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 1 BEFORE THE

 FLORIDA PUBLIC SERVICE COMMISSION

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 DOCKET NO. 060607-TP

 3 In the Matter of:

 4 PROPOSED ADOPTION OF RULE 25-4.0665,

 F.A.C., LIFELINE SERVICE.

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 PROCEEDINGS: AGENDA CONFERENCE

 10 ITEM NO. 3

 11 BEFORE: CHAIRMAN LISA POLAK EDGAR

 COMMISSIONER J. TERRY DEASON

 12 COMMISSIONER ISILIO ARRIAGA

 COMMISSIONER MATTHEW M. CARTER, II

 13 COMMISSIONER KATRINA J. TEW

 14 DATE: Tuesday, October 3, 2006

 15 PLACE: Betty Easley Conference Center

 Room 148

 16 4075 Esplanade Way

 Tallahassee, Florida

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 REPORTED BY: LINDA BOLES, CRR, RPR

 18 Official Commission Reporter

 (850) 413-6734

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 1 PARTICIPATING:

 2 MARYROSE SIRIANNI, ESQUIRE, representing BellSouth.

 3 TOM McCABE, ESQUIRE, representing TDS Telecom.

 4 SAMANTHA CIBULA, ESQUIRE, and CURTIS WILLIAMS,

 5 representing the Florida Public Service Commission Staff.

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 1 P R O C E E D I N G S

 2 CHAIRMAN EDGAR: We will begin our discussions with

 3 Item 3.

 4 MS. CIBULA: Samantha Cibula on behalf of the

 5 Commission's legal staff.

 6 Commissioners, Item Number 3 is staff's

 7 recommendation to propose the adoption of Rule

 8 25-4.0665 pertaining to Lifeline Service. I believe BellSouth

 9 wants to comment on the rule, and staff is prepared to address

 10 any questions the Commission may have at this time.

 11 CHAIRMAN EDGAR: All right. Thank you. Go ahead.

 12 MS. SIRIANNI: Good morning. MaryRose Sirianni with

 13 BellSouth. I just wanted to make one comment on the rule

 14 itself, 25-4.0665(2). The last sentence reads, "Irrespective

 15 of the date," it starts with that, and it goes on to say that,

 16 "the subscriber's bill shall be credited for Lifeline Service

 17 as of the date the subscriber submitted the proof of continued

 18 Lifeline eligibility."

 19 BellSouth would suggest that rather than "subscriber

 20 submitted," that it would be more appropriate to have language

 21 that states something to the effect the company received the

 22 proof of continued eligibility. And I believe that that would

 23 track the language in the statute that basically talks about

 24 receipt of proof of eligibility. So we would ask if that

 25 change could be made to the rule.

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 1 CHAIRMAN EDGAR: Commissioner Arriaga.

 2 COMMISSIONER ARRIAGA: Please clarify for me. I got

 3 lost. I know you're on Line 11 of Page 6. Would you explain

 4 again what you're trying to say?

 5 MS. SIRIANNI: I'm sorry. On Line 13 is where the

 6 actual words say "subscriber submitted." And I would like to

 7 see something to the effect that the -- as of the date the

 8 company received the proof of continued eligibility.

 9 MS. CIBULA: Staff has talked to OPC about this and

 10 they're in agreement with that change. Staff would suggest

 11 that the "subscriber submitted" be stricken and be replaced

 12 with "the eligible telecommunications carrier received the

 13 proof of continued Lifeline eligibility."

 14 COMMISSIONER CARTER: Would you repeat that, please?

 15 CHAIRMAN EDGAR: Ms. Cibula, if you could read

 16 probably the whole sentence as you are suggesting.

 17 MS. CIBULA: Okay. It should read, "Irrespective of

 18 the date on which the eligible telecommunications carrier

 19 reinstates the subscriber's Lifeline service, the subscriber's

 20 bill shall be credited for Lifeline service as of the date the

 21 eligible telecommunications carrier received the proof of

 22 continued Lifeline eligibility."

 23 And as I stated, we spoke to OPC about this and they

 24 are in agreement with that change.

 25 CHAIRMAN EDGAR: Okay. Is there anybody from OPC

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 1 that wants to speak on this item, just so I make sure that I

 2 don't miss anybody? Seeing none, okay. Thank you, Ms. Cibula.

 3 Commissioners, any other questions about that

 4 specific suggestion or suggested language change? No. Okay.

