

IN THE DISTRICT COURT OF APPEAL,
FIRST DISTRICT, STATE OF FLORIDA

VCI COMPANY D/B/A VILAIRE
COMMUNICATIONS, INC.,

CASE NO. 1D08-_____

Petitioner,

_____ /

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COMMISSION
CLERK

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BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide competitive local exchange telecommunications service by Vilaire Communications, Inc.	DOCKET NO. 050865-TX ORDER NO. PSC-06-0035-PAA-TX ISSUED: January 10, 2006
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The following Commissioners participated in the disposition of this matter:

RUDOLPH "RUDY" BRADLEY, Chairman
J. TERRY DEASON
LISA POLAK EDGAR
ISILIO ARRIAGA

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATE TO
PROVIDE COMPETITIVE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES

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.

Vilaire Communications, Inc. has applied for a certificate to provide Competitive Local Exchange Telecommunications (CLEC) service, pursuant to Section 364.337, Florida Statutes. Upon review of its application, it appears that Vilaire Communications, Inc. has sufficient technical, financial, and managerial capability to provide such service. Accordingly, we hereby grant to Vilaire Communications, Inc. Certificate No. 8611 which shall authorize it to provide CLEC services throughout the State of Florida.

If this Order becomes final and effective, it shall serve as Vilaire Communications, Inc.'s certificate. Vilaire Communications, Inc. should, therefore, retain this Order as proof of certification. We are vested with jurisdiction over this matter pursuant to Sections 364.335 and 364.337, Florida Statutes.

CLEC providers are subject to Chapter 25-24, Florida Administrative Code, Part XV, Rules Governing Telecommunications Service Provided by Competitive Local Exchange Companies. CLEC providers are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapter 25-4, Florida Administrative Code.

Pursuant to Section 364.337(2), Florida Statutes, basic telecommunications service provided by an CLEC "... must include access to operator services, "911" services, and relay services for the hearing impaired." Further, Section 364.337(2), requires that an CLEC's "911"

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service "... shall be provided at a level equivalent to that provided by the local exchange telecommunications company serving the same area."

In addition, under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee (RAFs) of \$50 if the certificate was active during any portion of the calendar year. A RAFs Return notice will be mailed each December to Vilaire Communications, Inc. for payment by January 30th. Neither the cancellation of the certificate nor the failure to receive a RAFs Return notice shall relieve Vilaire Communications, Inc. from its obligation to pay RAFs.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby grant Certificate No. 8611 to Vilaire Communications, Inc., which shall authorize it to provide Competitive Local Exchange Telecommunications services, subject to the terms and conditions set forth in the body of this Order. It is further

ORDERED that this Order shall serve as Vilaire Communications, Inc.'s certificate and should be retained by Vilaire Communications, Inc. as proof of certification. It is further

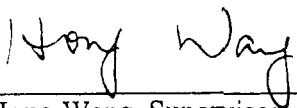
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 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 10th day of January, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Hong Wang, Supervisor
Case Management Review Section

(SEAL)

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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 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 Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 31, 2006.

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.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for designation as eligible telecommunications carrier (ETC) by Vilaire Communications, Inc. | DOCKET NO. 060144-TX
ORDER NO. PSC-06-0436-PAA-TX
ISSUED: May 22, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING PETITION FOR DESIGNATION AS ELIGIBLE
TELECOMMUNICATIONS CARRIER

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

On February 17, 2006, Vilaire Communications, Inc. (Vilaire) petitioned this Commission for designation as an Eligible Telecommunications Carrier (ETC) in the State of Florida. Specifically, Vilaire is requesting that it be granted ETC status in 216 non-rural exchanges of BellSouth Telecommunications, Inc. (BellSouth). This is the fifth competitive local exchange carrier (CLEC) ETC petition to be brought before this Commission for consideration.¹

¹ By Order PSC-05-0324-PAA-TX, issued March 21, 2005, Docket No. 041302-TX, In Re: Petition for Designation as Eligible Telecommunications Carrier by Knology of Florida, Inc., the Commission granted Knology of Florida, Inc. (Knology) Eligible Telecommunications Carrier status. Knology is a certificated CLEC which provides telecom service over its broadband network. By Order PSC-05-1255-PAA-TX, issued December 27, 2005, Docket No. 050483 TX, In Re: Petition for designation as Eligible Telecommunications Carrier by Budget Phone, Inc., the Commission granted Budget Phone ETC status in the requested Verizon and BellSouth wire centers, and approved ETC status in non-rural areas of Sprint provided Budget Phone consummates an agreement with Sprint. American Dial Tone (Docket No. 050542-TX) and Nexus (Docket No. 050889-TX), the third and fourth ETC recommendations, were considered by the Commission and approved at the April 4, 2006 agenda.

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Vilaire is a FPSC-certificated CLEC which provides local exchange service in BellSouth's service area. Vilaire has indicated that it has the ability to provide services utilizing a combination of facilities obtained through a commercial facilities agreement (CFA) and resale services provided by BellSouth. Upon designation as an ETC, Vilaire indicates that it will participate in and offer Lifeline and Link-Up programs to qualified low income consumers. Additionally, Vilaire has committed to publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services.²

Vilaire is headquartered in Lakewood, Washington and is authorized to conduct business as a foreign corporation in the State of Florida. Vilaire provides service to approximately 50,000 low-income residential customers and is authorized to provide local exchange services in the states of California, Colorado, Florida, Idaho, Iowa, Kentucky, Michigan, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Carolina, North Dakota, Oregon, South Dakota, Texas, Utah, Wisconsin, Wyoming and Washington. To date, Vilaire has been granted ETC status in all of the above states except Florida, Kentucky, Montana, North Carolina, Nevada and Wisconsin. Vilaire indicates that its accounts with the Federal Communications Commission (FCC) and Universal Service Administrative Company are current. Vilaire is not aware of any outstanding complaints or violations from the FCC.

Vilaire has stated that it is not planning to seek high-cost universal service funding if it is designated as an ETC in Florida. Since Vilaire is not seeking any high cost universal service funding, and its purpose in requesting ETC status in Florida is to provide Lifeline and Link-Up service, we find no harm in granting ETC status to Vilaire. It would have little, if any, effect on the size of the universal service fund³, and it would enhance the availability of Lifeline and Link-Up services in Florida.

We have authority under Section 364.10(2), Florida Statutes, to decide a petition by a CLEC seeking designation as an eligible telecommunications carrier pursuant to 47 C.F.R. s. 54.201.

II. Analysis

Federal Communications Commission (FCC) rules provide that carriers designated as ETCs shall, throughout the designated service area: (1) offer the services that are supported by federal universal support mechanisms either using their own facilities or a combination of their own facilities and the resale of another carrier's services and, (2) advertise the availability of such services and the related charges therefore using media of general distribution. See CFR §54.201(d).

² See 47 C.F.R. §§ 54.401-54.417 – Universal Service Support for Low Income-Consumers

³ See FCC 05-46 (¶54) - Federal-State Joint Board on Universal Service – Impact on the Fund. “As the Commission has found in the past, analyzing the impact of one ETC on the overall fund may be inconclusive. Indeed, given the size of the total high-cost fund — approximately \$3.8 billion a year — it is unlikely that any individual ETC designation would have a substantial impact on the overall size of the fund.”

Vilaire has identified a total of 216 BellSouth wire centers in which it wishes to offer the services that are supported by federal universal service support mechanisms.

ETC Certification Requirements

CFR Rule 54.201(c), addresses a state commission's responsibilities related to ETC designation, stating:

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

To qualify as an ETC, telecommunications carriers must provide nine services identified in CFR Rule 54.201(d)(1).

- (1) Voice grade access to the public switched network Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call;
- (2) Local Usage Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users;
- (3) Dual tone multi-frequency signaling or its functional equivalent Dual tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, thus shortening call set-up time;
- (4) Single-party service or its functional equivalent Single party service is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to emergency services Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations;

- (6) Access to operator services Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion, of a telephone call;
- (7) Access to interexchange service Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to directory assistance Access to directory assistance is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll limitation for qualifying low-income consumers Toll limitation or Blocking restricts all direct dial toll access.

In addition to providing the above services, ETC's must advertise the availability of such services and the associated charges using media of general distribution.

III. Decision

We have authority under Section 364.10(2), Florida Statutes, to decide a petition by a CLEC seeking designation as an eligible telecommunications carrier pursuant to 47 C.F.R. s. 54.201. Vilaire is a CLEC that offers local exchange service and meets the statutory facilities requirement of universal service by leasing the physical components of the telecommunications network necessary to provide the nine services identified in CFR Rule 54.201(d)(1) through its CFA with BellSouth.

Vilaire has acknowledged the requirements of the Florida Lifeline program and has agreed to adhere to the program which provides qualified customers a total of \$13.50 in Lifeline assistance credits consisting of: \$6.50 in federal subscriber line charges, \$1.75 in federal support for states that have approved the credit, and \$1.75 which is a 50% match of federal support for having a state lifeline program requiring a \$3.50 credit under the Florida eligibility criteria. Vilaire indicates that it will provide the \$3.50 credit to qualified clients, advertise the availability of Lifeline, and begin offering these services within 180 days/6 months of receiving ETC status.

Vilaire has indicated that it will abide by all Florida Statutes, Rules, and Commission Orders regarding ETCs. Since Vilaire is not seeking any high cost universal service funding and its purpose in requesting ETC status in Florida is to provide Lifeline and Link-Up service, we find no harm in granting ETC status to Vilaire. Providing Lifeline and Link-up service, which facilitates the availability of basic phone service to Florida's low-income customers, could have a positive effect on Lifeline participation rates. Therefore, we find that Vilaire be granted ETC status in the BellSouth non-rural wire centers identified in Attachment A.

Based on the foregoing, it is

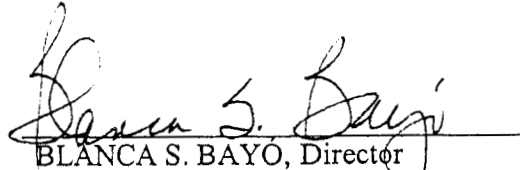
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ORDERED by the Florida Public Service Commission that Villaire Communications, Inc.'s Petition for designation as an Eligible Telecommunications Carrier (ETC) in the State of Florida for the BellSouth non-rural wire centers identified in Attachment A be granted. 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 Director, Division of the Commission Clerk and Administrative Services, 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 22nd day of May, 2006.


BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(SEAL)

TLT

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

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proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 12, 2006.

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.

Company Name	City	Switch
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	ARCHER	ARCHFLMARS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BOCA RATON	BCRTFLBTDS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BOCA RATON	BCRTFLMADS1
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BOCA RATON	BCRTFLSADS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	KEYS	BGPIFLMARS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BROOKSVL	BKVLFLJFDS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BALDWIN	BLDWFLMARS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BELLEGLADE	BLGLFLMADS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BUNNELL	BNNFLMARS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BRONSON	BRSNFLMARS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	BOYNTONBCH	BYBHFLMADS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	COCOABEACH	CCBHFLAFRS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	CEDAR KEYS	CDKYFLMARS0
BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	CHIEFLAND	CFLDFLMARS0
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BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	CANTONMENT	CNTMFLEDS1
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BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	DUNNELLON	DNLNFLWMRS0
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BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	FTLAUDERDL	FTLDLFLPLDS0
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ORDER NO. PSC-06-0436-PAA-TX
DOCKET NO. 060144-TX
PAGE 11

BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	PERRINE	PRRNFLMADS0
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BELLSOUTH TELECOMM INC DBA SOUTHERN BELL TEL & TEL	YANKEETOWN	YNTWFLMARS0

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
MATTHEW M. CARTER II
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

September 7, 2007

Mr. Stan Efferding
Vilaire Communications, Inc.
P.O. Box 98907
Lakewood, WA 98496

Re: ~~Undocketed~~; ^{080065-TX} Company Name: Vilaire Communications, Inc.;
Audit Purpose: Audit the Low Income USAC Programs
Audit Control No: 07-250-1-2

Dear Mr. Efferding:

The Florida Public Service Commission will Audit the low income USAC Programs, in accordance with Commission audit procedures. Access will be requested to documents and records of the utility and, if necessary, supporting records for affiliate company transactions that affect regulated operations. Staff auditors may also request to review the utility's external audit working papers for the most recent independent audit. Ms. Lynn Deamer, the Tallahassee district office supervisor, will coordinate this audit. Ms. Deamer can be reached at (850) 413-6416. Questions regarding the audit or audit staff should be directed to the district supervisor or myself. My phone number is (850) 413-6487.

The Audit Access to Records rule for each industry states:

In those instances where the utility disagrees with the auditor's assessment of a reasonable response time to the audit request, the utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached.

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07 SEP 10 PM 3:08
COMMISSION
CLERK

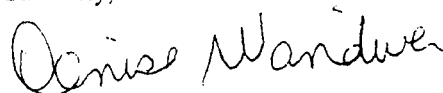
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FPSC-COMMISSION CLERK

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

Mr. Stan Efferding
Vilaire Communications, Inc
Page 2

A formal report is expected to be issued for internal Commission use on October 26, 2007. A copy of the final report will be mailed to the company liaison listed in the Commission Mailing Directory.

Sincerely,

A handwritten signature in black ink that reads "Denise N. Vandiver". The signature is written in a cursive, flowing style.

Denise N. Vandiver, Chief
Bureau of Auditing

DNV/sbj

cc: Division of Regulatory Compliance & Consumer Assistance
(All District Offices, File Folder).
Division of the Commission Clerk and Administrative Services
General Counsel
Office of the Public Counsel

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: November 19, 2007
TO: John E. Mann, Professional Accountant Specialist, Division of Competitive Markets & Enforcement
FROM: Denise N. Vandiver, Chief of Auditing, Division of Regulatory Compliance & Consumer Assistance *W*
RE: ~~Undocked:~~ ^{080065-TX} Company Name: Vilaire Communications Inc. (VCI);
Audit Purpose: Audit The Low Income USAC Programs;
Audit Control No: 07-250-1-2

Attached is the final audit report for the utility stated above. I am sending the utility a copy of this memo and the audit report. If the utility desires to file a response to the audit report, it should send the response to me for distribution. There are confidential work papers associated with this audit.

DNV:sbj
Attachments

Copy: Division of Regulatory Compliance and Consumer Assistance (Hoppe, District Offices, File Folder)
Division of Commission Clerk (2)
Division of Competitive Markets and Enforcement (Harvey)
General Counsel
Office of Public Counsel

RECEIVED-FPSC
07 NOV 19 PM 3:01
COMMISSION
CLERK

Mr. Stan Efferding
Secretary & Treasurer
Vilaire Communications, inc.
P.O. Box 98907
Lakewood, WA 98496

DOCUMENT NUMBER-DATE

10382 NOV 19 06

FPSC-COMMISSION CLERK



FLORIDA PUBLIC SERVICE COMMISSION

DIVISION OF REGULATORY COMPLIANCE AND CONSUMER ASSISTANCE
BUREAU OF AUDITING

Tallahassee District Office

VILAIRE COMMUNICATIONS, INC. (VCI)

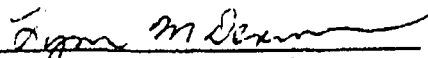
LOW INCOME BENEFICIARY AUDIT

THIRTEEN MONTH PERIOD ENDED JUNE 30, 2007

UNDOCKETED 080065TX

AUDIT CONTROL NO. 07-250-1-2


Intesar Terkawi, Audit Manager


Lynn M. Deamer, Audit Supervisor

DOCUMENT NUMBER-DATE

10382 NOV 19 6

FPSC-COMMISSION CLERK

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**DIVISION OF REGULATORY COMPLIANCE AND CONSUMER ASSISTANCE
AUDITOR'S REPORT**

November 5, 2007

**TO: FLORIDA PUBLIC SERVICE COMMISSION AND OTHER INTERESTED
PARTIES**

We have performed the procedures enumerated later in this report to meet the agreed upon objectives set forth by the Division of Competitive Markets and Enforcement in its audit service request. We have applied these procedures to the schedules prepared by Vilaire Communications, Inc. (VCI) in support of its filing for Reimbursement from the Universal Service Fund.

