

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request to approve lifeline research  
using community service fund, by BellSouth  
Telecommunications, Inc. d/b/a AT&T Florida  
and Embarq Florida, Inc.

DOCKET NO. 070567-TL  
ORDER NO. PSC-07-0919-PAA-TL  
ISSUED: November 14, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION  
ORDER CLARIFYING USE OF COMMUNITY SERVICE FUND

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. Case Background**

In the fall of 1999, we opened two show-cause dockets for apparent violations of service standard rules by BellSouth Telecommunications, Inc. (BellSouth) and Sprint-Florida, Incorporated (Sprint). Both dockets were resolved by a settlement agreement which required the companies, in part, to pay monies into a Community Service Fund (CSF). At issue here is the use of the monies in the CSF.

On September 10, 1999, we opened Docket No. 991378-TL to require BellSouth to show cause why it should not be fined for violations of service standards. On September 17, 1999, BellSouth submitted its settlement offer to resolve the show cause proceedings. By Order PSC-99-2207-PAA-TL, issued November 9, 1999, we approved BellSouth's settlement offer of \$125,000 to be deposited in the State of Florida General Revenue Fund.

On November 30, 1999, the Office of Public Counsel (OPC) filed a petition requesting a hearing and protesting PAA Order PSC-99-2207-PAA-TL. Between December 1, 1999, and July 8, 2001, BellSouth and the OPC conducted negotiations for a settlement in Docket No. 991378-TL. On July 9, 2001, BellSouth and the OPC filed a Joint Motion Seeking Commission

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Approval of the Stipulation and Settlement to resolve the issues. The Stipulation and Settlement Agreement included a provision for the establishment of a Service Guarantee Plan that automatically provides payments in the form of credits to customers in the event certain objectives are not met. It also requires the payment of monies to a CSF. By Order No. PSC-01-1643-AS-TL, issued August 13, 2001, we approved the Stipulation and Settlement Agreement.

The Settlement Agreement provides that the CSF will be used “to educate customers about and promote BellSouth’s Lifeline and Link-Up services.” The agreement required BellSouth to contribute \$250,000 in calendar year 2002 and \$150,000 in calendar year 2003.

On September 10, 1999, we opened Docket No. 991377-TL to initiate show cause proceedings against Sprint for apparent violation of service standards. On June 27, 2000, Sprint and the OPC filed a Stipulation and Settlement Agreement which provided for implementation of a Service Guarantee Plan wherein Sprint automatically provides direct credits to customers whose service is affected by delayed installation or repair of service. In addition, Sprint agreed to establish a CSF wherein Sprint will provide credits to the Fund when it fails to meet the proposed answer time and accessibility standards when customers call the business or repair offices. Separate and apart from any credits of the Service Guarantee Program, Sprint agreed to credit an initial amount of \$100,000 to the CSF. The agreement specifies that the amounts in the CSF “...shall be disposed of, in coordination with the Office of Public Counsel, to educate customers about and promote Sprint’s Lifeline service.” By Order No. PSC-00-2462-PAA-TL, issued December 20, 2000, we approved the Stipulation and Settlement Agreement.

On August 22, 2007, BellSouth d/b/a AT&T Florida (AT&T), and Embarq Florida, Inc. f/k/a Sprint (Embarq) filed a Joint Petition requesting we approve Lifeline Research using the CSF. We have jurisdiction in this matter pursuant to Sections 364.01, 364.025, 364.0252, 364.051, and 364.10, Florida Statutes.

## II. Analysis

The Community Service Fund (CSF) was implemented as a result of stipulation and settlement agreements between the OPC and AT&T, and the OPC and Embarq. At the November 2, 2004 agenda conference, while addressing the disposition of unclaimed refunds of BellSouth late payment charges,<sup>1</sup> this Commission decided that it should exercise minimal oversight over the CSF. It was agreed that day-to-day oversight of the operation and prior approval of disbursement of monies from the CSF by this Commission would be excessively bureaucratic. This Commission believed that OPC and the company needed to have the flexibility to do what they think is best to meet their statutory and other duties to enhance the Lifeline and Link-Up program.