 5 CHAIRMAN EDGAR: Did you want to make a comment?

 6 MR. McCABE: We're good with that change.

 7 CHAIRMAN EDGAR: Okay. Did you want to make a

 8 comment in general?

 9 MR. McCABE: Well, I guess the only thing -- this is

 10 Tom McCabe with TDS Telecom. The only thing I wanted to say is

 11 one problem that we've been having is subscribers sending the

 12 Lifeline applications to the wrong companies. Right here I've

 13 got ten Lifeline applications, a couple are from Miami, a

 14 couple are from Fort Myers, and that's one of the concerns that

 15 we have in terms of when we get this stuff implemented. And I

 16 don't know how we're going to cure that problem, but we're

 17 going to need to find out some way to rectify this situation.

 18 Because I can't take the responsibility of trying to determine

 19 what companies are these customers belonging to.

 20 CHAIRMAN EDGAR: Do you have a suggestion as to where

 21 that responsibility should reside?

 22 MR. McCABE: I hate to say it, but I think that what

 23 I'm going to need to end up doing is just bringing them to the

 24 Public Service Commission. Because we have situations in which

 25 a customer may be ported; even within our own company they may

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 1 port to another carrier. I don't think that I have the -- that

 2 I should be contacting that customer and saying, well, if you

 3 come back to TDS, we'll be happy to provide you with Lifeline

 4 service. I don't know that that would be the appropriate

 5 contact on my part to that customer, because I think that the

 6 CLEC wouldn't really necessarily appreciate that.

 7 But we'll be glad to work with staff in terms of

 8 trying to see, you know, what we can do. But I probably have

 9 gotten over 30 Lifeline applications for other companies.

 10 MS. CIBULA: As the recommendation states, there is

 11 going to be continued rulemaking in regard to Lifeline service,

 12 and that could be something that we address in the rulemaking

 13 going forward.

 14 CHAIRMAN EDGAR: It is an issue that we have, have

 15 heard raised from a number of different interested parties.

 16 I'm not sure what the answer is. But, absolutely, I'm sure we

 17 would all ask that you, you and the rest of our staff look at

 18 that issue as we go forward.

 19 Commissioner Deason.

 20 COMMISSIONER DEASON: I have a question for

 21 Mr. McCabe. Do you have any -- why do you believe you're

 22 receiving those? Is it --

 23 MR. McCABE: I'm a nice guy, I guess.

 24 COMMISSIONER DEASON: Do you receive a

 25 proportionately higher number than other companies receive that

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 1 are misdirected requests?

 2 MR. McCABE: I don't know. I mean, it's quite

 3 possible that the way other companies are structured, at this

 4 point in time they go to different states and maybe they don't

 5 even know where to send them at that point in time.

 6 But, no, I mean, initially we had thought when we put

 7 together the back-to-school package, at the bottom of the form

 8 indicated, you know, it listed all the companies, and my

 9 company happened to be the first one listed. So we thought

 10 that was the -- could have been the issue. That form has been

 11 changed this year and now we're right in the middle. And I've

 12 got, you know, I've got a letter that was addressed from

 13 Fort Myers, Florida, mailed to TDS Telecom in Quincy, Florida.

 14 I've got Miami applications. I don't know how it happens.

 15 COMMISSIONER DEASON: Now does, does the application

 16 have all of the companies listed and the correct address to

 17 which it should be sent?

 18 MR. McCABE: Yes. It has the address and the fax

 19 number.

 20 COMMISSIONER DEASON: And so ultimately the

 21 responsibility should be with the customer to determine from

 22 which company they're receiving local service and then submit

 23 it to the correct company.

 24 MR. McCABE: Correct.

 25 COMMISSIONER DEASON: But for some reason it's not

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 1 happening 100 percent of the time. There's going to be a

 2 certain degree of failure in something like that.

 3 MR. McCABE: Sure.

 4 COMMISSIONER DEASON: Do you think -- is there some

 5 flaw in the directions that are printed on the application?

 6 MR. McCABE: I really don't see any problem with the

 7 application. They're all just listed right at the bottom, and

 8 it suggests that, you know, to contact your local phone company

 9 and then it lists the companies at the bottom.

 10 You know, one of the issues that we've all been

 11 trying to deal with is the fact that you may have customers

 12 that receive these that happen to be with a CLEC. So sometimes

 13 that may cause some confusion in terms of who they might send

 14 it to. But not all CLECs, you know, obviously not all of them

 15 provide Lifeline service. That could be one part of it. But

 16 for the most part I really don't know.