This audit is performed following general standards and field work standards found in the AICPA Statements on Standards for Attestation Engagements. This report is based on agreed upon procedures which are only for internal Commission use. There are confidential workpapers in this audit.

OBJECTIVES and PROCEDURES

VERIFICATION OF FILING WITH USAC

Objective: - To determine if the amounts reported for reimbursement from the Universal Service Fund are supported by the Company's books and records for the period from June 1, 2006 – June 30, 2007.

Procedures: - Auditor recalculated the amounts on the Forms FCC 497 by multiplying the number of customers on the subscriber listings by the approved rate for the period from June 1, 2006 – June 30, 2007. Auditor reconciled the number of customers shown on the Forms FCC-497 to the number of customers on the subscriber listings for each month of the audit period. Auditor reconciled the amounts on the Forms FCC-497 to the FPSC Order No. PSC-06-0436-PAA-TX, issued May 22, 2006. Auditor reconciled the rate on the thirteen months Forms FCC-497 to tariff. Audit Finding No. 2 discusses the problems of reconciling the Forms FCC-497 to the general ledger, to the Regulatory Assessment Fee form filed with this Commission for 2006, the FCC Forms 499-Q, and the FCC 499A.

ADVERTISEMENT

Objective: - To determine if the company advertised for the LifeLine and LinkUp programs, and to examine the advertisement for the different types of services and service rates it offers for the period from June 1, 2006 – June 30, 2007.

Procedures: - Auditor recalculated the amounts spent for advertisement for the LifeLine and LinkUp programs for the period from June 1, 2006 – June 30, 2007 from the invoices. Auditor obtained the text the company uses for advertisement. Auditor could not reconcile the amount of advertisement to the general ledger, as the company does not keep separate records of advertisement expenses per state. The company uses three TV stations to advertise for the LifeLine and LinkUp programs.

TERMINATION

Objective: - To determine if the company allowed the subscribers 60 days grace period following the date of impending termination letter to demonstrate continued eligibility as per Section 364.10 (2), Florida Statutes "An eligible telecommunication carrier shall allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility".

Procedures: - Auditor obtained a document from the company stating that VCI would send a customer a separate letter from the monthly bill informing the customer of the termination, and give the customer 60 days to appeal. The auditor requested the company to provide a list of customers that were terminated during our audit period, a copy of the termination letters, and the next three bills subsequent to the termination letters of each customer terminated. The company responded that no Florida customers had been terminated for ineligibility due to the fact that the company has not been in Florida for an entire year. The company's first verification of continued eligibility for Florida customers will be conducted in January of 2008.

LINE COUNT

Objective: - To verify the line count and the amounts shown for each period on Forms FCC-497. To confirm that duplicate telephone numbers were not included in the subscriber listings, nor that the Carrier misclassified single-line businesses, multi-line business and residential for the period from June 1, 2006 -- June 30, 2007.

Procedures: - Auditor recalculated the amounts shown on the Forms FCC-497. Auditor verified the phone numbers on the subscriber listings for LifeLine and LinkUp programs for duplicity. Audit Finding No. 3 discusses the fact that there are 1,092 duplicate phone numbers in the LinkUp program subscriber listing for the period from June 1, 2006 – June 30, 2007. Auditor obtained a document from the company stating that all subscribers are single line residential.

TOLL LIMITATION SERVICE

Objective: - To verify the reasonableness of the submitted incremental costs, along with the evidence that the choice to have toll limited service is actually being selected by the particular Low Income Consumer and is not being required by the Carrier. To verify that incremental costs do not include joint and common costs for the period from June 1, 2006 – June 30, 2007.

Procedures: - Auditor recalculated the incremental costs for toll limitation services reported on Forms FCC-497. Auditor tested the months of June 2006, July 2006, and May 2007. Auditor obtained the recurring and the non-recurring costs of the company's sole underlying carrier. The auditor confirmed with the company that the toll limitation service is being selected by the customer, and is not required by the Company.

AUDIT FINDING NO. 1

SUBJECT: BOOKS AND RECORDS

STATEMENT OF FACT: Per FCC Rule 47 CFR 54.417 Recordkeeping requirements:

“Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the LifeLine/ LinkUp programs for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request”

RECOMMENDATION: Audit staff requested detailed documentation to support the dollar amounts shown on FCC Form 499Q, and FCC Form 499A. Company responded “ VCI cannot comply with this request. As is explained ..., data reported on FCC Forms 499Q and 499A are comprised of aggregate figures, including data from all states in which VCI provides service. Forms 499Q and 499A do not provide for the reporting of data on a state-by-state basis.” FCC Form 499Q is filed quarterly and reports data (such as Interstate revenues and International revenues) in the aggregate for each reporting period. FCC-Form 499A reports revenues from all sources annually.

Audit staff requested detailed documentation to support the dollar amount shown on FCC Form 497. This is a monthly form reporting number of customers multiplied by tariff rates to obtain an amount to be reimbursed by the USAC. Company provided subscribers listings as support for number of customers reported and a general ledger as a support for the dollar amount. Auditor traced the revenue reported on this form to this general ledger provided for June 2006 and July 2006. Auditor was not able to reconcile the revenue reported on this form to this general ledger for August 2006 through June 2007. The auditor requested an explanation but did not receive one for the discrepancy between general ledger amounts and the amounts reported on the FCC Form 497.

Audit staff requested and was provided detailed documentation (invoices) to support the dollars spent on advertising for each of the LifeLine/LinkUp programs. Audit staff requested general ledger support for the amount of advertisement. The Company was unable to provide this because the records for advertisement costs per state are not kept.

Audit staff requested the company to provide support for the revenues reported on the Regulatory Assessment Fee return filed with this Commission for 2006. The Company did not provide documents to support the Regulatory Assessment Fee form filed with this Commission for 2006 and stated that “ Revenues from customers for the year 2006 were correctly reported on the RAF.”

AUDIT FINDING NO. 2

SUBJECT: FILING WITH USAC AND FPSC

STATEMENT OF FACT: The Company was reimbursed by USAC in the amount of \$234,901 for LifeLine, LinkUp, and Toll Limitation Service for the period from June 1' 2006 - December 31, 2006. The Regulatory Assessment Fee form filed with this Commission for the year 2006 reports revenue of \$64,449.

Rule 25-4.0161, Florida Administrative Code, requires each company to remit a fee based upon its gross operating revenue derived from intrastate business.

RECOMMENDATION: The auditor was not able to reconcile the amounts reported on the Forms FCC-497 to the amount of revenue reported on the 2006 annual RAF return. The company was not able to provide the documents to support the revenue on the RAF return. The company's response was that the revenue reported on the 2006 RAF annual return filed with Florida Public Service Commission was correct, and the amounts reported on Forms FCC-497 were reimbursements for LifeLine, LinkUp programs, and Toll Limitation Service costs.

AUDIT FINDING NO. 3

SUBJECT: LINE COUNT

STATEMENT OF FACT: On the Forms FCC-497 filed with USAC, the company reported the following number of linkups each month. The USAC reimbursed VCI \$30 per each connection.

Month	Number of LinkUp Connections	Unit Reimbursement by USAC	Amount Reimbursed by USAC
October, 2006	233	\$30	\$6,990
December, 2006	1,198	\$30	35,940
April, 2007	1,345	\$30	40,350
May, 2007	1,095	\$30	32,850
June, 2007	951	\$30	28,530
Total	16,702		\$144,660

RECOMMENDATION: The audit staff reviewed the phone numbers reported on the subscribers listings for the LinkUp program. As shown on the chart below, the auditor found 1,092 duplicates, or instances where the phone number was repeated in the same month.

Month	Number of Duplicate LinkUp Connections	Unit Reimbursement by USAC	Amount Reimbursed by USAC
October, 2006	1	30	\$30
December, 2006	501	30	15,030
April, 2007	44	30	1,320
May, 2007	45	30	1,350
June, 2007	501	30	15,030
Total	1,092		\$32,760

Keating, Beth

From: staceyk@vcicompany.com
Sent: Thursday, September 20, 2007 11:31 AM
To: Keating, Beth
Subject: FW: Vilaire Communications ("VCI") Audit, Audit Control No. 07-250-1-2

From: staceyk@vcicompany.com [mailto:staceyk@vcicompany.com]
Sent: Tuesday, September 18, 2007 2:45 PM
To: 'BCasey@PSC.STATE.FL.US'
Cc: 'LDEAMER@PSC.STATE.FL.US'; 'ITERKAWI@PSC.STATE.FL.US'
Subject: Vilaire Communications ("VCI") Audit, Audit Control No. 07-250-1-2

Bob:

Let me explain in more detail VCI's concerns about the audit the Florida PSC intends to conduct and the company's need for clarification.

The Company is in receipt of the Commission's September 7, 2007 letter announcing the Commission's intention to commence an audit. The letter does not cite the statutory and/or regulatory authority for the Commission to conduct the audit. On Friday of last week, Stan Efferding received several data requests via e-mail from Intesar Terkawi. The e-mail data requests indicate that the purpose of the audit is Review of Regulatory Assessment Fees Reported for 2006, but the data requested include documents submitted to USAC in 2007, which have nothing to do with 2006 RAFs. Mr. Efferding attempted unsuccessfully to reach Intesar at the PSC telephone number listed on the bottom of the e-mail. Mr. Efferding then obtained a (407) area code telephone number, called it, and reached a voice mail message that did not identify the individual as connected with the Florida PSC.

Mr. Efferding eventually spoke with Intesar at the (407) area code number, who told Stan that VCI was the subject of a random audit that was also being conducted on several other Florida ETCs. Intesar asked for responses to the Monday data requests to be submitted today, just two business days after VCI received the requests. Today, after reviewing some of the data requests, Stan Johnson and I spoke with Intesar, who told us that the purpose of the audit is to "determine whether the carrier has submitted accurate underlying company data for calculation of universal service support for 2006 and 2007." Intesar also stated that USAC had requested the audit by telephone to the Commission. I asked Intesar the name of the person who would have received the audit request from USAC and Intesar was unable to tell me. I then addressed my concerns to you.

I think you will agree that the above inconsistencies merit clarification on the part of the PSC of the purpose and scope of this audit. First of all, under what statutory or regulatory authority is the Commission conducting the audit of a federal program? Second, what are the Commission's "audit procedures" as mentioned in the September 7, 2007 letter. Third, why has VCI been chosen to be the subject of an audit – was VCI chosen at random with other ETCs or was the audit requested by or suggested by the USAC? Has there been correspondence or communications between the Commission and the USAC concerning VCI? Fourth, what is the scope of the audit? Fifth, which individuals are conducting the audit, what are their titles and how are these individuals connected with the PSC? Sixth, how are documents and responses to be submitted to the Commission under the audit and are these documents and responses to be treated as confidential information?

Finally, a review of the data requests demonstrates that the Commission is requesting from VCI some information that is either 1) publicly available to the Commission or 2) that has already been submitted to the Commission under previous data requests. For example, data request no. 2 asks for filings and correspondence submitted by VCI to USAC, which are public information available from USAC; Data Request No. 6 requests information about TLS that was provided to the Commission in response to a previous Commission inquiry; and Data Request No. 7 requests an explanation for the reason of discontinuing the service in the states of Oregon and Washington, which also is publicly available on documents filed with the FCC, Washington Utilities and Transportation Commission and Public Utilities Commission of Oregon.

VCI requests a more in depth explanation and justification of the Commission's intended audit as discussed above. I look forward to receiving a written response to this request for clarification.

Sincerely,
VCI Company
Stacey A. Klinzman

DOCUMENT NUMBER-DATE
04079 MAY 16 8
FCC-COMMISSION CLERK

5/15/2008

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.	DOCKET NO. 080065-TX ORDER NO. PSC-08-0090-PAA-TX ISSUED: February 13, 2008
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The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER RESCINDING ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS AND
CANCELLATION OF CLEC CERTIFICATE

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

Vilaire Communications, Inc. (VCI or Vilaire) is a Florida Public Service Commission (FPSC or Commission) certificated competitive local exchange company (CLEC) which provides service in BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast Florida's (AT&T) territory. On May 22, 2006, we designated VCI as an Eligible Telecommunications Carrier (ETC) in AT&T's service area.¹ VCI's purpose in seeking ETC status was solely to provide Link-Up and Lifeline services to low-income Florida consumers. All VCI customers participate in the Lifeline program. No Universal Service high-cost funding has been sought by VCI in Florida. VCI is a privately held company headquartered in Lakewood, Washington, and is authorized to conduct business as a foreign corporation in the state of Florida. It operates or has obtained authority to operate in 15 states.

¹ Order PSC-06-0436-PAA-TX, issued May 22, 2006, in Docket No. 060144-TX.

DOCUMENT NUMBER DATE

04079 MAY 16 8

REGISTRATION CLERK

As part of our ongoing effort to monitor Universal Service Funds being distributed to ETCs in Florida, our staff reviews the Universal Service Administrative Company's (USAC) disbursement database on a monthly basis. Because of the rapid growth in Lifeline customers served by VCI,² and this Commission's commitment to monitor Universal Service Funds received by ETCs, a data request was sent to VCI on May 4, 2007, seeking information on VCI's policies regarding Link-Up and Lifeline. VCI provided its responses to the data request on June 15, 2007.

On August 15, 2007, the Federal Communications Commission (FCC) released a "Notice of Apparent Liability for Forfeiture and Order"³ against VCI. The Order found that VCI violated FCC rules by repeatedly failing to keep and provide the USAC accurate records of revenues it was forgoing in providing Link Up and Lifeline service in Minnesota, Oregon, and Washington. In addition, the FCC found that VCI violated federal law by willfully or repeatedly receiving duplicate reimbursement for qualifying low-income consumers served and determined that VCI is liable for a total forfeiture of \$1,047,500. The FCC ordered VCI to submit revised Form 497s to USAC within 30 days excluding all requests for duplicate universal service reimbursement for qualifying low-income customers served from August 2004 to August 2007. VCI relinquished ETC status and ceased all telecommunications service operations in Washington on January 11, 2007, and in Oregon on February 1, 2007.

On September 7, 2007, VCI received notification via letter that an audit of the low-income Florida USAC programs would be conducted in accordance with our audit procedures. On September 18, 2007, VCI called and sent a subsequent email questioning our authority to conduct an audit of Universal Service Funds. VCI requested something in writing defining our authority to initiate an audit. On September 19, 2007, a conference call was conducted with VCI explaining our authority to conduct an audit, after which VCI withdrew its request for a written explanation concerning our legal authority.

Our staff auditor's report was issued November 5, 2007. A post-audit conference call was held with VCI on November 27, 2007, to discuss the audit findings. VCI was advised during the call that it had the opportunity to submit a written reply to the audit if it chose to do so. No written reply was received from VCI. On January 9, 2008, another conference call was held with VCI to provide it the opportunity to explain some of the audit findings and additional information obtained from USAC and AT&T. This Order addresses our staff auditor's findings, information received from USAC, and information obtained by subpoena from VCI's underlying carrier in Florida, AT&T.

Time is of the essence in addressing VCI's apparent misconduct. Since VCI began receiving reimbursement for low-income support in August 2006, it has received over \$1.3

² VCI's Florida reimbursements from USAC went from \$5,197 in August 2006 to \$80,004 in December 2007 with the highest month being March 2007, with \$157,041 being reimbursed.

³ In the Matter of VCI Company Apparent Liability for Forfeiture, File No. EB-07-IH-3985, NAL/Acct. No. 200732080033, FRN No. 0015783004, FCC 07-148, Released August 15, 2007.

million in Universal Service Funds for providing Link-Up and Lifeline services to consumers in Florida. During November and December 2007, VCI received an average of over \$20,000 a week in Universal Service Fund disbursements for Link-Up and Lifeline reimbursement in Florida. Our staff also discovered VCI was overcharging customers for E911 service. We are vested with authority under Section 364.10(2), Florida Statutes (F.S.), to regulate eligible telecommunications carriers pursuant to 47 C.F.R. Section 54.201.

