the installation.

Frontier's current software is Release Level 20, which does not have the technical capability to automatically provide access to 911 for residential customers whose service has been temporarily disconnected. Instead, the company would have to initiate manual procedures to provide access to 911.

Frontier stated that when a customer's service is temporarily disconnected, the disconnected number would have to be assigned a new screen class. The old screen class would have to be recorded and then reused when the number is placed back into service. In addition, the label, "termination barred," must be placed on the number to prevent incoming calls to the disconnected line. Also, all custom calling features the customer may have must be recorded before the line is disconnected, because some of the features, such as 3-way-calling and custom code restriction, must be removed from the line due to software conflicts that arise when placing

"termination barred" on the line. Frontier stated that accurate records must be retained for each line because if all line neumonics are not reinstalled once the service is restored, the features may not work properly, possibly causing toll billing errors. Frontier also estimated that it would require four man hours per disconnected telephone number to manually do the work required to give the customer access to 911 and an additional one-quarter hour to reestablish the connection.

III. CONCLUSION

We believe that it is in the public interest to grant the waiver Frontier has requested even though it means that 911 access will not be available to its customers whose service has been temporarily disconnected until approximately May 31, 1999. The only other options available would be to require Frontier to allow non-paying customers to continue to have outward-dialing capability, or to require Frontier to manually disconnect and restore service.

We also believe that the most cost-effective and logical method to resolve Frontier's inability to comply with Rule 25-4.081, Florida Administrative Code, is to grant the waiver with an expiration date of May 31, 1999. We believe Frontier has demonstrated that enforcement of the rule would cause substantial hardship due to the cost associated with immediate compliance. Further, Frontier has also demonstrated in its supplement to its petition that with this waiver, "the underlying purpose of the statute to be achieved by reasonable means, at a reasonable cost, without creating unintended consequences and possible unintended departures from tariff provisions or other rule or statutory requirements" would be served.

Accordingly, we hereby grant Frontier Communications of the South, Inc.'s waiver petition.

Based on the foregoing, it is

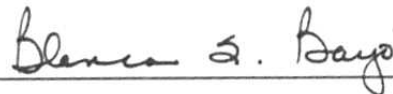
ORDERED by the Florida Public Service Commission that Frontier Communications of The South, Inc.'s petition for a waiver of the requirements of Rule 25-4.081, Florida Administrative Code, until May 31, 1999, is hereby granted. It is further

ORDER NO. PSC-98-1162-FOF-TL
DOCKET NO. 980478-TL
PAGE 4

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 25th Day of August, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

ORDER NO. PSC-98-1162-FOF-TL
DOCKET NO. 980478-TL
PAGE 5

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 1st, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.