 17 COMMISSIONER DEASON: Well, I mean, this is something

 18 we need to study, Madam Chairman. I don't know the solution.

 19 And I'm certainly not looking for additional workload on our

 20 staff, but it may be that there needs to be an instruction that

 21 if the customer is in doubt as to which company they receive

 22 their service from, maybe they should send the application to

 23 the PSC and we'll try to direct it to the right company. Of

 24 course, that can -- that adds delay, and I know customers get

 25 frustrated. They say, well, you know, I submitted an

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 1 application four weeks ago and I've not heard anything. Well,

 2 you know, when it gets misdirected, it's going to take time.

 3 MR. McCABE: Yeah. I mean, that's one of the

 4 concerns that I've had is that, you know, I may be out of the

 5 office for two weeks and our service reps go ahead and, you

 6 know, receive some of these applications, they put it in my

 7 mailbox and it just sits there until I get around to it. And

 8 then I now have to go ahead and try and find out where they

 9 belong to. I've got some that are dated, you know, the 29th of

 10 August, and we're looking at, what, the 3rd of October today.

 11 And then if, you know -- in terms of this rule that was part of

 12 our concern is that, you know, I got it August 29th, I've got

 13 to give it to BellSouth, they're going to have to go back into

 14 their billing system issuing credits and things of that nature.

 15 So that was one of the primary reasons for looking at this

 16 change to the date that they receive it.

 17 CHAIRMAN EDGAR: I think -- Commissioner Deason, just

 18 a follow-up on your comment, that that also is an item or an

 19 issue that the Office of Public Counsel is sometimes helpful

 20 for consumers and perhaps can provide that additional

 21 assistance as well, and we certainly will continue to work with

 22 them on that.

 23 Commissioner Carter.

 24 COMMISSIONER CARTER: Madam Chairman, I was just

 25 going to -- I was just thinking aloud about the complementary

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 1 registration, the Motor Voter Act which is how people get

 2 registered to vote in Florida. And it has the local listings

 3 for the supervisor of elections, but it really has a general

 4 listing for the Division of Elections. And you can register

 5 anywhere and just drop it in the mail and the Division of

 6 Elections on the state level will make sure it gets to the

 7 right supervisor of elections. And surely if they can

 8 register, you know, 12 million people for that, it seems like

 9 something -- maybe we can come up with something similar to

 10 that to where if they could just have a central depository that

 11 they can get it to, the customers can get it to and we can get

 12 it to the right company -- I think that the companies are doing

 13 a good job. I mean, I've been out there. Tom and you guys at

 14 TDS and Sprint and BellSouth and all these companies out on the

 15 trail doing the Lifeline and just, rah, rah, getting everybody

 16 signed up and they're doing a great job and we appreciate that.

 17 And I would hate to, you know, have all that good work go all

 18 for naught. So maybe we could look at -- I don't know what the

 19 cost would be, but maybe we could look at something

 20 complementary to that where there's a centralized listing,

 21 maybe Public Counsel, the PSC or wherever, until we can get it

 22 to the right carrier. But I do want, you know, in the process

 23 to say, you know, we are making great progress in the Lifeline

 24 program, and, you know, this just seems like a little bump in

 25 the road that we can get through. Thank you.

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 1 CHAIRMAN EDGAR: Thank you.

 2 Commissioner Arriaga.

 3 COMMISSIONER ARRIAGA: Thank you. I think Mr. McCabe

 4 is bringing a very important point to the table, and not only

 5 this time but in other opportunities he has also mentioned

 6 other issues that we haven't been able to get a grasp on. And

 7 I'm referring to the $3.50 issue that is an additional cost to

 8 the companies to promote Lifeline, but we talk about that a

 9 little later.

 10 The point is that there are issues that are

 11 unresolved, and we were talking about Lifeline at least since I

 12 was here -- I came in a year ago -- by the way, October the

 13 6th, one year in the Commission. My first anniversary.

 14 (Applause.)

 15 And one of the first things we spoke about was

 16 Lifeline. A year has gone by and I find myself that even

 17 though we are making progress, as Commissioner Deason says,

 18 there are many unresolved issues that we haven't been able to,

 19 as I said, to grasp.

 20 So I would ask staff, listening to Mr. McCabe today

 21 as I have heard before from him about the $3.50, and from

 22 Verizon speaking about the $3.50 and other companies, what are

 23 the next steps that we are going to take regarding rulemaking?

 24 Because I really want to put the nail in its place, you know,

 25 hit it in the head. It's a process that has taken so long. So

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 1 what is staff previewing as the next step regarding rulemaking

 2 on this issue so that everybody is clear as to what is it we

 3 need to do?