II. Analysis and Decision

A. Refund of Excess E911 fees.

During the audit of VCI's Link-Up and Lifeline procedures, our staff auditors requested a sample of VCI's monthly customer bills. While analyzing the monthly bills, it was discovered that VCI was billing its customers \$0.75 per month for an E911 fee. Section 365.172(8)(3)(f), F.S., provides that:

The rate of the fee shall be set by the board after considering the factors set forth in paragraphs (h) and (i), but may not exceed 50 cents per month per each service identifier. The fee shall apply uniformly and be imposed throughout the state, except for those counties that, before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than 50 cents per month per access line. In those counties the fee established by ordinance may be changed only to the uniform statewide rate no sooner than 30 days after notification is made by the county's board of county commissioners to the board.

Our staff advised VCI of the maximum E911 fee allowed in Florida during the January 9, 2008, conference call. Some monthly bills included customers who were located in counties which have an E911 fee less than the maximum \$0.50 monthly fee. VCI indicated that it would refund any excess E911 fees collected. We requested that VCI provide a worksheet showing the total amount of E911 overcharges, along with its proposed plan for refunding the excess fees to current and former customers.

On January 16, 2008, VCI provided a worksheet showing E911 overcharges and its proposed plan for refunds. However, the worksheet showed almost 60,000 less access lines than VCI claimed for Lifeline reimbursement from the USAC. Therefore, we find it appropriate to order VCI to provide a revised worksheet showing the total amount of E911 overcharges since VCI received certification in Florida. The worksheet shall be provided within 30 days of this Order, and VCI shall refund those overcharges within ninety days of this Order in accordance with Rule 25-4.114, Florida Administrative Code (F.A.C.). In addition, a preliminary refund report shall be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. Unclaimed refunds and refunds less than one dollar shall be remitted to this Commission for deposit in the state of Florida General Revenue Fund.

B. Rescinding VCI's eligible telecommunications carrier status

Under the low-income support mechanism, the Link-Up and Lifeline programs provide discounts to qualifying low-income consumers for basic telephone service. In addition, qualifying low-income consumers have the option to elect Toll Limitation Service (TLS) at no extra charge to avoid a deposit requirement. Link-Up provides qualifying low-income consumers with a 50% discount (maximum \$30) on initial costs of installing telephone service. The low-income mechanism allows an ETC providing services to qualifying low-income consumers to seek and receive reimbursement from the Federal Universal Service Fund (USF) for revenues it forgoes as a result. In order for a carrier to receive low-income support, the carrier must first be designated as an ETC.

We granted ETC status on May 22, 2006. By receiving ETC status in Florida, VCI is able to receive low-income support from the USF. The following table shows the amounts received by VCI since becoming an ETC in Florida.

Month/Year	Lifeline	Link-Up	TLS	Total
December 2007	\$57,955	\$14,912	\$7,137	\$80,004
November 2007	\$66,634	\$14,728	\$6,200	\$87,562
October 2007	\$41,492	\$10,410	\$5,103	\$57,005
September 2007	\$59,693	(\$1,876)	\$5,632	\$63,449
August 2007	\$53,871	\$23,877	\$(18,204)	\$59,544
July 2007	\$33,405	\$4,261	\$11,556	\$49,222
June 2007	\$64,246	\$51,378	\$25,353	\$140,977
May 2007	\$71,442	\$33,420	\$27,881	\$132,743
April 2007	\$81,093	\$24,690	\$32,244	\$138,027
March 2007	\$79,913	\$41,400	\$35,728	\$157,041
February 2007	\$61,936	\$30,845	\$32,285	\$131,066
January 2007	\$37,839	\$67,689	\$29,466	\$134,994
December 2006	\$19,825	\$7,527	\$8,162	\$35,514
November 2006	\$8,333	\$16,989	\$7,062	\$32,384
October 2006	\$4,681	\$4,030	\$2,483	\$11,194
September 2006	\$1,651	\$3,090	\$1,321	\$6,062
August 2006	\$1,021	\$3,060	\$1,116	\$5,197
Total	\$745,030	\$350,430	\$224,525	\$1,319,985

Lifeline

47 C.F.R. Section 54.201(d)(1) provides that an ETC must offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. 47 C.F.R. Section 54.201(i) provides that an ETC cannot offer the services that are supported by federal universal service support mechanisms exclusively through the resale of another carrier's services. At the time of its ETC designation petition, VCI stated that it would offer all of the supported services using a combination of its own facilities and resale of another carrier's services.⁴

⁴ See February 16, 2006, VCI Application for Designation as an Eligible Telecommunications Carrier in the State of Florida in BellSouth Telecommunications Inc. service area. (Page 7, ¶ 14)

ETCs in Florida provide a \$13.50 discount to Lifeline customers' monthly bills. For ETCs that serve the Lifeline customer through a leased network element, \$10.00 of that discount is reimbursable from the USF through the USAC. For ETCs which serve the Lifeline customer through resale of Lifeline service, a \$10.00 credit is applied to that ETC's monthly bill by the underlying ETC which in this case is AT&T. The ETC is not entitled to directly collect \$10.00 from the USAC. AT&T in turn files for, and receives reimbursement from, the USAC for the \$10.00 credit provided to VCI. The other \$3.50 discount for consumers is provided by VCI.

VCI is receiving double compensation by receiving a \$10.00 Lifeline credit from AT&T for each resale Lifeline customer, and also filing for and receiving a \$10.00 reimbursement from the USAC for each resale Lifeline customer. Our analysis also shows that from June 2006 through November 2006, VCI received USF monies but did not provide universal service support using a combination of its own facilities and resale of another carrier's services, as required by 47 C.F.R. Section 54.201(i). It operated strictly as a reseller in those months. We find that VCI was overpaid \$744,880 from the USF for Lifeline customers from June 2006 through December 2007.

Link-Up

The Link-Up program helps low-income consumers initiate telephone service by paying one-half (up to a maximum of \$30) of the initial installation fee for a traditional, wireline telephone or activation fee for a wireless telephone. It also allows participants to pay the remaining amount on a deferred schedule, interest-free.

VCI has a normal \$150 installation fee for initiation of service. For Lifeline customers, VCI charges a \$120 installation charge after a \$30 Link-Up credit for initiation of service. VCI allows the customers to pay this hook-up charge at \$10/month for 12 months. AT&T's tariffed connection charge is \$46.00. For resold services, AT&T's connection charge is \$35.96 (after a 21.83% resale discount) to VCI. Since this connection is for a Lifeline customer, AT&T passes through a credit of \$23.00 (50% of \$46.00) to VCI and receives reimbursement from the USAC for passing through this Link-Up credit. VCI's final cost for the Lifeline customer hook-up charge is \$12.96 (\$35.96-\$23.00).

Our analysis of VCI's Link-Up charges for Lifeline customers shows that in addition to receiving a \$23.00 USF resale Link-Up credit from AT&T, VCI files for and receives a \$30.00 Link-Up reimbursement from the USAC for its resold Lifeline access lines. The maximum credit allowed by Federal rule is 50% of the hook-up charge or \$30, whichever is greater. Based on conversations with the USAC, only one Link-Up USAC payment is allowed per access line. In this case, the appropriate Link-Up credit would be \$23.00 (50% of the AT&T tariffed charge of \$46.00) for the resold Link-Up line. VCI cannot file for a \$30.00 reimbursement or the \$7.00 difference between the \$23.00 credit and the \$30.00 maximum cap. In addition, our staff auditors discovered that VCI submitted 546 duplicate phone numbers to the USAC for reimbursement of Link-Up monies during the period June 1, 2006 through June 30, 2007. We find that VCI was overpaid \$350,370 from the USF for Link-Up customers since becoming an ETC in Florida.

TLS

Toll Limitation Service (TLS) is an optional service which includes toll blocking (allows subscribers to block outgoing toll calls) and toll control (allows subscribers to limit in advance their toll usage per month or billing cycle). An ETC may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking. If the qualifying low-income consumer elects not to place toll blocking on the line, an eligible telecommunications carrier may charge a service deposit. Section 364.10(2)(b), F.S., provides that:

An eligible telecommunications carrier shall offer a consumer who applies for or receives Lifeline service the option of blocking all toll calls or, if technically capable, placing a limit on the number of toll calls a consumer can make. The eligible telecommunications carrier may not charge the consumer an administrative charge or other additional fee for blocking the service.

ETCs are allowed to receive reimbursement from the USF for the incremental costs of providing TLS. By definition, incremental costs include the costs that carriers otherwise would not incur if they did not provide toll-limitation service to a given customer. ETCs are not allowed to receive support for their lost revenues in providing toll-limitation services (defined as the amount customers normally would pay for the service).⁵ Incremental costs do not include overhead and costs for services or equipment used for non-toll limitation purposes.

In VCI's original petition for ETC status in Florida, it stated that it will provide the toll limitation service that AT&T has the technological capacity to provide.⁶ In response to a November 30, 2007, staff data request, AT&T stated that it does not bill VCI for providing TLS to VCI's Lifeline customers. The USAC disbursement records show that VCI has received \$224,525 in TLS reimbursement from the USF from June 2006 through December 2007.

When VCI was questioned about claiming the incremental cost of providing TLS from the USAC, it stated that AT&T's toll-blocking has leaks and it had to develop its own TLS system in addition to using AT&T's toll blocking to plug the leaks. VCI stated that customers would incur toll costs by dialing 411 or the operator. A subsequent inquiry to AT&T shows that VCI customers are unable to dial 411 or the operator using AT&T's toll-blocking service. VCI claimed customers could dial around and incur toll charges. When asked how VCI Lifeline customers can dial 411, it replied by using a 1-800 number to VCI's offices to get a VCI operator. We believe this does not create a leak in AT&T's toll-blocking service. It only creates an avenue for VCI to charge for 411 or operator services using VCI operators.

⁵ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Released May 8, 1997, FCC 97-157 (¶ 386).

⁶ See February 16, 2006, VCI Application for Designation as an Eligible Telecommunications Carrier in the State of Florida in BellSouth Telecommunications Inc. service area. (Page 10, ¶ 16)

During the January 9, 2008, conference call with VCI, VCI was asked to provide a detailed breakdown of VCI's incremental cost showing recurring and non-recurring costs incurred to provide TLS service to Lifeline customers. VCI filed its response on January 16, 2008, providing a listing of equipment and costs to provide TLS service to Lifeline customers. Since the equipment listed by VCI could also be used for purposes other than TLS, we find that the equipment is not reimbursable from the USAC through the TLS program.

Since AT&T does not charge VCI for its toll-blocking service for Lifeline customers, VCI does not incur any incremental cost for providing TLS to its Lifeline customers. Therefore, we find that VCI was overpaid \$224,525 for reimbursement of costs to provide TLS.

USAC Form 497

In order for ETCs to receive reimbursement for providing Lifeline, Link-Up and TLS services to customers it serves using its own facilities,⁷ ETCs file what is known as Form 497 with the USAC. The form is divided into three categories – Lifeline, Link-Up, and TLS. ETCs enter the number of Lifeline, Link-Up and TLS customers in each category along with the dollar amounts requested from the USAC. An officer of the ETC company is required to sign the form certifying that the data contained in the form has been examined and is true, accurate, and complete.

As part of the investigation of VCI's Lifeline and Link-Up practices, we reviewed each monthly Form 497 submitted to the USAC by VCI for Florida. We also obtained (by subpoena) information from VCI's underlying carrier (AT&T) in order to compare the number of resale and leased network element Lifeline access lines provided to VCI by AT&T, and the number of Lifeline, Link-Up, and TLS access lines claimed on VCI's Form 497s submitted to the USAC. Our examination showed that VCI improperly completed the Form 497s by claiming multiple thousands of access lines which were actually resale Lifeline customers for which it had already received reimbursement through AT&T's resale Lifeline program.

The disparity between actual AT&T access lines used by VCI and the amount of access lines claimed on the Form 497s has increased dramatically in recent months. Based on access line information obtained by subpoena from AT&T, VCI has been reporting not only resale Lifeline access lines for which it already receives a credit for from AT&T, but also non-existent access lines in the thousands for which it received reimbursement from the USAC.

C. Designation and Revocation of ETC Status

State commissions have the primary responsibility for performing ETC designations. 47 C.F.R. Section 54.201(c), provides that:

⁷ Resale Lifeline and Link-Up reimbursement is received through an ETC's underlying ETC carrier.

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

CFR Rule 54.201(d), provides that carriers designated as ETCs shall, throughout the designated service area: (1) offer the services that are supported by federal universal support mechanisms either using their own facilities or a combination of their own facilities and the resale of another carrier's services, and (2) advertise the availability of such services and the related charges therefore using media of general distribution.

In addition to state commissions having the primary responsibility for performing ETC designations, they also possess the authority to rescind ETC designations for failure of an ETC to comply with the requirements of Section 214(e) of the Telecommunications Act or any other conditions imposed by the state.⁸ The FCC found that individual state commissions are uniquely qualified to determine what information is necessary to ensure that ETCs are complying with all applicable requirements, including state-specific ETC eligibility requirements.⁹

Section 214(e) requires that an ETC offer the services that are supported by Federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. For six months, VCI operated as a strict reseller and did not meet this requirement. Section 214(e) also requires that VCI's ETC designation should be consistent with the public interest, convenience, and necessity.¹⁰ Based on our investigation, we believe this requirement has not been met by VCI.

Our analysis indicates that VCI has been receiving USAC payments for Florida Link-Up and Lifeline customers and also receiving credits from AT&T for the same Link-Up and Lifeline customers. VCI has consistently overstated the number of access lines eligible for reimbursement from the USAC. Based on access line information obtained by subpoena from AT&T, VCI has been reporting ineligible resale Lifeline access lines and non-existent access lines in the thousands for which it received reimbursement from the USAC.

⁸ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Released March 17, 2005, FCC 05-46 (¶ 71-72)

⁹ Id.

¹⁰ § 54.201(c), Code of Federal Regulations.

VCI has received a \$10 monthly credit for Lifeline customers from AT&T and also filed for and received a \$10 Lifeline payment from the USF fund for each resale Lifeline customer. VCI has been receiving a \$23.00 resale Link-Up credit from AT&T and has also filed for and received a \$30 Link-Up reimbursement for the same customers. VCI has filed for and received reimbursement for incremental costs of providing TLS when VCI did not incur any TLS incremental costs.

We find that VCI was overpaid \$1,319,775 in Florida through the Link-Up, Lifeline, and TLS programs from August 2006 through December 2007. VCI has been obtaining double compensation by receiving resale Link-Up and Lifeline credits from AT&T, while at the same time receiving Link-Up, Lifeline, and TLS monies from the USF for the same customers. We find that because of VCI's misuse of the Federal Universal Service Fund, it is no longer in the public interest to allow VCI to retain ETC designation in Florida. Therefore, we find it appropriate to rescind VCI's ETC status. We direct our staff to forward the results of our investigation along with this Order to USAC, the Federal Communications Commission, and the Department of Justice for further follow-up to recover federal USF funds obtained by VCI through misrepresentations made to USAC.

D. Cancellation of CLEC Certificate

Vilaire Communications, Inc. was granted Certificate No. 8611 to provide Competitive Local Exchange Company (CLEC) service in Florida on January 10, 2006.¹¹ In that Order, we noted that it appeared that Vilaire had sufficient technical, financial, and managerial capability to provide such service. Based on our investigation, we find that VCI no longer has the technical, financial, and managerial capability to provide CLEC service in the state of Florida. Rule 25-24.572(1) provides that this Commission may cancel a company's certificate for any of the following reasons:

- (a) Violation of the terms and conditions under which the authority was originally granted;
- (b) Violation of Commission rules or orders; or
- (c) Violation of Florida Statutes.

In addition, we discovered the following during our investigation:

- Seven phone numbers of the 130 sample invoices from Florida obtained by our staff auditors contained area codes for Canada, Georgia, Texas, Michigan, one fictitious area code, and two area codes that are not even assigned yet. However, each of the addresses on the bills had Florida addresses. These bills may not represent real customers.
- The telephone numbers provided on the 130 invoices were called and we determined that 77 numbers were disconnected, 9 had recordings that the numbers were not in service, 4 were

¹¹ PSC-06-0035-PAA-TX, issued January 10, 2006, in Docket No. 050865-TX.

business numbers not eligible for Lifeline, 2 were consumers that stated they were not customers of VCI, and 1 was a consumer who stated he was a VCI customer but not on the Lifeline program. Two customers confirmed that VCI was their provider of service and that they were participants in the Lifeline program.

