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Subject: e-filing, 080234-TP
Attachments: 080234 Citizens Supplemental Comments.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080234-TP

In re: Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 6 pages.

e. The document attached for electronic filing is Citizens' Supplemental Comments Addressing the Impact of Chapter 2009-226, Laws of Florida, on the Issues in this Case.

(See attached file: 080234.Citizens Supplemental Comments.sversion.doc)

Thank you for your attention and cooperation to this request.

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08212 AUG 10 8
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Florida Lifeline) Docket No. 080234-TP
Program involving Bundled Service)
Packages and Placement of Additional) Filed: August 10, 2009
Enrollment Requirements on Customers)

**CITIZENS' SUPPLEMENTAL COMMENTS ADDRESSING THE IMPACT OF
CHAPTER 2009-226, LAWS OF FLORIDA, ON THE ISSUES IN THIS CASE**

The Citizens of the State of Florida, through the Office of Public Counsel, hereby submit these supplemental comments pursuant the *Third Order Modifying Procedure*, Order No. PSC-09-0522-PCO-TP, issued July 27, 2009.

Chapter 2009-226, Laws of Florida ("Consumer Choice and Protection Act" or "Act") does nothing to limit the Commission's authority to apply the lifeline discount to bundled service offerings. In fact, the Act actually expands the number of people eligible to participate in Lifeline by increasing the income eligibility test for Lifeline from 135% to 150% of federal poverty income guidelines.

The companies may argue that the Act's change to the definition of "nonbasic service" limits those services to which the Lifeline discount applies, but it does not. The Commission's authority to specify those services which must be included in a Lifeline Assistance Plan does not depend on the definition of "basic" or "nonbasic" service.

Citizens' post-hearing comments filed on April 3, 2009 noted that Federal law sets certain minimum standards for Lifeline retail local service offerings.

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However, once a service meets the minimum standards, it is up to state authorities to determine which services are included in Lifeline Assistance Plans.

47 CFR 54.401(a)(3) requires any Lifeline retail local service offering to include the services or functionalities enumerated by 47 CFR 54.101(a)(1)-(9). Those services are (1) Voice grade access to the public switched network, (2) Local usage, (3) Dual tone multi-frequency signaling or its functional equivalent, (4) Single-party service or its functional equivalent, (5) Access to emergency services, (6) Access to operator services, (7) Access to interexchange service, (8) Access to directory assistance, and (9) Toll limitation for qualifying low-income consumers.

In other words, this section of the federal regulations sets forth the minimum characteristics of any retail local service offering which must be met before the Lifeline discount may be applied to the service. If a retail local service offering does not have all of these characteristics, it cannot be eligible for the *Lifeline discount*.

On the other hand, federal regulations do not require that every retail local service offering that includes these services or functionalities be eligible for Lifeline. In FCC-97-157, the Federal Communications Commission ("FCC") described Lifeline as a program that reduces end-user charges for eligible customers of a *state specified* level of local service. Casey, Tr. 117.

The variety of decisions by different states concerning the particular retail local service offerings eligible for Lifeline also demonstrates that states determine the specific local service offerings eligible for Lifeline. During the evidentiary

hearing Staff witness Bob Casey described the decisions by a number of states requiring ETCs to provide Lifeline to customers electing to purchase bundled service offerings. Casey, Tr. 110–113. Other states have placed some restrictions on the types of retail local service offerings eligible for Lifeline. Vasington, Tr. 51-52.

Section 364.10(2)(a), Florida Statutes, states that an eligible telecommunications carrier shall provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in a Commission-approved tariff or price list. This statute provides the Commission broad discretion to determine the parameters of Lifeline Assistance Plans, as long as those plans meet the minimum qualifications set forth in federal law. The Act does not change this authority in any way. It does not matter whether a service is “basic” or “nonbasic” in order to be included in a Lifeline Assistance Plan approved by the Commission. By providing the Commission the ultimate authority to approve Lifeline Assistance Plans in Section 364.10(2)(a), Florida Statutes, the Florida Legislature left it up to the Commission to decide which services should be included in the Plans.

In summary, the Consumer Choice and Protection Act advanced participation in Lifeline by increasing the Lifeline income eligibility test from 135% to 150% of federal poverty income guidelines. The Act promotes Lifeline and does nothing to adversely affect the Commission's authority to determine which services are included in Commission approved Lifeline Assistance Plans.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Supplemental Comments has been furnished by electronic mail and U.S. Mail to the following parties on this 10th day of August, 2009, to the following persons:

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