 4 MR. WILLIAMS: We're currently working on bringing a

 5 second rulemaking proposal to you, and that's designed to be

 6 more of a comprehensive rulemaking to clarify a lot of these

 7 issues and get a little more specificity in terms of what the

 8 Commission is going to be looking for.

 9 For example, one of the proposed rules that we're

 10 working on addresses the filing of reports, the reports on the

 11 number of customers subscribing to Lifeline and that sort of

 12 information. So we'll have that information in detail.

 13 Another requirement is on the actual way the

 14 companies market Lifeline service and how the credit, how the

 15 discount is actually applied to the basic element, basic rate

 16 element component and how it's applied in the context of

 17 bundled service offerings. So what we're trying to do in the

 18 comprehensive rulemaking is address all of those issues. What

 19 we wanted to do in this particular rulemaking that's before you

 20 today was to bring forth a statutory requirement that addressed

 21 this specific issue.

 22 MS. CIBULA: And I would add to that that right now

 23 we have a tentative date of February 6th for a Commission

 24 workshop. It may be a workshop where staff is running the

 25 workshop and the Commissioners can attend, or it could be a

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 1 Commissioner-run workshop and we're looking at that right now.

 2 CHAIRMAN EDGAR: Commissioner Arriaga.

 3 COMMISSIONER ARRIAGA: That was going to be my next

 4 question. When are you planning to hold this workshop? And I

 5 applaud the effort. I think we need to do that as soon as

 6 possible, and I guess February the 6th is the next available

 7 date.

 8 I would suggest that you incorporate the comments

 9 just made by Mr. McCabe regarding this issue, how do we -- and

 10 Commissioner Deason -- how do we find out why -- how should the

 11 consumer, the customer get the appropriate documents to the

 12 appropriate company? That has to be clarified. We have to

 13 make an effort on that.

 14 But I wanted to bring another point up to

 15 consideration, which is the $3.50 which has been brought up in

 16 front of this Commission. We may want to look at that, and I

 17 don't know if the Commissioners would agree. I have the

 18 feeling, Commissioners, that I'm not putting words in anybody's

 19 mouth, but I have a personal feeling that a $3.50 may be an

 20 issue that's holding up enrollment. I would probably think

 21 that telephone companies would be more motivated to work

 22 towards Lifeline if the issue of $3.50 could be handled in a

 23 different way. I don't know which way. One of the things that

 24 I didn't know, and I just found out from researching and

 25 talking to my aide and things like that, is that the $3.50 is a

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 1 Commission order. It's not a statutory -- it's not a legal

 2 issue. It's a Commission order, which means that, thinking out

 3 of the box, we could probably find other ways of ordering the

 4 handling of the $3.50 to motivate further enrollment. I don't

 5 know how. I'm challenging staff to think about it, help me

 6 think about it and see at the next rulemaking workshop, this

 7 could be one of the items we can speak about and see what we

 8 can do.

 9 MS. CIBULA: We'll definitely put that on agenda and

 10 we'll look into that so we'll be prepared to address that issue

 11 at the workshop.

 12 COMMISSIONER ARRIAGA: Would any of the Commissioners

 13 have any thoughts on what I just said? It's a real concern

 14 that I have regarding Lifeline. I don't know. Can you help me

 15 think on this?

 16 CHAIRMAN EDGAR: Commissioner Carter.

 17 COMMISSIONER CARTER: I think, you know, thinking

 18 outside of the box is a good idea. I would think though that

 19 if you're going to give something, you need to get something in

 20 exchange for it. So obviously with our numbers being what they

 21 are, if you're going to waive or defer or reduce the $3.50,

 22 there should be some parameters attached to it. For an

 23 example, percentages in increasing in the population base for

 24 the carrier; in essence, a system of incentives with some

 25 structure based on those incentives that would show that it's

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 1 not an incentive that's without merit. When I say merit, if

 2 you're going to give a reduction or a deferral or an

 3 elimination, then what are you getting in exchange for that?

 4 If you're going to say, well, if you increase your population

 5 of the available population in your group that would qualify

 6 for Lifeline, if you're at zero now and we're waiving the

 7 $3.50, then maybe you should be at 50 percent of the potential

 8 in your market. I mean, that's my way of thinking outside of

 9 the box, Madam Chairman.

 10 CHAIRMAN EDGAR: Thank you. Performance-based kind

 11 of.