- A check of the 130 sample VCI invoices also showed that every customer was paying a \$10 late fee. VCI was asked how all 130 customers in the random sample could have paid their bill late. VCI replied that it was a coincidence. During calls to verify the VCI customers, one customer stated that VCI's payment was automatically paid from his checking account, and it still showed a late payment on his invoice.

We find that it is no longer in the public interest to allow Vilaire to provide telecommunications service in Florida. Vilaire's certificate was granted based on Vilaire having sufficient technical, financial, and managerial capability to provide CLEC service. Given the issues brought to light, we find that Vilaire no longer possesses the technical, financial, and managerial capability as required by Section 364.337(3), F.S., to provide CLEC service in the state of Florida. Therefore, we find it appropriate to cancel Vilaire Communications, Inc.'s Competitive Local Exchange Company Certificate No. 8611 for its demonstrated lack of technical, financial, and managerial capability to operate a telecommunications company in Florida, effective as of the date of the consummating order. VCI shall continue to have an obligation to pay the applicable regulatory assessment fees (RAFs) and determined refund of the E911 overcharges. If Vilaire Communications, Inc.'s certificate is cancelled and the company does not pay its RAFs, the collection of the RAFs shall be referred to the Florida Department of Financial Services, for further collection efforts.

E. Waiver of carrier selection requirements of Rule 25-4.118, F.A.C.

The Code of Federal Regulations addresses situations where ETCs voluntarily request relinquishment of its ETC status. In this case, VCI is not requesting relinquishment of its ETC status in Florida. However, it is our concern that existing VCI Lifeline customers continue to be served once VCI's ETC status is rescinded and CLEC certification cancelled. 47 C.F.R. Section 54.205(b) provides that:

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

We find it appropriate that VCI's underlying carrier, AT&T, shall provision service to VCI's customers. We also find it appropriate that AT&T serve VCI's existing Lifeline customers during a transitional period where former VCI customers can choose to stay with AT&T or select another carrier of their choice.

Pursuant to Rule 25-4.118(1), F.A.C., a customer's carrier cannot be changed without the customer's authorization. Rule 25-4.118(2), F.A.C., provides that a carrier shall submit a change request only if one of the following has occurred:

- (a) The provider has a letter of agency (LOA) . . . from the customer requesting the change;
- (b) The provider has received a customer-initiated call for service . . . ;
- (c) A firm that is independent and unaffiliated with the provider . . . has verified the customer's requested change . . .

Pursuant to Rule 25-24.845, F.A.C., Rule 25-4.118, F.A.C., is incorporated into Chapter 25-24, and applies to CLECs. Section 364.337(2), F.S., states in pertinent part;

A certificated competitive local exchange telecommunications company, may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The Commission may grant such petition if determined to be in the public interest.

The authority for Rule 25-4.118, F.A.C., is found in Section 364.603, F.S., which is a section that we are authorized to waive under Section 364.337(2), F.S.

AT&T shall provide for a seamless transition with the least amount of disruption to the customers. The customers should not experience any interruption of service or switching fees. We direct our staff to contact VCI's affected customers to notify them of the change to AT&T and to advise them of their available choices. AT&T shall provide all necessary customer information of current VCI customers to allow notification.

Additionally, we find it appropriate to waive the carrier selection requirements of Rule 25-4.118, F.A.C. If prior authorization is required in this event, customers may fail to respond to a request for authorization or neglect to select another carrier. Furthermore, we find that granting this waiver will avoid unnecessary slamming complaints during this transition.

Therefore, we hereby approve the waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., to allow VCI customers who do not select another carrier to seamlessly transfer over to AT&T effective as of the date of the consummating order. AT&T shall serve VCI's existing Lifeline customers during a transitional period where former VCI customers can choose to stay with AT&T at AT&T's Lifeline existing rates and terms or select another carrier of their choice. AT&T shall also provide all necessary customer information of current VCI customers to allow for notification.

If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this Order shall become final and effective upon issuance of a Consummating Order. This docket shall remain open in order for VCI to complete the determined refund of excess E911 overcharges and verify the transition of VCI customers to AT&T after which time, this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Vilaire Communications, Inc. shall provide our staff with a revised worksheet showing the total amount of E911 overcharges since it received certification for Florida within 30 days of this order. It is further

ORDERED that Vilaire Communications, Inc. shall refund those overcharges within 90 days of this Order in accordance with Rule 25-4.114, F.A.C. A preliminary refund report shall be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. Unclaimed refunds and refunds less than one dollar shall be remitted to this Commission for deposit in the state of Florida General Revenue Fund. It is further

ORDERED that Vilaire Communications, Inc.'s eligible telecommunications carrier status is hereby rescinded. It is further

ORDERED that for its demonstrated lack of technical, financial, and managerial capability to operate a telecommunications company in Florida, Vilaire Communications, Inc.'s Competitive Local Exchange Company Certificate No. 8611 is hereby cancelled. It is further

ORDERED that Vilaire Communications, Inc. shall continue to have an obligation to pay the applicable regulatory assessment fees (RAFs). It is further

ORDERED that if Vilaire Communications, Inc.'s certificate is cancelled and the company does not pay its RAFs, the collection of the RAFs shall be referred to the Florida Department of Financial Services, for further collection efforts. It is further

ORDERED that the carrier selection requirements of Rule 25-4.118, F.A.C., be waived to allow Vilaire Communications Inc.'s customers who do not select another carrier to seamlessly transfer over to BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast Florida. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast Florida shall serve VCI's existing Lifeline customers during a transitional period where former VCI customers can choose to stay with AT&T at AT&T's existing Lifeline rates and terms or select another carrier of their choice. It is further

ORDERED that BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast Florida shall provide to our staff all necessary customer information of current Vilaire Communications, Inc. customers to provide notifications of transfer of 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 remain open in order for Vilaire Communications, Inc. to complete the determined refund of excess E911 overcharges and verify the transition of VCI customers to AT&T after which time, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 13th day of February, 2008.

/s/ Ann Cole

ANN COLE

Commission Clerk

This is an electronic transmission. A copy of the original signature is available from the Commission's website, www.floridapsc.com, or by faxing a request to the Office of Commission Clerk at 1-850-413-7118.

(S E A L)

TLT

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.

ORDER NO. PSC-08-0090-PAA-TX

DOCKET NO. 080065-TX

PAGE 14

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 March 5, 2008.

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 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.



State of Florida
**Public Service
Commission**
NEWS RELEASE

2/12/2008

Contact: 850-413-6482

**Florida Public Service Commission Shuts Down Vilaire
Communications in Florida**

TALLAHASSEE — The Florida Public Service Commission (PSC) today voted to take away the right for Vilaire Communications (VCI) to operate in Florida. The five-member panel found the company showed a lack of technical, financial, and managerial capability to operate a telecommunications company. A PSC audit discovered VCI overcharged customers for E911 calls and falsely obtained more than \$1.3 million in funds earmarked to provide telephone service to low-income residents.

"The PSC is entrusted with making sure Florida's landline telephone companies are operating in a responsible manner," said PSC Chairman Matthew M. Carter II. "Customers trust we are watching out for them, and in this instance, it was in the customers' best interest to revoke VCI's certificate."

Based in Lakewood, Washington, Vilaire Communications (VCI) is a competitive provider of landline telephone service in AT&T Florida's territory statewide. VCI also was an eligible telecommunications carrier (ETC), allowing it to obtain monies from the federal Universal Service Fund (USF) to provide Link-Up and Lifeline service to low-income telephone customers.

An audit by PSC staff found VCI was billing its customers 75 cents per month for an E911 fee. Florida Statutes state the E911 fee may not exceed 50 cents. The Commissioners have ordered the company to issue refunds to customers for the overbilled amount. A random sample of the company's customers also indicated fictitious accounts for Lifeline service and questionable application of late fees.

AT&T Florida will take over VCI's accounts on a temporary basis until customers choose a new provider. The PSC voted to forward the results of its investigation along with the Commission Order to the Administrator of the USF, the Federal Communications Commission, and the Department of Justice for further follow-up to recover federal Universal Service Funds obtained by VCI through misrepresentations made to the Administrator of the USF.

The PSC is committed to making sure that Florida's consumers receive their electric, natural gas, telephone, water, and wastewater services in a safe, affordable, and

04079 MAY 16 8

reliable manner. The PSC exercises regulatory authority over utilities in the areas of rate base/economic regulation; competitive market oversight; and monitors safety, reliability, and service.

For additional information, visit www.floridapsc.com.

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106 East College Avenue
Tallahassee, FL 32301
www.akerman.com
850 224 9634 tel 850 222 0103 fax

March 5, 2008

RECEIVED - FPSC
08 MAR -5 PM 3:52
COMMISSION
CLERK

VIA HAND DELIVERY

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 080065-TX - In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

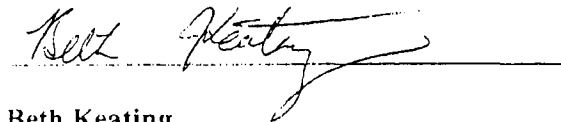
Dear Ms. Cole:

Enclosed for filing in the above-referenced Docket, please find an original and fifteen (15) copies of a Protest of Proposed Agency Action Order no. PSC-08-0090-PAA-TX, and Petition for Formal Hearing, submitted this day on behalf of Vilaire Communications, Inc.

- CMP** 5
- COM** 5
- CTR** _____
- ECR** _____
- GCL** 1
- OPC** _____
- RCA** 1
- SCR** _____
- SGA** _____
- SEC** _____
- OTH** _____

If you have any questions whatsoever, please do not hesitate to contact me.

Sincerely,



Beth Keating
AKERMAN SENTERFITT
106 East College Avenue, Suite 1200
Tallahassee, FL 32302-1877
Phone: (850) 224-9634
Fax: (850) 222-0103

Enclosures
cc: Stacey Klinzman

(11.152074.1)

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FPSC-COMMISSION CLERK
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.	DOCKET NO. 080065-TX FILED MARCH 5, 2008
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VILAIRE COMMUNICATIONS, INC.'S PROTEST OF PROPOSED AGENCY ACTION
ORDER NO. PSC-08-0090-PAA-TX ISSUED FEBRUARY 13, 2008
AND PETITION FOR FORMAL HEARING

Pursuant to Rule 25-22.029(3), and in accordance with Rule 28-106.201 Florida
Administrative Code, Vilaire Communications, Inc. ("VCI" or "Petitioner") hereby submits this
Protest of Proposed Agency Action Order No. PSC-08-0090-PAA-TX, issued February 13, 2008
and Request for Hearing under Section 120.57(1), Florida Statutes.

I. BACKGROUND

A. VCI holds Competitive Local Exchange Carrier ("CLEC") Certificate No. 8611
and was designated an ETC on May 22, 2006 in Docket No. 060144-TX. The company
provides local exchange service to Lifeline and Link-Up eligible Florida consumers, in
accordance with federal law and Federal Communication Commission rules, in the service area
of Bell South Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast Florida
("AT&T"). VCI Company obtains reimbursement from the low-income division of the
Universal Service Administrative Company ("USAC"). VCI does not seek or obtain
reimbursement from the high-cost division of the USAC.

B. The Florida Public Service Commission ("Commission") has submitted data
requests seeking information about VCI's Lifeline and Link-Up policies and procedures on two
occasions. In May 2007, the Commission requested information about the company's toll
limitation service policies and procedures. Second, the Commission conducted a September

2007 audit of the low-income Florida USAC programs. In both instances, VCI cooperated fully with staff and complied with data requests in a timely manner. No further action was taken by the Commission with respect to VCI's responses pertaining to the May 4, 2007 inquiry into the company's toll limitation policies and procedures.

C. On November 19, 2007, the auditor issued her report on the audit of VCI with respect to the Low Income USAC programs ("Audit Report"). VCI participated in a teleconference with audit and Commission staff on November 28, 2007 ("November 28 Conference"), during which the company responded to staff's questions regarding the Audit Report. Among other things, VCI addressed staff's concerns about alleged duplicate Link-Up payments. VCI informed staff that if duplicate payments were, in fact, obtained, the company could submit a corrected Form 497 to the USAC.

D. VCI was informed at the November 28 Conference that the audit was complete and the company had the option, but was not required, to submit additional information in response to the Audit Report. VCI also was informed that whether or not VCI filed a response to the Audit Report, a telecommunications analyst would review the Audit Report and likely request additional information. Based on staff's statements, VCI opted not to file a response to the Audit Report.

E. VCI participated in a second teleconference with staff on January 9, 2008 ("January 9 Conference") at which the company addressed staff's prepared and e-mailed questions, as well as additional questions posed during the conference.

F. VCI addressed, among other things, staff's concerns about VCI's TLS system, VCI's late fee, typographical errors in area codes and staff's inability to contact certain customers by telephone. VCI admitted that it had mistakenly overcharged consumers the 911 surcharge and agreed to file a worksheet detailing the extent of the overcharges together with a

refund plan. On January 16, 2008, VCI filed written responses to additional questions generated by staff during the January 9 Conference.

G. On January 31, 2008, staff issued a recommendation suggesting that the Commission take punitive action against VCI for alleged misconduct ("Recommendation"). In the Recommendation, staff outlined for the first time, concrete and specific allegations that could be addressed by the company. VCI learned for the first time, also, that staff's allegations were based on documents that had been subpoenaed from ATT, which documents VCI had not had an opportunity to review. VCI filed a public records request with the Commission on February 7, 2008, asking, in sum, for all information on which staff based its allegations.

H. VCI attended the agenda conference held February 12, 2008, and addressed several of staff's allegations not based on information submitted by VCI under cover of confidentiality. The Commission approved staff's recommended proposed agency action on February 12, 2008, and issued Order No. PSC-08-0090-PAA-TX on February 13, 2008 ("Order"), memorializing that decision.

II. PROTEST AND REQUEST FOR HEARING

With one noted exception, VCI protests each specific finding, conclusion, and proposed penalty set forth in the Order, as more specifically pled below, and requests a hearing to resolve these disputed issues of fact and law. VCI asserts that grounds do not exist, either in fact or in law, to warrant the proposed agency action set forth in the Order. VCI submits the following information in accordance with Rule 28-106.201, Florida Administrative Code:

A. The name and address of the affected agency and the agency's file or identification number is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Docket No. 080065-TX

B The name, address, and telephone number of the Petitioner are:

VCI Company (doing business in Florida as Vilaire Communications, Inc.)
2228 S. 78th Street
Tacoma, WA 98409-9050
Telephone: (800) 923-8375
Facsimile: (253) 475-6328
Electronic mail: Vilaire@comcast.net

C. Correspondence and communications regarding this proceeding should be directed to:

Beth Keating
Akerman Senterfitt
106 East College Avenue, Suite 1200
Tallahassee, Florida 32301
Telephone: (850) 224-9634
Electronic mail: beth.keating@akerman.com

And to:

Stanley Johnson, President
VCI Company
2228 S. 78th Street
Tacoma, WA 98409-9050
Telephone: (253) 973-2476
Facsimile: (253) 475-6328
Electronic mail: stanj@vcicompany.com

And to:

Stacey Klinzman
Regulatory Attorney
VCI Company
2228 S. 78th Street
Tacoma, WA 98409-9050
Telephone: (253) 830-0056
Facsimile: (253) 475-6328
Electronic mail: staceyk@vcicompany.com

D. Explanation of how the Petitioner's substantial interests will be affected by the agency determination:

1. VCI provides local exchange service to Lifeline and Link-Up eligible customers in AT&T's service area in Florida.

2. By Proposed Agency Action Order No. PSC-08-0090-PAA-TX, the Florida Public Service Commission proposes to rescind VCI's Eligible Telecommunications Carrier status in Florida, cancel VCI's CLEC Certificate No. 8611, and transfer all of VCI's Lifeline customers to AT&T.

