

Ruth Nettles

080641-TP

From: Lisa Scoles [lscoles@radeylaw.com]
Sent: Monday, August 31, 2009 12:16 PM
To: Filings@psc.state.fl.us
Cc: Susan Clark; Kathryn Cowdery; Cindy Miller
Subject: Electronic filing in Docket No. 080641-TP
Attachments: Letter from ILECs - Docket 080641-TP.pdf

Electronic Filing

- a. Person responsible for this electronic filing:

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- b. Docket No. 080641 – Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications
- c. Document being filed on behalf of Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarq Florida, Inc. Quincy Telephone Company d/b/a TDS Telecom, and Windstream Florida, Inc.
- d. There are a total of 2 pages.
- e. The document attached for electronic filing is correspondence from the above-referenced companies related to Docket No. 080641-TP

(See attached file: Letter from ILECs – Docket No. 080641-TP.pdf)

Thank you for your assistance in this matter. If you have any questions or comments, please contact me at 425-6662.
Thanks!

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August 31, 2009

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Re: Docket No. 080641-TP – *Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications*

Dear Ms. Cole:

The Joint Petitioners¹ in the above-referenced docket request that the following comments regarding amendments to Rule 25-4.083, F.A.C., Preferred Carrier Freeze, some of which were made to Public Service Commission (“PSC”) staff on August 25, 2009, be entered into the record:

- The recent legislative changes to Section 364.603, F.S., provide a process for expedited review related to preferred carrier freeze.²
- In suggesting that Rule 25-4.083, F.A.C., not be amended, the Florida Cable Telecommunications Association, Inc. (“FCTA”) is weighing in on a rule that does not regulate its members. Further, cable companies are not regulated to the same degree as telecommunications companies. Specifically, there are no prohibitions on cable companies marketing preferred carrier freezes.

¹ The Joint Petitioners are Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarras Florida, Inc., Quincy Telephone Company d/b/a TDS Telecom, and Windstream Florida, Inc. These companies were the petitioners in Docket No. 080159-TP, in which amendment or repeal of some of the rules at issue in this docket was first proposed.

² Section 16, Chapter 2009-226, Laws of Florida, added the following sentence to Section 364.603, Florida Statutes: “The commission shall resolve on an expedited basis any complaints of anticompetitive behavior concerning a local preferred carrier freeze.”

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- The FCTA's assertion that incumbent local exchange companies ("ILECs") will have an "undeserved" retention marketing opportunity if customers must contact an ILEC to have a local freeze removed is invalid. Cable companies have seen their customer base in Florida increase from 700,000 in 2008 to more than 1 million in 2009, which demonstrates that the market is vibrantly competitive. In this environment, all providers should be allowed to compete on equal terms.
- The no solicitation provision in subsection 5 of the rule is unnecessary. Recent legislative changes provide the PSC with the ability to monitor and observe if substantial preferred carrier freeze activity occurs that would harm competition and, if so, the PSC could address the issue in an expedited process via either rulemaking or an action against a specific carrier. Continued imposition of a prohibition against solicitation by ILECs imposes unnecessary hurdles for customers who want to switch from cable to an ILEC and stifles competition by making it more difficult for the ILECs to compete.
- Rule 25-4.083, F.A.C., was implemented as a result of problems associated with competitive local exchange carriers, not with ILECs.
- The FCTA has presented no new evidence in its filed comments that would result in the need for the PSC to revisit the proposed rule changes. Similarly, the changes resulting from Chapter 2009-226, Laws of Florida, do not necessitate that the PSC deviate from the proposed changes to Rule 25-4.083, F.A.C.

Sincerely,

/s/ Susan F. Clark

Susan F. Clark
Attorney for the Joint Petitioners

cc: Cindy Miller
Kathryn Cowdery