 12 Commissioner Deason.

 13 COMMISSIONER DEASON: First of all, let me say that

 14 if, if we're going to look at the $3.50 in February, I

 15 certainly have no objection to that. (Laughter.) That sounds

 16 like a really good time to do it.

 17 CHAIRMAN EDGAR: We may request that you come back as

 18 an expert speaker.

 19 COMMISSIONER DEASON: But I think Commissioner

 20 Arriaga is correct in that the $3.50 structure that we have now

 21 is by Commission order many, many years ago. But if we're not

 22 going to do it that way, then there's going to have to be some

 23 other source of funding, and I guess it could be a question as

 24 to whether the Commission has the authority to do that. I

 25 think there's probably arguments on both sides as to that we

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 1 would or we would not. Regardless of whether we do or do not

 2 have the authority, it would probably be helpful in my opinion

 3 to have guidance from the Legislature. So it may need to be

 4 brought up in some form or fashion in the upcoming legislative

 5 session to either make authority very clear or else give some

 6 type of, get some type of a policy indication or direction from

 7 the Legislature as to how they wish for us to proceed in regard

 8 to the $3.50.

 9 CHAIRMAN EDGAR: Commissioner Tew.

 10 COMMISSIONER TEW: I, of course, agree with what

 11 Commissioner Deason just said. And I reiterate what I said, I

 12 think, the last time that Mr. McCabe and I had an exchange,

 13 that I think we do need to look at the $3.50. I don't know

 14 what our authority is to change the funding to some other

 15 source. I agree with Commissioner Deason that that's probably

 16 something that the Legislature has to give us guidance on. But

 17 I definitely think it's time to look at that in case it is an

 18 impediment to getting more customers on Lifeline.

 19 CHAIRMAN EDGAR: Commissioner Arriaga.

 20 COMMISSIONER ARRIAGA: Would the Chairman consider a

 21 recommendation of bringing it up in the legislative agenda in

 22 the next session? I don't know how that works.

 23 CHAIRMAN EDGAR: Commissioner Arriaga, absolutely I

 24 would consider that. And, you know, I think what we need to do

 25 is, just as our staff has described, is to -- we are trying to

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 1 schedule a workshop, help us flesh out all of these issues as

 2 we've discussed and the suggestions that have been raised. And

 3 my comment is always that I want to have all the data that we

 4 can have as to the numbers if we're talking about incentives,

 5 if we're talking about subsidies, if we're talking about

 6 cost-shifting options, that we have to the best of our ability

 7 analysis of the cost benefit and where indeed those shifts of

 8 responsibility would be moving to and what the impact of that

 9 would be. So I think that we will ask our staff to look at all

 10 of these issues, and I look forward to more discussion on it.

 11 COMMISSIONER ARRIAGA: Good. Thank you.

 12 CHAIRMAN EDGAR: Commissioners, any further comment?

 13 Commissioner Carter.

 14 COMMISSIONER CARTER: If appropriate, Madam Chairman,

 15 if this is the appropriate time, I would move staff's

 16 recommendation with the revisions.

 17 CHAIRMAN EDGAR: It is, and I thank you for that.

 18 COMMISSIONER DEASON: Second.

 19 CHAIRMAN EDGAR: Commissioner Deason has given us a

 20 second. Commissioners, are there any -- is there any further

 21 discussion or discussion on this motion? Seeing none, all in

 22 favor of the motion, say aye.

 23 (Unanimous affirmative vote.)

 24 CHAIRMAN EDGAR: Opposed? Show the motion carried.

 25 (Discussion on Agenda Item 3 concluded.)

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 1 STATE OF FLORIDA )

 : CERTIFICATE OF REPORTER

 2 COUNTY OF LEON )

 3

 4 I, LINDA BOLES, CRR, RPR, Official Commission

 Reporter, do hereby certify that the foregoing proceeding was

 5 heard at the time and place herein stated.

 6 IT IS FURTHER CERTIFIED that I stenographically

 reported the said proceedings; that the same has been

 7 transcribed under my direct supervision; and that this

 transcript constitutes a true transcription of my notes of said

 8 proceedings.

 9 I FURTHER CERTIFY that I am not a relative, employee,

 attorney or counsel of any of the parties, nor am I a relative

 10 or employee of any of the parties' attorneys or counsel

 connected with the action, nor am I financially interested in

 11 the action.

 12 DATED THIS 10TH of OCTOBER, 2006.

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 LINDA BOLES, CRR, RPR

 15 FPSC Official Commission Reporter

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