3. The proposed penalties of seizing VCI's current customer base, rescinding VCI's ETC designation, and canceling VCI's CLEC certificate will prevent Vilaire from doing business as a competitive local exchange carrier in Florida, thereby causing irreparable harm to VCI's business, finances and reputation.

E. A statement of when and how the Petitioner received notice of the agency decision:

VCI's representatives attended the Commission agenda meeting of February 12, 2008, at which meeting the Commission approve Staff's recommended proposed agency action. Vilaire received Order No. PSC-08-0090-PAA-TX via electronic mail from its counsel, Akerman Senterfit, on February 13, 2008, and from Commission staff, Lee Eng Tan, via electronic mail, on February 15, 2008. Vilaire received a hard copy of the order via U.S. mail on or about February 20, 2008.

F. A statement of disputed issues of material fact:

Without waiving or relinquishing the right to allege additional disputed issues of fact at a later date, VCI states that the following are disputed issues of fact, which VCI

specifically protests:

- (i) whether VCI's January 16, 2008, E-911 worksheet is a complete report of customer overpayments of E-911 surcharges;
- (ii) whether VCI offered the nine supported services making up Universal Service to Florida customers using a combination of its own facilities and resale of another carrier's services between June 2006 and November 2006;
- (iii) whether VCI properly reported Lifeline subscribed lines on Forms 497 between June 1, 2006 and June 30, 2007;
- (iv) whether VCI was reimbursed correctly by the USAC for Lifeline customers from June 2006 through June 30, 2007;
- (v) whether VCI properly reported Link-Up subscribed lines on Forms 497 during the period June 1, 2006 through June 30, 2007;
- (vi) whether VCI was reimbursed correctly by the USAC for Link-Up services during the period June 1, 2006 – June 30, 2007;
- (vii) whether VCI offers Florida customers TLS using its own facilities;
- (viii) whether VCI is entitled to obtain reimbursement from the USAC for incremental costs of TLS offered via its own facilities;
- (ix) whether VCI was reimbursed correctly by USAC for incremental costs for TLS;
- (x) whether VCI correctly charged 130 Florida customers who made late payments a late payment charge;
- (xi) whether lines reported on Forms 497 represent actual Florida customers who were invoiced by VCI for Lifeline and Link-Up service;

- (xii) whether VCI maintains technical, managerial and financial ability to provide competitive local exchange service in Florida;
- (xiii) whether VCI's designation as an ETC remains in the public interest, convenience and necessity; and
- (xiv) whether any factual basis has been established upon which the Commission could cancel VCI's Competitive Local Exchange Carrier Certificate.

G. A statement of issues of fact not in dispute:

- (i) VCI does not dispute that the fee it charged for E911 exceeded, in certain instances, the \$.50 limitation set by Section 365.172 (8), F.S., and VCI remains willing to provide an appropriate refund, as it has throughout this proceeding to date.

H. A statement of disputed issues of law:

Without waiving or relinquishing the right to allege additional disputed issues of law at a later date, VCI's allegations of disputed issues of law include the following:

- (ii) whether the Commission has jurisdiction to interpret federal regulations and laws regarding an ETC's offering, provision and administration of Federal Universal Service;
- (iii) whether federal law confers upon the Commission subject matter jurisdiction over an ETC's offering, provision and administration of Federal Universal Service;
- (iv) whether federal law confers upon the Commission subject matter jurisdiction to rescind an ETC designation; and
- (iv) whether VCI violated Florida statutes, rules, or regulations.

I. A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the agency's proposed action:

Without waiving or relinquishing the right to allege additional ultimate facts at a later date, VCI's allegations of ultimate facts include the following:

- (i) matters within the scope of this proceeding will determine the extent of the Commission's jurisdiction over an ETC's offering, provision and administration of Federal Universal Service in Florida;
- (iii) that VCI's January 16, 2008, E-911 worksheet is a complete report of customer overpayments of E-911 surcharges;
- (iv) that VCI offered the nine supported services making up Universal Service to Florida customers using a combination of its own facilities and resale of another carrier's services between June 2006 and November 2006;
- (v) that VCI properly reported Lifeline subscriber lines on Forms 497 between June 1, 2006 and June 30, 2007;
- (vi) that VCI was reimbursed correctly by the USAC for Lifeline customers from June 1, 2006 through June 30, 2007;
- (vii) that VCI properly reported Link-Up subscribed lines on Forms 497 during the period June 1, 2006 through June 30, 2007;
- (viii) that VCI was reimbursed correctly by the USAC for Link-Up services during the period June 1, 2006 – June 30, 2007;
- (ix) that VCI offers Florida customers TLS using its own facilities;
- (x) that VCI is entitled to obtain reimbursement from the USAC for incremental costs of TLS offered via its own facilities;
- (xi) that VCI was reimbursed correctly by USAC for incremental costs for

TLS;

- (xii) that VCI correctly charged Commission specified Florida customers who made untimely payments a late payment charge;
- (xiii) that lines reported on Forms 497 represent actual Florida customers who were invoiced by VCI for Lifeline and Link-Up service;
- (xiv) that VCI maintains technical, managerial and financial ability to provide competitive local exchange service in Florida;
- (xv) that VCI's designation as an ETC remains in the public interest, convenience and necessity;
- (xvi) that there is no basis upon which the Commission could cancel VCI's Competitive Local Exchange Carrier Certificate;
- (xvii) that the Commission has no jurisdiction to rescind VCI's ETC designation;
- (xviii) that the Commission may not transfer VCI's Lifeline customers to AT&T.

J. A statement of the specific rules or statutes the Petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes:

- (i) the Commission has no basis for revoking VCI's CLEC Certificate under Sections 364.335 or 364.337, Florida Statutes;
- (ii) the Commission has no basis for revoking VCI's CLEC Certificate under Rule 25-24.820(1)(a)-(c), Florida Administrative Code;
- (iii) the Commission is without basis to revoke VCI's CLEC Certificate for overcharging customers the E911 fee because the Commission has no jurisdiction to administrate, monitor or enforce the E911 fee, which jurisdiction is allocated to

the Technology Program of the Department of Management under Section 365.172(4), Florida Statutes;

- (iv) the Commission has failed to demonstrate jurisdiction under Florida state or federal law to revoke VCI's ETC designation;
- (v) the Commission has failed to demonstrate that VCI has violated any provision of Section 364.10, Florida Statutes, the sole Florida statute governing Lifeline service provision by Eligible Telecommunications Carriers;
- (vi) the Commission has failed to demonstrate that VCI has violated any provisions of applicable Federal Communications Commission rules or federal law regarding Lifeline and Link-Up service provision by Eligible Telecommunications Carriers;
- (vii) VCI is permitted under 47 C.F.R. Section 54.403(c) to seek reimbursement of its incremental costs of providing toll blocking service;
- (viii) Seizure of VCI's customers constitutes a prohibited "taking" without due process in violation of state and federal law, as well as the abrogation of contractual arrangements.

K. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action:

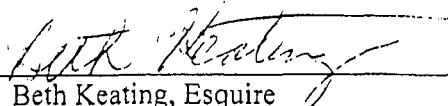
- (i) Rescind Order No. PSC-08-0090-PAA-TX and close this Docket;
or, in the alternative.
- (ii) Set this matter for a Section 120.57(1), Florida Statutes, hearing to resolve the disputed issues of fact and law identified herein¹, and to allow VCI a full opportunity to present evidence and arguments as to why Order No. PSC-08-

¹ In accordance with Cherry Communications, Inc. v. Deason, 652 So. 2d 803 (Fla. 1995), the prosecutorial and advisory staff must be bifurcated for the duration of the proceeding.

PAA-TX should be rescinded.

Respectfully submitted this 5th day of March, 2008.

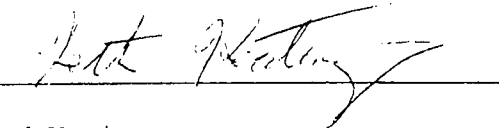
Respectfully submitted this 5th day of
March, 2008,

By: 
Beth Keating, Esquire
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via US Mail and Electronic Mail* to the persons listed below this 5th day of March, 2008:

Lee Eng Tan, Senior Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 LTan@psc.state.fl.us	
Adam Teitzman, Supervising Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 ateitzma@psc.state.fl.us	Beth Salak, Director/Competitive Markets and Enforcement* 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 bsalak@psc.state.fl.us

By: 

Beth Keating
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
Fax: (850) 222-0103
beth.keating@akerman.com

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106 East College Avenue
Tallahassee, FL 32301
www.akerman.com
850 224 9634 *tel* 850 222 0103 *fax*

April 7, 2008

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

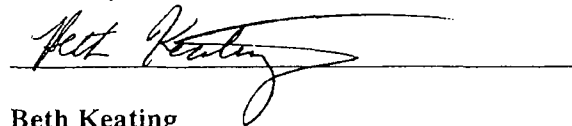
Re: Docket No. 080065-TX - In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

Dear Ms. Cole:

Enclosed for electronic filing in the above-referenced Docket, please find Vilaire Communications, Inc.'s Objections to Staff's First Set of Interrogatories (1 – 38) and Requests for Production of Documents (Nos. 1 – 10), submitted this day on behalf of Vilaire Communications, Inc.

If you have any questions whatsoever, please do not hesitate to contact me.

Sincerely,



Beth Keating
AKERMAN SENTERFITT
106 East College Avenue, Suite 1200
Tallahassee, FL 32302-1877
Phone: (850) 224-9634
Fax: (850) 222-0103

Enclosures
cc: Stacey Klinzman

{TL155088.1}

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.	DOCKET NO. 080065-TX DATED: APRIL 7, 2008
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VILAIRE COMMUNICATIONS, INC.'S OBJECTIONS TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 - 38) AND PRODUCTION OF DOCUMENTS (1-10)

COMES NOW, VCI Company, doing business in Florida as Vilaire Communications, Inc., and objects to Staff's First Set of Interrogatories ("Interrogatories") and Production of Documents ("Requests") (collectively "Discovery") as follows:

GENERAL OBJECTIONS

1. VCI objects to the Commission's Discovery as unduly burdensome in that since January 1, 2007, VCI and third-parties have provided the Commission with voluminous documents and information, which the Commission deemed sufficient to support the allegations in its February 13, 2008 Order of Proposed Agency Action. Thus, the Commission should require no further Discovery to prosecute this proceeding.
2. VCI objects to the Commission's Discovery to the extent that it is not reasonably necessary for the disposition of matters within the powers, functions and duties delegated to the Commission by the Legislature.
3. VCI objects to the Commission's Discovery extent that it seeks information concerning matters governed solely by federal law and regulation, which matters raise federal questions to be adjudicated in Federal District Court.
4. VCI objects to the Commission's Discovery to the extent it seeks information protected against disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or immunity from disclosure.
5. VCI objects to the Commission's Discovery to the extent that it imposes obligations

beyond those required pursuant to the Florida Rules of Civil Procedure.

6. VCI objects to the Commission's Discovery to the extent that it imposes duties on behalf of, or seeks information, within the possession, custody or control of the Commission, individuals or legal entities other than VCI.

7. VCI objects specifically to any Discovery calling for documents or information about any VCI employees on the basis that it is irrelevant, unduly burdensome, not likely to lead to the discovery of admissible evidence and an invasion of privacy interests and rights of those employees.

8. These General Objections are applicable to each and every one of the following responses and failure to repeat an objection in response to a specific Request or Interrogatory shall not be deemed a waiver of these General Objections.

OBJECTIONS TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 - 38)

1. Please provide a definition of the term "resale".

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory on the ground that it is unduly burdensome in that "resale" is a term of art defined by Federal Communication Commission ("FCC") rules or orders to which the Commission has access in the same manner as VCI. VCI further objects to this Interrogatory on the ground that it calls for a legal conclusion.

2. For the following request, please refer to each monthly bill provided in Production Of Documents Request No. 1.

a. Please list the date payment was received from the customer for that bill. If payment was not received, list the disconnection date, if any, for that customer.

b. Please list how many monthly bills provided include a late payment charge?

c. Please list how many monthly bills provided include an incorrect 911 fee?

Response: VCI objects to this Interrogatory on the grounds that it is overbroad and it would be unduly burdensome for VCI to respond. Response to this Interrogatory will entail reviewing thousands of bills issued by the company over nearly two years and countless hours of staff time, during which staff will be unable to fulfill duties necessary to the company's core business. VCI is a small company with limited personnel. If additional time is permitted, a response to this Interrogatory, together with documents requested in Staff's Production of Documents Request No. 1, may be possible.

3. Please list the collection steps taken by VCI if a customer does not pay his monthly bill when due.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. Without waiving these objections, VCI will respond.

4. Did VCI use AT&T Wholesale Local Platform (WLP) lines (formerly UNEs) to provision any customers from June 1, 2006, through November 30, 2006? If so, please list how many WLP lines were purchased each month.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not

reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

5. Please provide a spreadsheet showing by month the number of Wholesale Local Platform lines and the number of resale Lifeline lines VCI purchased from AT&T-Florida since becoming an ETC in Florida.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

6. Please provide a schedule showing all monthly payments made to AT&T Florida. For each month show the amount paid to AT&T, the date the payment was made, and the reconciliation with the PSC's regulatory assessment form.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's

operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

7. Has VCI been receiving a \$10.00 credit from AT&T for each Lifeline resale line purchased from AT&T?

a. Has VCI filed for and received reimbursement of \$10.00 from USAC for any resale Lifeline lines purchased from AT&T?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

8. Has VCI received a \$23.00 credit from AT&T for Link-Up on Lifeline resale lines purchased from AT&T?

a. Has VCI filed for and received reimbursement of \$30.00 from USAC for any Link-Up for resale Lifeline lines purchased from AT&T?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's

operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

9. When a VCI customer calls the 1-800 VCI number to obtain directory assistance, what database is used to provide the requested number? Please provide the name of the database provider and cost to VCI to use the database. VCI's price list on file with the PSC shows a \$2.00 per call charge for directory assistance. Is this information current?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. Without waiving these objections, VCI will respond to the extent the Interrogatory requests information as to VCI's price listed per call charge for directory assistance.

10. Does VCI claim pro rata amounts on USAC Florida Form 497 for Lifeline customers whose service is initiated during the month or whose service is disconnected during the month? If not, why not?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI

further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

11. Order FCC 07-148, released August 15, 2007, addressed duplicate USF reimbursements received by VCI and inaccurate Form 497 forms filed with USAC by VCI for the states of Oregon, Washington, and Minnesota. Has VCI returned excess reimbursements to USAC or filed revised Form 497 forms for any of these states?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. VCI further objects to this Interrogatory to the extent it seeks information covered by attorney-client and/or attorney work product privileges.