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<sup>1</sup> Docket No. 000733-TL, In Re: Investigation to determine whether BellSouth Telecommunications, Inc.’s tariff filing to restructure its late payment charge is in violation of Section 364.051, F.S. The majority of funds in the BellSouth CSF were derived from unclaimed refunds of \$1,589,368 in late payment charges in Docket No. 000733-TL. Order PSC-04-1124-FOF-TP, issued November 15, 2004, stated that the \$1,589,368 in monies shall be used to promote Lifeline and Link-Up programs.

In their petition, AT&T and Embarq seek to expand the use of the funds to include research activities. The Joint Petition requests that monies from this fund be used to retain the Public Utility Research Center ("PURC") to conduct research that will address four fundamental questions regarding Lifeline and Link-Up enrollment:

- How do enrollment procedures impact households' participation in Lifeline?
- What do eligible households understand from the enrollment efforts?
- How does low income household use of wireless communications impact enrollment in Lifeline?
- What communications services are low income households and consumers in Florida purchasing and/or using?

The Joint Petitioners assert that obtaining answers to these questions will provide information that will better promote Lifeline and Link-Up by:

- Examining how enrollment procedures impact participation;
- Measuring how use of wireless communications impacts Lifeline enrollment; and
- Studying what communications services low income households and consumers are using.

The Joint Parties believe that using the Fund in this manner is consistent with the overall intent and purpose of the commitment to promote and educate Florida consumers about Lifeline and Link-Up. They also assert that Florida consumers will benefit by obtaining this information to implement measures specifically designed to increase Lifeline and Link-Up enrollment based on the results of the research.

The Petition requests that monies from the CSF be used for purposes which may be considered beyond the original intent of the fund as expressed in the order, which was to "educate customers about and promote BellSouth's Lifeline and Link-Up services." In response to a September 14, 2007, data request to Embarq and AT&T regarding the original intent of the fund, AT&T responded that:

In order to increase subscribership and continue to educate customers about and promote the Lifeline and Link-Up programs, AT&T believes the expansion of the Fund for the use of the research activities as described in its Petition is necessary.

Embarq responded that:

Embarq believes the proposed study, while perhaps not strictly falling within the scope of "education" or "promotion," will provide valuable information that ultimately will be useful in achieving these important goals.

We believe that monies from the CSF should further the public interest and benefit Florida consumers since the majority of the monies in the fund were from unclaimed refunds of Florida consumers.

III. Decision

In this Order, we are not addressing the merits of implementing the proposed PURC Lifeline research. It is ultimately the responsibility of the OPC and companies to determine the merits of the plan and the appropriate use of the CSF funds. The stipulation and settlement agreement between the OPC and AT&T specifically states that "In the event the Parties disagree as to the method of disposing of the contribution amounts, the Parties shall submit such disagreement to the Florida Public Service Commission for resolution."

The stipulation and settlement agreement between the OPC and Embarq states that if Embarq makes credits to the CSF, "such amounts shall be disposed of in coordination with the Office of Public Counsel..." Embarq's agreement does include a clause which provides that "the Parties reserve the right to agree to a different manner to dispose of amounts credited pursuant to Section 3(A)(3) of the Service Guarantee Plan, subject to the approval of the Florida Public Service Commission."

There is no disagreement between the Parties regarding expansion of the use of the CSF to include Lifeline and Link-Up research. The Petition explicitly states that "OPC does not oppose this request." (§.14) Therefore, we hereby clarify that in addition to using the Lifeline Community Service Fund to educate and promote Lifeline and Link-Up services, it can be used to support research activities which are in the public interest and designed to benefit Lifeline and Link-Up service. However, the responsibility for approval of specific disbursements from the Community Service Fund shall remain with the OPC, AT&T, and Embarq.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Lifeline Community Service Fund can be used to support research activities which are in the public interest and designed to benefit Lifeline and Link-Up service. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" 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 14th day of November, 2007.



ANN COLE  
Commission Clerk

( S E A L )

AJT

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 5, 2007.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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