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Florida Cable Telecommunications Association

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Steve Wilkerson, President

October 31, 2008

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

Re: **Docket No. 080641-TP** – Initiation of Rulemaking to Amend and Repeal Rules in Chapter 25-4 and 25-9, F.A.C., Pertaining to Telecommunications

Dear Ms. Cole:

This letter provides comments of the Florida Cable Telecommunications Association, Inc. ("FCTA") concerning the Staff's proposed revisions to rules at issue in the Docket No. 080159-TP. The Staff divided its comments in these dockets into Groups A and B. FCTA submitted comments on the rules on several prior occasions including by submitting comments in related Docket No. 080159-TP (Joint ILEC Petition for Deregulation), and hereby submits its comments on Staff's proposed revisions to the Group B rules.

Throughout this proceeding and in related Docket No. 080159-TP, rather than advocating for the increase or maintenance of regulation on our competitors, FCTA has taken no position on the majority of the ILECs' proposals, and instead focused on a handful of rules that affect FCTA members' ability to compete with the ILECs on a level playing field. *See e.g.* FCTA October 7, 2008 comments at 1 (urging the Commission to retain rules that promote fair competition). Of the dozens of ILEC proposals in Docket No. 080159-TP, FCTA focused on four: the "competitive trigger" or test; the ILECs' proposal to scrap Florida's PC freeze rule, 25-4.083, F.A.C. (PC Freeze) or replace it with the federal rule; and lastly, their proposals to repeal 25-4.046, F.A.C. (Incremental Cost Data Submitted by Local Exchange Companies) and 25-9.005, F.A.C. (Information to Accompany Filings), designed to deter predatory pricing.

The ILECs withdrew their proposal for a "competitive trigger," which FCTA had opposed, so that rule no longer is at issue. In Docket No. 080641, the Staff has proposed retaining Florida's PC freeze rule in its current form, and FCTA supports that position. Concerning Staff's other proposed revisions to Group B rules, FCTA comments as follows:

**Proposed Revisions to 25-4.002 ("Application and Scope").** The PSC Staff proposes to insert "company" in place of "utility" in rule 25-4.002. Rather than insert "company," FCTA proposes that the Staff instead insert "regulated entity." By statute the Commission regulates Incumbent Local Exchange Carriers and Competitive Local Exchange Carriers, but not VoIP providers.

Use of "regulated entity" instead would add greater precision than use of "company" by ensuring that the rules do not apply to unregulated companies.

**Proposed Revisions to Rule 25-4.046.** In addition, the PSC Staff has stated that Rule 25-4.046 (which Staff recommends be retained) and existing statutory provisions on incremental cost pricing, enables the Staff to obtain any cost information from the ILECs that the Staff needs to investigate rates. As a result, Staff believes portions of Rule 25-9.005, which concerns format for incremental cost studies, are no longer needed, and that rule 25-4.046 should be modified.

In comments submitted thus far FCTA noted that these anti-predatory pricing rules exist to promote fair competition, and argued for maintaining both rules in their current form. FCTA's greatest concern was that the rules would be deleted altogether, as the ILECs had proposed in Docket No. 080159-TP. However, the Staff through its revisions in this proceeding (Docket No. 080641), appear to have rejected the ILEC proposal and instead propose that the rules merely be revised to reflect what Staff believes is the current practice.

Staff's view, expressed at several prior workshops, is that portions of Rule 25-9.005, on cost-study format are unnecessary because of a stipulation entered into by many parties, including FCTA, in 1996 that addresses how and when a cost study should be necessary for new, non-basic services. See Order No. PSC-96-0012-FOF-TL, Docket No. 951159-TL, Notice of Proposed Agency Action, *In re: Investigation to Determine Categories of Non-Basic Services Provided by Local Exchange Telephone Companies Pursuant to Chapter 364.051(6), F.S.*, 96 FPSC 1:94 (1996). It is my understanding that Staff's view is that the proposed rule changes would simply recognize its current practice, which is based on the stipulation entered into in Docket No. 951159-TL. To the extent that the proposed revisions merely reflect the current practice and do not undermine the Staff's ability to obtain needed information to investigate potentially below-cost predatory rates, FCTA would have no objection to those revisions.

If you have any questions whatsoever, please do not hesitate to contact me at (850) 681-1990.

Sincerely,



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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing comments of the Florida Cable Telecommunications Association were served by electronic mail delivery this 31<sup>st</sup> day of October, 2008 to the following:

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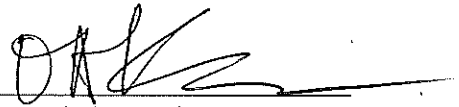
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