12. Has VCI refiled any Florida Form 497 forms with USAC, or reimbursed USAC for any disbursements for Florida to date? If so, were the duplicate number of Link-Up lines claimed by VCI and discovered in staff's audit corrected?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI

further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

13. Were any Florida Form 497s revised on June 15, 2007? If so, please describe what necessitated the revisions and what were they?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

15. Does AT&T provide VCI with toll limitation service for each Lifeline resale customer at no charge to VCI?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

16. In its January 16, 2008, response, VCI asserts that its incremental cost of TLS is calculated using a non-recurring equipment cost of \$803,900 and a recurring cost of \$17,142.50 per month. Since receiving ETC disbursements from USAC in January 2004, VCI has received \$7,839,139 in TLS reimbursements from USAC for all states. A \$17,142.50 recurring cost per month for 38 months (Jan 2004-February 2008) totals \$651,415. Adding the non-recurring equipment cost of \$803,900 totals \$1,455,315. Please explain what the remaining \$6,383,824 received from USAC by VCI for TLS was used for.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

17. What is the physical location of all equipment listed in VCI's response to staff's post-audit question number one and which VCI asserts is used exclusively for toll limitation service?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The

Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

18. Please define what the ESS-Phone switching system is and the functions it performs besides TLS?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

19. Please define what the Inter-tel IP-Phone system is and the functions it performs besides TLS?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

20. Please define what the Mercom-Monitoring & recording/computer system is and the functions it performs besides TLS?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

21. Please define what a Main Computer router is and what functions it performs besides TLS?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

22. Please explain the function of MPLS and how it is used to provide TLS.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI

further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

23. Please define what the MPLS routers are and what functions they perform besides TLS?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

24. Please define what the T-1s are and what functions they perform besides TLS?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

25. What other functions do the four personnel (identified in response to post-audit question number one) perform besides TLS functions?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

26. Please provide a spreadsheet showing the different allocation of TLS costs among each of the states where VCI is provided Lifeline service for the month of December 2007.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

27. In its January 16, 2008 response, VCI provided the monthly investment to be recouped and the total customers needed per month to meet the goal. Please provide a spreadsheet showing how these costs were broken down by each state which VCI had ETC status in and identify how many of the customers were served through Lifeline resale lines and how many were served through WLP lines.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

28. With regards to the AT&T toll restriction, which is provided to VCI for Lifeline customers, please respond to the following requests.

a. Can a VCI Lifeline customer dial 411? If so, to whom is the customer connected?

b. Can a VCI Lifeline customer dial 0+? If so, to whom is the customer connected?

c. Can a VCI Lifeline customer dial 0 and receive an operator? If so, is it an AT&T operator, VCI operator, or other?

d. Please provide a spreadsheet showing the amount of AT&T 411 charges and the amount of AT&T toll connection charges incurred on Lifeline accounts in Florida each month by VCI since becoming an ETC in Florida.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

For following request, please refer to VCI's January 16, 2008, response to staff post-audit question number three.

29. In the January 16, 2008, response, VCI states that for December 2007, it invoiced 5,409 total VCI customers and 4,912 Lifeline customers. Did VCI have a total of 10,321 customers or a total of 5,409 customers and of those 4,912 were Lifeline customers?

a. How many Lifeline customers did VCI have in December 2007 in all states where VCI is providing service?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

For the following request, please refer to VCI's January 16, 2008, response to staff post-audit question number four.

30. In response to post-audit question number four, VCI states that it had overcharged the E911 fee on 17,817 access lines from August 2006 through January 2008. Payments to Florida Telecommunications Relay, Inc. from August 2006 through November 2007 show a total of 49,917 lines (not including September 2007 where no filing was made). Also, from June 2006 through November 2007, VCI claimed 77,188 lines on the Florida Form 497s filed with USAC. Please explain the discrepancies in the line numbers.

Response: Because of VCI's Response to Interrogatory No. 14 above, VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory on the ground that responding would be unduly burdensome for VCI. Responding to this Interrogatory

would entail reviewing thousands of bills issued by the company over nearly two years and countless hours of staff time, during which staff will be unable to fulfill duties necessary to the company's core business. VCI is a small company with limited staff.

31. Has VCI claimed or received reimbursement from USAC for any Lifeline customers who did not have an active access line? If so, please explain why.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

32. Please provide a spreadsheet showing for the time period June of 2006 through March 2008 (by month) the number of VCI Florida customers on the first of each month, the number of customers added each month and the number of customers disconnected each month since becoming an ETC in Florida. Also note whether or not these customers were Lifeline customers.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. VCI further objects to this Interrogatory on the ground that responding would be unduly burdensome for VCI. Responding to this Interrogatory would entail reviewing thousands of bills issued by the company over nearly two years and countless hours of

staff time, during which staff will be unable to fulfill duties necessary to the company's core business. VCI is a small company with limited staff.

33. Has VCI requested copies of VCI information which was provided to the PSC under subpoena from AT&T? If so, please describe when? If it was requested from AT&T, when did VCI receive the information?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction.

34. Please provide a spreadsheet showing all employees on VCI's payroll, their job functions, and the location of their workplace. If sub-contractors are used to provide services, provide the name of the sub-contractor, the amount paid to the sub-contractor in 2007, and job functions they perform on behalf of VCI.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

35. Please provide a spreadsheet showing:

- a. all states in which VCI has applied for ETC status;
- b. the date in which ETC status was approved if it was granted;

- c. which states VCI withdrew its request for ETC status and the reason why;
- d. which states VCI withdrew its ETC status and the reason why;
- e. which states where VCI has ETC petitions pending.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

36. What is the present status of the FCC's Notice of Apparent Liability for Forfeiture and Order (FCC 07-148, released August 15, 2007)?

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. Without waiving these objections, VCI will respond.

For the following request please refer to page 11, lines 2-3 of the February 12, 2008 agenda conference Item 4 transcript.

38. At the February 12, 2008 agenda conference, Mr. Johnson stated that "...we bill no different than any of the other wireless carriers there. The billing system we developed comes from a Verizon, or AT&T." Please explain to what Mr. Johnson is referring.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. Without waiving these objections, VCI will respond.

For the following request please refer to page 41, lines 15-21 of the February 12, 2008 agenda conference Item 4 transcript.

38. At the February 12, 2008 agenda, Mr. Johnson stated that:

"We are in a one-year contract, one-year agreement with every customer based on the FCC's rules, and we are not allowed to collect early on any of those customers until the year is up. So every single month whether the line is active or not, which there's no rules in the FCC rules that says the line has to be active. Every month they get a connection fee.

Has VCI claimed Lifeline reimbursement from USAC for any VCI customers who have signed a contract, but have no active service? If so, list the customers and any money claimed for reimbursement.

Response: VCI objects to this Interrogatory in its entirety on the grounds that it seeks information that is irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Interrogatory to the extent that it seeks information concerning VCI's

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operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

OBJECTIONS TO STAFF'S FIRST SET OF PRODUCTION OF DOCUMENTS (NOS. 1 - 10)

1. Please provide copies of all monthly bills for each VCI Florida customer since becoming an ETC in Florida.

Response: VCI objects to this Request on the grounds that it is overbroad and production of such documents would be unduly burdensome. Producing thousands of bills issued by the company over nearly two years would require countless staff hours. As VCI is a small company with limited staff, staff assigned to this task would be unable to perform their normal duties necessary to the company's core business. Without waiving these objections, VCI responds that, if additional time is permitted, production of these documents, together with the information requested in Staff's Interrogatory No. 2, may be possible.

2. Please provide invoices and proof of payment for all equipment asserted to be used exclusively for TLS (see post-audit response to question number one). If it is not shown on the invoice, list the brand and model number of each piece of equipment listed in response to staff post-audit question number one regarding TLS.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request to the extent that it seeks production of documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The

Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

3. Please provide copies of all AT&T-Florida billing to VCI for from June 2006 through March 2008, since becoming an ETC in Florida.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request to the extent that it seeks production of documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

4. Please provide invoices for all Lifeline advertising contracted and paid for in the state of Florida since becoming an ETC in Florida.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request to the extent that it seeks production of documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

5. Please provide copies of all Form 497 forms filed with the Universal Service Administrative Company for Florida since becoming an ETC in Florida.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request to the extent that it seeks production of documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

6. Please provide copies of any contracts between VCI and Lifeline customers, and any VCI contracts between VCI and non-Lifeline customers

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request to the extent that it seeks production of documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

7. Please provide any contracts or agreements from June 2006 through March 2008 with any vendors, agents or other parties that have supplied or are presently supplying equipment or services to VCI in or for the state of Florida.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further

objects to this Request to the extent that it seeks production of documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court.

8. Please provide VCI Florida corporate income tax returns for 2006 and 2007.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction.

9. Provide copies of VCI's June 13, 2007, June 21, 2007, and July 12, 2007 responses furnished to the FCC in response to the FCC Letters of Inquiry referenced in Order No. FCC 07-148 (¶ 10), released August 15, 2007, along with any other correspondence with the FCC regarding the allegations against VCI included in FCC 07-148.


Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request on the ground that it seeks documents concerning VCI's operations as an ETC, which are governed solely by federal law and regulation. The Commission's attempt to assert jurisdiction over such matters raises federal questions to be adjudicated in Federal District Court. VCI further objects to this Request to the extent it seeks the production of documents deemed non-public or confidential.

10. Please provide copies of all FTRF payments and remittance forms for the Florida relay surcharge from June 2006 through March 2008.

Response: VCI objects to this Request in its entirety on the grounds that it seeks documents that are irrelevant, not likely to lead to the discovery of admissible evidence and not reasonably necessary for the disposition of matters within the Commission's jurisdiction. VCI further objects to this Request on the grounds that production would be burdensome and duplicative because such documents are available to the Commission directly from the FTRI and the Commission has, in fact, obtained such documents.

Respectfully submitted this 7th day of April, 2008.

Respectfully submitted this 7th day of April,
2008,

By: 
Beth Keating, Esquire
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com
and

Stacey Klinzman
Regulatory Attorney
VCI Company
2228 S. 78th Street
Tacoma, WA 98409-9050
Telephone: (253) 830-0056
Facsimile: (253) 475-6328
Electronic mail: staceyk@vcicompany.com

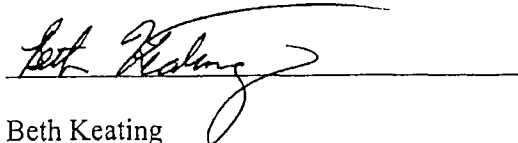
Attorneys for Vilaire Communications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via US Mail and Electronic Mail* to the persons listed below this 7th day of April, 2008:

Lee Eng Tan, Senior Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 LTan@psc.state.fl.us	
Adam Teitzman, Supervising Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 ateitzma@psc.state.fl.us	Beth Salak, Director/Competitive Markets and Enforcement* 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 bsalak@psc.state.fl.us

By:



Beth Keating
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
Fax: (850) 222-0103
beth.keating@akerman.com

5 Continued



Fort Lauderdale
Jacksonville
Los Angeles
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Miami
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Orlando
Tallahassee
Tampa
Tysons Corner
Washington, DC
West Palm Beach

Suite 1200
106 East College Avenue
Tallahassee, FL 32301
www.akerman.com
850 224 9634 tel 850 222 0103 fax

April 15, 2008

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 080065-TX - In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.

Dear Ms. Cole:

Enclosed for electronic filing in the above-referenced Docket, please find Vilaire Communications, Inc.'s Notice of Service of Responses and Objections to Staff's First Set of Interrogatories (1 – 38) and Requests for Production of Documents (Nos. 1 – 10), submitted this day on behalf of Vilaire Communications, Inc.

If you have any questions whatsoever, please do not hesitate to contact me.

Sincerely,

Beth Keating
AKERMAN SENTERFITT
106 East College Avenue, Suite 1200
Tallahassee, Fl. 32302-1877
Phone: (850) 224-9634
Fax: (850) 222-0103

Enclosures

cc: Stacey Klinzman

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire
Communications, Inc.'s eligible
telecommunications carrier status and
competitive local exchange company
certificate status in the State of Florida. | DOCKET NO. 080065-TX
DATED: APRIL 15, 2008

VILAIRE COMMUNICATIONS, INC.'S NOTICE OF SERVICE OF RESPONSES TO
STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 - 38) AND
STAFF'S FIRST SET OF PRODUCTION OF DOCUMENTS (NOS. 1 - 10)

COMES NOW, VCI Company, doing business in Florida as Vilaire Communications,
Inc. ("VCI"), by and through its undersigned attorney and submits notice of service of its
responses to the Florida Public Service Commission Staff's First Set of Interrogatories (Nos. 1-
38) and First Set of Production of Documents Requests (Nos. 1 - 10).

Respectfully submitted this 15th day of April, 2008.

By: 

Beth Keating, Esquire
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com
and

Stacey Klinzman
Regulatory Attorney
VCI Company
2228 S. 78th Street
Tacoma, WA 98409-9050
Telephone: (253) 830-0056
Facsimile: (253) 475-6328
Electronic mail: staceyk@vcicompany.com

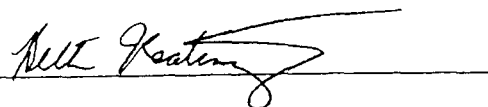
Attorneys for Vilaire Communications, Inc

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via US Mail and Electronic Mail* to the persons listed below this 15th day of April, 2008:

Lee Eng Tan, Senior Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 LTan@psc.state.fl.us	
Adam Teitzman, Supervising Attorney* Florida Public Service Commission, Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 ateitzma@psc.state.fl.us	Beth Salak, Director/Competitive Markets and Enforcement* 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 bsalak@psc.state.fl.us

By:



Beth Keating
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
Fax: (850) 222-0103
beth.keating@akerman.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.	DOCKET NO. 080065-TX DATED: APRIL <u>15</u> , 2008
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VILAIRE COMMUNICATIONS, INC.'S RESPONSES TO
STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 - 38) AND
STAFF'S FIRST SET OF PRODUCTION OF DOCUMENTS (NOS. 1 - 10)

COMES NOW, VCI Company, doing business in Florida as Vilaire Communications, Inc. ("VCI"), and responds to Staff's First Set of Interrogatories (Nos. 1-38) ("Interrogatories") and Staff's First Set of Production of Documents (Nos. 1-10) ("Requests") as follows. Staff's Interrogatories and Requests are collectively referred to as "Staff's Discovery" and responses to Staff's Discovery are defined as "Responses."

PRELIMINARY STATEMENT

All of the following Responses to Staff's Discovery are provided without waiving the objections made thereto in Vilaire Communications, Inc.'s Objections to Staff's First Set of Interrogatories (Nos. 1-38) and Production of Documents (1-10), filed with the Florida Public Service Commission ("Commission") on April 7, 2008 ("VCI's Objections" or the "Objections").

Furthermore, VCI has not completed investigation of all the facts of this proceeding or discovery in or analysis of the matters as issue in this proceeding and has not completed preparation for hearing. Accordingly, all of the following responses are provided without prejudice to VCI's right to introduce at hearing any evidence that is subsequently discovered relating to proof of presently known facts, and to produce and introduce all evidence whenever

discovered relating to the proof of subsequently discovered material facts. Moreover, facts, documents, and things now known may be imperfectly understood and, accordingly, such facts, documents and things may not be included in the following responses. VCI reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of hearing any and all facts, documents and things notwithstanding the initial responses provided herein. VCI further reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of hearing any and all facts, documents and things which it does not presently recall but may recall at some time in the future. Finally, VCI reserves all rights to object as to the competence, relevance, materiality and admissibility of the Responses.

VCI'S RESPONSES TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-38)

1. Please provide a definition of the term "resale."

Response: See VCI's Objections.

2. For the following request, please refer to each monthly bill provided in Production of Documents Request No. 1.

- a. Please list the date payment was received from the customer for that bill. If payment was not received, list the disconnection date, if any, for that customer.
- b. Please list how many monthly bills provided include a late payment charge?
- c. Please list how many monthly bills provided include an incorrect 911 fee?

Response: See VCI's Objections. Without waiving the Objections, VCI responds that if additional time is permitted, a Response to this Interrogatory, together with documents requested in Staff's Production of Documents Request No. 1, may be possible.

3. Please list the collection steps taken by VCI if a customer does not pay his monthly bill when due.

Response: See VCI's Objections. Without waiving the Objections, VCI responds as follows:

On or just after the 16th day after the date of the invoice, VCI issues a notice to the customer requesting immediate payment and informing the customer that service will be disconnected if payment is not received within fourteen (14) days of the date of the notice. In addition to the customer notice, VCI makes autodial calls to its nonpaying customers, reminding them that payment is due and disconnection may occur if payment is not received. Autodial calls are made each day until the last day payment may be received pursuant to the notice. If payment is not received, the company initiates disconnection procedures with the LEC.

4. Did VCI use AT&T Wholesale Local Platform (WLP) lines (formerly UNEs) to provision any customers from June 1, 2006, through November 30, 2006? If so, please list how many WLP lines were purchased each month.

Response: See VCI's Objections.

5. Please provide a spreadsheet showing by month the number of Wholesale Local Platform lines and the number of resale Lifeline lines VCI purchased from AT&T-Florida since becoming an ETC in Florida.

Response: See VCI's Objections.

6. Please provide a schedule showing all monthly payments made to AT&T Florida. For each month show the amount paid to AT&T, the date the payment was made, and the reconciliation with the PSC's regulatory assessment form.

Response: See VCI's Objections.

7. Has VCI been receiving a \$10.00 credit from AT&T for each Lifeline resale line purchased from AT&T?

Response: See VCI's Objections.

8. Has VCI received a \$23.00 credit from AT&T for Link-Up on Lifeline resale lines purchased from AT&T?

a. Has VCI filed for and received reimbursement of \$30.00 from USAC for any Link-Up for resale Lifeline lines purchased from AT&T?

Response: See VCI's Objections.

9. When a VCI customer calls the 1-800 VCI number to obtain directory assistance, what database is used to provide the requested number? Please provide the name of the database provider and cost to VCI to use the database. VCI's price list on file with the PSC shows a \$2.00 per call charge for directory assistance. Is this information current?

Response: See VCI's Objections. Without waiving the Objections, VCI responds that the \$2.00 per call charge listed in VCI's tariff is current.

10. Does VCI claim pro rata amounts on USAC Florida Form 497 for Lifeline customers whose service is initiated during the month or whose service is disconnected during the month? If not, why not?

Response: See VCI's Objections.

11. Order FCC 07-148, released August 15, 2007, addressed duplicate USF reimbursements received by VCI and inaccurate Form 497 forms filed with USAC by VCI for the states of Oregon, Washington, and Minnesota. Has VCI returned excess reimbursements to USAC or filed revised Form 497 forms for any of these states?

Response: See VCI's Objections.

12. Has VCI refiled any Florida Form 497 forms with USAC, or reimbursed USAC for any disbursements for Florida to date? If so, were the duplicate number of Link-Up lines claimed by VCI and discovered in staff's audit corrected?

Response: See VCI's Objections.

13. Were any Florida Form 497s revised on June 15, 2007? If so, please describe what necessitated the revisions and what were they?

Response: See VCI's Objections.

14. Has VCI made any refunds to Florida customers for excess E-911 fees collected?

Response: Yes.

15. Does AT&T provide VCI with toll limitation service for each Lifeline resale customer at no charge to VCI?

Response: See VCI's Objections.

For Request Nos. 16-27, please refer to VCI's January 16, 2008, response to staff post-audit question number one.

16. In its January 16, 2008, response, VCI asserts that its incremental cost of TLS is calculated using a non-recurring equipment cost of \$803,900 and a recurring cost of \$17,142.50 per month. Since receiving ETC disbursements from USAC in January 2004, VCI has received \$7,839,139 in TLS reimbursements from USAC for all states. A \$17,142.50 recurring cost per month for 38 months (Jan 2004-February 2008) totals \$651,415. Adding the non-recurring equipment cost of \$803,900 totals \$1,455,315. Please explain what the remaining \$6,383,824 received from USAC by VCI for TLS was used for.

Response: See VCI's Objections.

17. What is the physical location of all equipment listed in VCI's response to staff's post-audit question number one and which VCI asserts is used exclusively for toll limitation service?

Response: See VCI's Objections.

18. Please define what the ESS-Phone switching system is and the functions it performs besides TLS?

Response: See VCI's Objections.

19. Please define what the Inter-tel IP-Phone system is and the functions it performs besides TLS?

Response: See VCI's Objections.

20. Please define what the Mercom-Monitoring & recording/computer system is and the functions it performs besides TLS?

Response: See VCI's Objections.

21. Please define what a Main Computer router is and what functions it performs besides TLS?

Response: See VCI's Objections.

22. Please explain the function of MPLS and how it is used to provide TLS.

Response: See VCI's Objections.

23. Please define what the MPLS routers are and what functions they perform besides TLS?

Response: See VCI's Objections.

24. Please define what the T-1s are and what functions they perform besides TLS?

Response: See VCI's Objections.

25. What other functions do the four personnel (identified in response to post-audit question number one) perform besides TLS functions?

Response: See VCI's Objections.

26. Please provide a spreadsheet showing the different allocation of TLS costs among each of the states where VCI is provided Lifeline service for the month of December 2007.

Response: See VCI's Objections.

27. In its January 16, 2008 response, VCI provided the monthly investment to be recouped and the total customers needed per month to meet the goal. Please provide a spreadsheet showing

how these costs were broken down by each state which VCI had ETC status in and identify how many of the customers were served through Lifeline resale lines and how many were served through WLP lines.

Response: See VCI's Objections.

28. With regards to the AT&T toll restriction, which is provided to VCI for Lifeline customers, please respond to the following requests.

- a. Can a VCI Lifeline customer dial 411? If so, to whom is the customer connected?
- b. Can a VCI Lifeline customer dial 0+? If so, to whom is the customer connected?
- c. Can a VCI Lifeline customer dial 0 and receive an operator? If so, is it an AT&T operator, VCI operator, or other?
- d. Please provide a spreadsheet showing the amount of AT&T 411 charges and the amount of AT&T toll connection charges incurred on Lifeline accounts in Florida each month by VCI since becoming an ETC in Florida.

Response: See VCI's Objections.

For following request, please refer to VCI's January 16, 2008, response to staff post-audit question number three.

29. In the January 16, 2008, response, VCI states that for December 2007, it invoiced 5,409 total VCI customers and 4,912 Lifeline customers. Did VCI have a total of 10,321 customers or a total of 5,409 customers and of those 4,912 were Lifeline customers?

- a. How many Lifeline customers did VCI have in December 2007 in all states where VCI is providing service?

Response: See VCI's Objections.

For the following request, please refer to VCI's January 16, 2008, response to staff post-audit question number four.

30. In response to post-audit question number four, VCI states that it had overcharged the E911 fee on 17,817 access lines from August 2006 through January 2008. Payments to Florida Telecommunications Relay, Inc. from August 2006 through November 2007 show a total of 49,917 lines (not including September 2007 where no filing was made). Also, from June 2006

through November 2007, VCI claimed 77,188 lines on the Florida Form 497s filed with USAC.

Please explain the discrepancies in the line numbers.

Response: See VCI's Objections.

31. Has VCI claimed or received reimbursement from USAC for any Lifeline customers who did not have an active access line? If so, please explain why.

Response: See VCI's Objections.

32. Please provide a spreadsheet showing for the time period June of 2006 through March 2008 (by month) the number of VCI Florida customers on the first of each month, the number of customers added each month and the number of customers disconnected each month since becoming an ETC in Florida. Also note whether or not these customers were Lifeline customers.

Response: See VCI's Objections.

33. Has VCI requested copies of VCI information which was provided to the PSC under subpoena from AT&T? If so, please describe when? If it was requested from AT&T, when did VCI receive the information?

Response: See VCI's Objections.

34. Please provide a spreadsheet showing all employees on VCI's payroll, their job functions, and the location of their workplace. If sub-contractors are used to provide services, provide the name of the sub-contractor, the amount paid to the sub-contractor in 2007, and job functions they perform on behalf of VCI.

Response: See VCI's Objections.

35. Please provide a spreadsheet showing:

- a. all states in which VCI has applied for ETC status;
- b. the date in which ETC status was approved if it was granted;
- c. which states VCI withdrew its request for ETC status and the reason why;
- d. which states VCI withdrew its ETC status and the reason why;

e. which states where VCI has ETC petitions pending.

Response: See VCI's Objections.

36. What is the present status of the FCC's Notice of Apparent Liability for Forfeiture and Order (FCC 07-148, released August 15, 2007)?

Response: See VCI's Objections. Without waiving the Objections, VCI responds that the FCC has not issued a final order.

For the following request please refer to page 11, lines 2-3 of the February 12, 2008 agenda conference Item 4 transcript.

37. At the February 12, 2008 agenda conference, Mr. Johnson stated that "we do believe we have some wrongdoing." Describe what "wrongdoing" Mr. Johnson was speaking of.

Response: VCI responds that, Mr. Johnson merely meant by that statement that VCI, like all carriers, has operational systems that are imperfect and employs imperfect human beings. By "wrong-doing," Mr. Johnson meant inadvertent errors that are made from time to time because of these imperfect systems as well as human error.

For the following request please refer to page 41, lines 7-9 of the February 12, 2008 agenda conference Item 4 transcript.

38. At the February 12, 2008 agenda conference, Mr. Johnson stated that "...we bill no different than any of the other wireless carriers there. The billing system we developed comes from a Verizon, or AT&T." Please explain to what Mr. Johnson is referring.

Response: See VCI's Objections. Without waiving the Objections, VCI responds that, like wireless carriers, VCI continues to bill and issue late payment notices to customer who have been disconnected for non-payment of service.

For the following request please refer to page 41, lines 15-21 of the February 12, 2008 agenda conference Item 4 transcript.

39. At the February 12, 2008 agenda, Mr. Johnson stated that:

“We are in a one-year contract, one-year agreement with every customer based on the FCC’s rules, and we are not allowed to collect early on any of those customers until the year is up. So every single month whether the line is active or not, which there’s no rules in the FCC rules that says the line has to be active. Every month they get a connection fee.”

Has VCI claimed Lifeline reimbursement from USAC for any VCI customers who have signed a contract, but have no active service? If so, list the customers and any money claimed for reimbursement.

Response: See VCI’s Objections.

VILAIRE COMMUNICATIONS, INC.’S RESPONSES TO STAFF’S FIRST SET OF
PRODUCTION OF DOCUMENTS (NOS. 1 - 10)

1. Please provide copies of all monthly bills for each VCI Florida customer since becoming an ETC in Florida.

Response: See VCI’s Objections. Without waiving the Objections, VCI responds that, if additional time is permitted, production of these documents, together with the information requested in Staff’s Interrogatory No. 2, may be possible.

2. Please provide invoices and proof of payment for all equipment asserted to be used exclusively for TLS (see post-audit response to question number one). If it is not shown on the invoice, list the brand and model number of each piece of equipment listed in response to staff post-audit question number one regarding TLS.

Response: See VCI’s Objections.

3. Please provide copies of all AT&T-Florida billing to VCI for from June 2006 through March 2008, since becoming an ETC in Florida.

Response: See VCI's Objections.

4. Please provide invoices for all Lifeline advertising contracted and paid for in the state of Florida since becoming an ETC in Florida.

Response: See VCI's Objections.

5. Please provide copies of all Form 497 forms filed with the Universal Service Administrative Company for Florida since becoming an ETC in Florida.

Response: See VCI's Objections.

6. Please provide copies of any contracts between VCI and Lifeline customers, and any VCI contracts between VCI and non-Lifeline customers

Response: See VCI's Objections.

7. Please provide any contracts or agreements from June 2006 through March 2008 with any vendors, agents or other parties that have supplied or are presently supplying equipment or services to VCI in or for the state of Florida.

Response: See VCI's Objections.

8. Please provide VCI Florida corporate income tax returns for 2006 and 2007.

Response: See VCI's Objections.

9. Provide copies of VCI's June 13, 2007, June 21, 2007, and July 12, 2007 responses furnished to the FCC in response to the FCC Letters of Inquiry referenced in Order No. FCC 07-148 (¶ 10), released August 15, 2007, along with any other correspondence with the FCC regarding the allegations against VCI included in FCC 07-148.

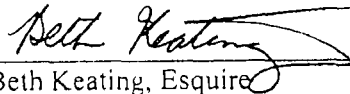
Response: See VCI's Objections.

10. Please provide copies of all FTRI payments and remittance forms for the Florida relay surcharge from June 2006 through March 2008.

Response: See VCI's Objections.

Respectfully submitted this 15th day of April, 2008.

By:



Beth Keating, Esquire
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com

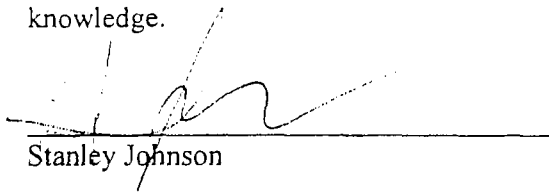
and

Stacey Klinzman
Regulatory Attorney
VCI Company
2228 S. 78th Street
Tacoma, WA 98409-9050
Telephone: (253) 830-0056
Facsimile: (253) 475-6328
Electronic mail: staceyk@vcicompany.com

Attorneys for Vilaire Communications, Inc.

RESPONSES TO STAFF'S FIRST SET OF
INTERROGATORIES TO VILAIRE COMMUNICATIONS (NOS. 1 - 38)
DOCKET NO. 080065-TX

I do hereby attest that the foregoing responsive answers provided to Staff's First Set of Interrogatories to Vilaire Communications (Nos. 1 - 38) are true and correct to the best of my knowledge.


Stanley Johnson


As to VILAIRE'S Responses to Staff's First Set of Interrogatories Nos. 1 - 38

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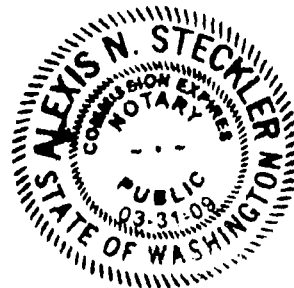
STATE OF WASHINGTON)
)
COUNTY OF PIERCE) SS: Tacoma

I hereby certify that on this 11th day of April, 2008, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Stanley Johnson, who is personally known to me, and who acknowledged before me that he provided or reviewed the Responses provided to Staff's First Set of Interrogatories to Vilaire in Docket No. 080065-TX, and that responsive answers provided to the aforesaid Interrogatories are true and correct to the best of his personal knowledge.

IN WITNESS WHEREOF, I have hereunto set my hand and seal in the State and County set forth above as of this 11th day of April, 2008.


Alexis Steckler, Notary Public in and For the State of Washington residing at Pierce County.

My Commission Expires: 3.31.09



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida. DOCKET NO. 080065-TX DATED: APRIL 22, 2008

RECEIVED-FPSC 08 APR 22 PM 3:51 COMMISSION CLERK

MOTION TO COMPEL DISCOVERY FROM VILAIRE COMMUNICATIONS, INC.

The staff of the Florida Public Service Commission, by and through its undersigned counsel, and pursuant to Rules 28-106.204 and 28-106.211, Florida Administrative Code, moves the Florida Public Service Commission (Commission) or the prehearing officer to enter an order compelling Vilaire Communications, Inc. (VCI) to fully respond to the Commission Staff's First Set of Interrogatories Nos. 1 - 13, 15 - 36 and 39 and Production of Documents (POD) 1-10, no later than 12:00 noon, Wednesday, April 30, 2008. Staff served VCI with its discovery requests on March 31, 2008. As grounds therefore, staff states:

This docket is an investigation into whether VCI has failed to properly conduct themselves pursuant to its obligations as an eligible telecommunications carrier (ETC). The Commission granted VCI's Petition for ETC Designation by Order No. PSC-06-0436-PAA-TX, issued May 22, 2006. VCI's purpose for acquiring ETC status was solely to provide Link Up and Lifeline services to low-income Florida consumers. By Proposed Agency Action Order No. PSC-08-0090-PAA-TX (PAA Order), issued on February 13, 2008, the Commission proposed to rescind VCI's ETC status and to cancel its competitive local exchange company certificate (CLEC).

On March 5, 2008, VCI filed a Protest of the PAA Order and Petition for Formal Hearing, requesting the Commission rescind the PAA Order and close the docket, or, alternatively, set this matter for a Section 120.57(1), Florida Statutes, hearing. VCI stated a hearing was necessary to resolve any disputed issues of fact and law, and to allow VCI a full opportunity to present evidence and arguments as to why the PAA Order should be rescinded.

CMP COM

On March 13, 2008, VCI and staff participated in an Issue Identification Conference, where both parties reached agreement on the inclusion of 11 issues to be considered by the Commission. An Order Establishing Procedure No. PSC-08-0194-PCO-TX (OEP) was issued by advisory staff on March 26, 2008, setting this matter for hearing on June 4, 2008.

CTR ECR GCL OPC

On March 31, 2008, staff served VCI with Commission Staff's First Set of Interrogatories (Nos. 1 - 39) and Production of Documents Nos. (1-10), requesting that the documents be produced with 15 days of service, pursuant to Rules 1.340 and 1.350, Florida

RCA SCR SGA

Docket No. 060144-TX, In re: Petition for designation as eligible telecommunications carrier (ETC) by Vilaire Communications, Inc.

SEC

Staff notes that it was during this meeting where it first notified VCI that it would be seeking production of all customers and company bills through discovery.

OTH

DOCUMENT NUMBER - DATE

13276 APR 22 08

DOCUMENT NUMBER - DATE

FPSC-COMMISSION CLERK

04079 MAY 16 08

FPSC-COMMISSION CLERK

Rules of Civil Procedure.³ On April 7, 2008, VCI filed their Objections to Commission Staff's First Set of Discovery. VCI asserted both general and specific objections which will be addressed by staff below.

Staff counsel has conducted several phone calls with counsel for VCI in an attempt to resolve VCI's objections however, the parties were unable to reach resolution.

Relevancy

The Commission has consistently recognized that discovery is proper and may be compelled if it is not privileged and is or likely will lead to relevant and admissible information.⁴ Specifically, the Commission has ruled that:

The test for determining whether discovery is appropriate is set forth in Rule 1.280(b)(1) of the Florida Rules of Civil Procedure, providing that "parties may obtain discovery regarding any matter, not privileged, that is relevant for the subject matter of the pending action...It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Section 90.401 of the Florida Evidence Code defines "relevance" as evidence tending to prove or disprove a material fact.⁵

VCI objects that Commission staff seeks through discovery information that is irrelevant and not likely to lead to the discovery of admissible evidence. VCI's general objection that staff's requests are "irrelevant" or "not reasonably calculated to lead to the discovery of admissible evidence" provide little or no basis for refusing to respond to staff's discovery requests. Relying on these objections, VCI has produced minimal information regarding its costs and has failed to provide its Lifeline, Link Up and Retail billing data. Similarly, VCI refuses to provide any information regarding the technical and managerial functions utilized in provisioning Lifeline and Link Up services to Florida consumers, claiming such information is

³, Fla. R. Civ. Pro., Rule 1.340, Interrogatories to Parties, and Rule 1.350, Production of Documents.

⁴ Order No. PSC-07-0787-PHO-TP, *In re: Complaint by DPI-Teleconnect, L.L.C. against BellSouth Telecommunications, Inc. for dispute arising under interconnection agreement.* (information sought appears reasonably calculated to lead to the discovery of admissible evidence and is, therefore, compelled) and Order No. PSC-02-0274-PCO-TP, *In re: Request for arbitration concerning complaint of BellSouth Telecommunications, Inc. against Supra Telecommunications and Information System, Inc for resolution of billing disputes,* and *In re: Request for arbitration concerning complaint of TCG South Florida and Teleport Communications Group against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement,* Order No. PSC-01-1300-PCO-TP (where the Commission found that information requested was reasonable calculated to lead to the discovery of admissible evidence and is, therefore, relevant).

⁵ Order No. PSC-93-0652-PCO-WS, *In Re Jasmine Lakes Utilities Corporation,* Docket No. 920148-WS, dated April 28, 1993.

irrelevant to this proceeding. Specifically, VCI objected to Interrogatory Nos. 1, 4 - 13, 15 - 36, and 39 and POD Nos. 2 - 10.

Staff believes VCI's responses to staff's discovery requests will produce information that directly impacts the Commission's consideration of the issues agreed upon by both parties in the instant proceeding. Specifically, staff's requests seek information that is directly related to VCI's operation as an ETC and should to be available for review by the Commission.⁶

VCI's general objection that staff's requests are "irrelevant" and not "reasonably calculated to lead to the discovery of admissible evidence" could not be any further from the truth. Staff firmly believes that the information it seeks through discovery will lead to admissible evidence that directly addresses the matters at issue in this case. As discussed above, staff's discovery requests seek information that will allow the Commission to review exactly how VCI has provisioned Lifeline and Link Up service since it was granted ETC status by the Commission. Such information goes directly to the heart of the matters at issue in this proceeding. Staff believes that without this information, the Commission will be significantly handicapped in reaching a determination of whether VCI is provisioning Lifeline and Link Up services to Florida consumers in compliance with applicable state and federal law. Staff notes that the information it seeks through its discovery requests may actually exonerate VCI by providing the Commission with a complete picture of how VCI provisions Lifeline and Link Up services. Accordingly, staff finds it curious that VCI refuses to provide such information by claiming a lack of relevancy.

Based on the arguments set forth above, staff respectfully requests the Commission reject VCI's relevancy objections and compel responses to Interrogatory Nos. 1, 4 - 13, 15 - 36, and 39 and POD Nos. 2 - 10.

Jurisdiction

In addition to relevancy, VCI objects to several requests on jurisdictional grounds. Specifically, VCI objects to Interrogatory Nos. 4 - 13, 15 - 29, 31 - 32, 34 - 36, and 39 and POD Nos. 2 - 6, 7, 9 on the grounds that VCI's operations as an ETC are governed solely by federal law and regulation. VCI states that the Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. Staff acknowledges that the question of the Commission's jurisdiction is an issue in this case. However, staff does not believe that it is appropriately raised as an objection to staff's discovery. Currently, the Commission will resolve the jurisdictional matters at issue in this case subsequent to the evidentiary hearing. Staff notes that as of the filing of this Motion, VCI has not requested the

⁶ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Released March 17, 2005, FCC 05-46 (¶ 71-72) (stating that individual state commissions are uniquely qualified to determine what information is necessary to ensure that ETCs are complying with all applicable requirements, including state-specific ETC eligibility requirements.)

Commission address the jurisdictional issues as threshold legal matters prior to the hearing, nor has VCI indicated any intention to do so.⁷ Therefore, staff believes that VCI's objections to staff's discovery on jurisdictional grounds are nothing more than an attempt to delay the ultimate resolution of this case by the Commission.

If VCI's jurisdictional objections to staff's discovery requests are upheld and the Commission determines it does have authority to rescind VCI's ETC status, the Commission would ultimately lack the factual information in the evidentiary record to address the remaining substantive issues. Such a result would require the re-opening of the evidentiary record and several additional months of delay to conduct discovery before the Commission could resolve this case. Furthermore, VCI has already indicated its intention to appeal a Commission finding of authority to the Federal District Court, potentially creating further delay of the Commission's ultimate resolution of the issues in this proceeding if VCI's jurisdictional objections are upheld.

As discussed above, VCI could have requested the Commission address the legal issues as threshold issues prior to the evidentiary hearing, but it chose not to. Therefore, VCI should not be allowed to refuse to respond to staff's discovery citing the lack of Commission authority over the matters at issue in this proceeding. Stated once again, staff firmly believes the information it seeks through discovery is vital to the Commission's resolution of the agreed upon issues and respectfully request the Commission reject VCI's objections on jurisdictional grounds and compel responses to Interrogatory Nos. 4 - 13, 15 - 29, 31 - 32, 34 - 36, and 39 and POD Nos. 2 - 6, 7, 9.

Burdensome or Overly Broad

VCI also objects to Interrogatory No. 2, 30, 32 and POD Nos. 1 and 10 on the grounds that they are "burdensome" or "overly broad." VCI has stated the preparation, review and production of the requested information would require excessive time to produce and review.

In order to object to discovery on the grounds that it is "burdensome" or "overly broad", a party must delineate the manner in which discovery qualifies as such; First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass'n, Inc., 545 So. 2d 502, 503 (Fla. 4th DCA 1989). As noted above, staff notified VCI at the Issue I.D. of its intention to request the production of these records in order to provide VCI with as much up front notice as feasibly possible. Arguably, upon requesting a hearing, VCI should have expected that such information would be requested. Consequently, staff respectfully requests that VCI's objection that staff's requests are burdensome or overly broad be rejected and that VCI be compelled to fully respond to staff's discovery. Staff notes that it is willing to accept the information in an electronic format to further alleviate any alleged burden on VCI.

⁷ It is staff's belief that such a request should have been made prior to the issuance of the OEP and that if VCI was to make such a request at this time it would only serve to delay resolution of this case.

In the alternative, if the Commission finds that staff's requests are burdensome or overly broad, staff respectfully requests the Commission require VCI to provide 4 complete months of billing, with the specific months to be provided by staff.

Attorney-Client privilege

VCI objects to Interrogatory No. 11 stating that the information is proprietary or protected by attorney client privilege. VCI states that they object to Interrogatory No. 11 to the extent that staff seeks information covered by attorney-client and/or attorney work product privileges. VCI also objects to information deemed non-public or confidential. VCI has not attempted to "describe the nature of the documents, communications or things not produced or disclosed" as is required by Rule 1.280(b)(5) of the Discovery Rules.⁸ Accordingly, staff respectfully requests VCI's objections regarding privilege be rejected and the requested information be compelled.

Employee information

VCI objects to Interrogatory Nos. 25 and 34 asserting that the requested information about VCI employees is an invasion of the privacy interests and rights of its employees. VCI has addressed these employees in previously received responses to staff's data requests and explained that its employees were directly employed for VCI's TLS functions. Staff is simply requesting the full descriptions and functions of the four VCI employees to determine whether these employees are utilized for other non-TLS functions. Low Income support for TLS is available only for incremental costs that are associated exclusively with toll limitation service. Therefore, this information will enable the Commission to determine whether VCI is appropriately seeking reimbursement from USAC of its costs for provisioning TLS functions. Consequently, staff respectfully requests the Commission reject VCI's objection that the information requested in Interrogatory Nos. 25 and 34 are an invasion of its employees' privacy interests and compel VCI to respond to Interrogatory Nos. 25 and 34.

Requested response date

As discussed above, staff firmly believes that each of its discovery requests are relevant, and will lead to the discovery of admissible evidence. In order for staff to have a meaningful opportunity to review the discovery responses and utilize them in preparation for the evidentiary hearing, which is set for Wednesday, June 4, 2008 at 9:30 a.m., staff respectfully requests that VCI be compelled to provide full and complete responses to Staff's First Set of Discovery by 12:00 noon on Wednesday, April 30, 2008.

WHEREFORE, for the foregoing reasons, Commission staff respectfully requests that the Commission grant this Motion to Compel Discovery, and compel that Vilaire Communications,

⁸ See TIG Ins. Corp of America v. Johnson, 799 So. 2d 339 (Fla. 4th DCA 2001)

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Inc. provide full and complete responses to the Commission's First Set of Interrogatories (Nos. 1 - 13, 15 - 36 and 39) and Production of Documents (1-10).

Respectfully submitted this 22nd day of April, 2008.



LEE ENG TAN
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
(850) 413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.	DOCKET NO. 080065-TX DATED: APRIL 22, 2008
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one correct copy of MOTION TO COMPEL DISCOVERY FROM VILAIRE COMMUNICATIONS, INC. has been served by U. S. mail to Beth Keating, Akerman Senterfitt Law Firm, 106 East College Avenue, Suite 1200, Tallahassee, Florida 32301, and that a true copy thereof has been furnished to the following by U. S. mail or by (*) hand delivery this 22nd day of April, 2008.

Vilaire Communications, Inc.
P. O. Box 98907
Lakewood, WA 98496-8907

(*)Rosanne Gervasi
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



LEE ENG TAN
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
(850) 413-6199

FILED NUMBER DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.	DOCKET NO. 080065-TX ORDER NO. PSC-08-0258-PCO-TX ISSUED: April 25, 2008
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ORDER GRANTING MOTION TO COMPEL DISCOVERY

On March 31, 2008, Commission Staff (Staff) served its First Set of Interrogatories (Nos. 1-38) and First Request for Production of Documents (POD Nos. 1-10) on Vilaire Communications, Inc. (VCI). VCI filed general and specific objections thereto on April 7, 2008, and a partial discovery response on April 15, 2008. On April 22, 2008, staff filed a Motion to Compel Discovery, seeking full and complete responses to its first set of discovery requests by 12 p.m. on April 30, 2008. Because the hearing is scheduled to be held on June 4, 2008, I find that time does not allow for VCI to file a response in opposition to the Motion to Compel Discovery within seven days of service.

Relevancy

Among other things, VCI objects to Staff Interrogatory Nos. 1, 4-13, 15-36, and 39 and POD Nos. 2-10 on relevancy grounds. On this basis, VCI has produced minimal information regarding its costs and has failed to provide its Lifeline, Link Up and Retail billing data and any information regarding the technical and managerial functions utilized in provisioning Lifeline and Link Up services to Florida consumers. Staff argues that these discovery requests are for information that directly addresses the matters at issue in this case.

Jurisdiction

VCI objects to Interrogatory Nos. 4-13, 15-29, 31-32, 34-36, and 39 and POD Nos. 2-6, 7, and 9 on jurisdictional grounds, stating that its operations as an Eligible Telecommunications Carrier (ETC) are governed solely by federal law and regulation, and that the Commission's assertion of jurisdiction over these matters raises federal questions to be adjudicated in Federal District Court. Staff argues that the information it seeks is vital to the Commission's resolution of the agreed upon issues. Staff acknowledges that the question of the Commission's jurisdiction is an issue in the case, but does not believe it is appropriately raised as an objection to its discovery requests. VCI has not requested that the Commission address the jurisdictional issues as threshold legal matters prior to the hearing. The Commission will resolve the jurisdictional matters at issue subsequent to the evidentiary hearing.

DOCUMENT NUMBER-DATE

03393 APR 25 8

FPSC-COMMISSION CLERK

DOCUMENT NUMBER-DATE

04079 MAY 16 8

FPSC-COMMISSION CLERK

Burdensome or Overly Broad Discovery Requests

VCI objects to Interrogatory Nos. 2, 30, and 32 and POD Nos. 1 and 10 on the grounds that they are burdensome or overly broad. VCI states that the preparation, review and production of the requested information would require excessive time to produce and review. Staff argues that at the issue identification meeting, it notified VCI of its intention to request this information in order to provide VCI with as much notice as possible, and that upon requesting a hearing on the matter, VCI should have expected that such information would be requested. Staff is willing to accept the information in electronic format to alleviate any alleged burden on VCI. Alternatively, if the Commission finds that staff's requests are burdensome or overly broad, Staff requests that VCI be required to provide four complete months of billing data, with the specific months to be provided by Staff.

Attorney-Client Privilege

VCI objects to Interrogatory No. 11 on the basis of attorney-client and/or attorney work product privileges. Staff argues that VCI has not attempted to "describe the nature of the documents, communications or things not produced or disclosed," as required by Rule 1.280(b)(5), Florida Rules of Civil Procedure, and requests that VCI's objections regarding privilege be rejected on this basis.

Employee Information

VCI objects to Interrogatory Nos. 25 and 34 on the basis that the requested information about VCI employees is an invasion of the privacy interests and rights of its employees. Staff argues that VCI has addressed these employees in previously received responses to Staff data requests and explained that its employees were directly employed for VCI's Toll Limitation Service (TLS) functions. Staff requests the full descriptions and functions of the four VCI employees to determine whether these employees are utilized for other non-TLS functions. Low Income support for TLS is available only for incremental costs that are associated exclusively with TLS. This information will thus enable the Commission to determine whether VCI is appropriately seeking reimbursement of its costs for provisioning TLS functions.

Analysis and Ruling

Rule 28-106.211, Florida Administrative Code, grants broad authority to "issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case." Based upon this authority, and having considered the pleadings, Staff's Motion to Compel Discovery is granted. This Commission has consistently recognized that discovery is proper and may be compelled if it is not privileged and is, or likely will lead to, relevant and admissible evidence. VCI is hereby directed to fully and completely respond to Staff's First Set of Discovery within seven days of the issuance date of this order. Should VCI continue to assert that Interrogatory No. 11 calls for privileged information, it shall describe the nature of the information not produced or disclosed in a manner that, without revealing the privileged or protected information, will enable Staff to assess the

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applicability of the privilege, pursuant to Rule 1.280(b)(5), Florida Rules of Civil Procedure. Should VCI believe that any information requested by way of Interrogatory Nos. 25 and 34 contains confidential information, VCI may file a request for confidentiality along with its response in accordance with Commission rules.

Based upon the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Commission Staff's Motion to Compel Discovery from Vilaire Communications, Inc., is hereby granted as set forth in the body of this order. It is further

ORDERED that Vilaire Communications, Inc., shall fully and completely respond to Staff's First Set of Discovery within seven days of the issuance date of this order.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 25th day of April, 2008.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(SEAL)

RG

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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.