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**Subject:** e-filing (Dkt. No. 080234-TP)  
**Attachments:** 080234 Citizens Posthearing Statement.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080234-TP

In re: Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 12 pages.

e. The document attached for electronic filing is the Post-Hearing Statement of the Office of Public Counsel.

(See attached file: 080234 Citizens Posthearing Statement.sversion.doc)

Thank you for your attention and cooperation to this request.

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Implementation of Florida Lifeline ) Docket No. 080234-TP  
Program involving Bundled Service )  
Packages and Placement of Additional ) Filed: April 3, 2009  
Enrollment Requirements on Customers )

**POST-HEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL**

The Citizens of the State of Florida, through the Office of Public Counsel, hereby submit this Post-Hearing Statement.

**Statement of Basic Position**

Telephone service provides a vital link to emergency services, government services, and surrounding communities, and Lifeline helps to provide that link to many low-income citizens of Florida. The Commission promotes participation in the Lifeline program, consistent with the provisions of Section 364.10, Florida Statutes, by requiring all Eligible Telecommunication Carriers ("ETCs") to enable Lifeline/Linkup customers to subscribe to the carriers' bundled service offerings while continuing to receive Lifeline and Linkup benefits.

AT&T and Embarq already provide Lifeline benefits to persons who subscribe to their bundled service offerings. According to the Commission's December 2008, Lifeline Report, AT&T increased the number of their Lifeline subscribers from 87,291 in September 2006, to 93,337 in September 2007, and 104,506 in June 2008. Exh. 9. Embarq increased the number of their Lifeline subscribers from 23,104 to 30,016 and 34,803 during these same time periods. *Id.* Yet, the number of Lifeline customers from Verizon actually *declined* during this time period, dropping from 26,428 Lifeline subscribers in September 2006, to

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23,918 in September 2007, and 22,720 in June 2008. Requiring Verizon to provide Lifeline to eligible persons who wish to subscribe to its bundled service offerings will help reverse this negative trend, and provide consumers that need assistance the ability to secure telephone service.

Wireless ETCs should also be required to provide Lifeline benefits to eligible persons who wish to subscribe to any service offerings that include the equivalent of basic local exchange service access. Since inception of the Lifeline automatic enrollment process in April 2007, Sprint-Nextel received 11,936 Lifeline applications from eligible customers, yet it reports only 78 Lifeline customers as of June 2008. Casey, Tr. 93, 133. Similarly, Alltel received 5,373 Lifeline applications from eligible customers, yet it reports only 32 Lifeline customers as of June 2008. Casey, Tr. 93, 134. This extremely poor “take” rate will be improved if the Commission requires Sprint-Nextel, Alltel, and other wireless ETCs to provide Lifeline to eligible persons who wish to subscribe to their bundled service offerings.

Issue 1: Under applicable law, may the Commission require Florida ETCs that charge federal End User Common Line Charges, or equivalent federal charges, to apply the lifeline discount to bundled service offerings which include functionality that is comparable to that described at 47 CFR 54.101(a)(1)-(9) or Section 364.02(1), Florida Statutes?

Position: \* Yes. Federal law sets minimum requirements for Lifeline service. Of those services meeting those requirements, federal law allows states to choose those services eligible for Lifeline. \*

Discussion: Federal law sets certain minimum standards for Lifeline retail local service offerings. However, federal law does not require that all such services be eligible for Lifeline. Instead, it leaves that decision up to the states.

47 CFR 54.401(a)(3) requires any Lifeline retail local service offering to include the services or functionalities enumerated by 47 CFR 54.101(a)(1)-(9). Those services are (1) Voice grade access to the public switched network, (2) Local usage, (3) Dual tone multi-frequency signaling or its functional equivalent, (4) Single-party service or its functional equivalent, (5) Access to emergency services, (6) Access to operator services, (7) Access to interexchange service, (8) Access to directory assistance, and (9) Toll limitation for qualifying low-income consumers.

In other words, this section of the federal regulations sets forth the minimum characteristics of any retail local service offering which must be met before the Lifeline discount may be applied to the service. If a retail local service offering does not have all of these characteristics, it cannot be eligible for the Lifeline discount.

On the other hand, federal regulations do not require that every retail local service offering that includes these services or functionalities be eligible for Lifeline. In FCC-97-157, the Federal Communications Commission ("FCC")

described Lifeline as a program that reduces end-user charges for eligible customers of a *state specified* level of local service. Casey, Tr. 117.

The variety of decisions by different states concerning the particular retail local service offerings eligible for Lifeline also demonstrates that states determine the specific local service offerings eligible for Lifeline. Staff witness Bob Casey, for example, described the decisions by a number of states requiring ETCs to provide Lifeline to customers electing to purchase bundled service offerings. Casey, Tr. 110–113. Other states have placed some restrictions on the types of retail local service offerings eligible for Lifeline. Vasington, Tr. 51-52.

Section 364.10(2)(a), Florida Statutes, states that an eligible telecommunications carrier shall provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in a Commission-approved tariff or price list. This statute provides the Commission broad discretion to determine the parameters of Lifeline Assistance Plans, as long as those plans meet the minimum qualifications set forth in federal law. In addition, the Commission's discretion in this regard is buttressed by Section 364.01(4)(a), Florida Statutes, which directs the Commission to exercise its exclusive jurisdiction to protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

Issue 2: Under applicable law, may the Commission require Florida ETCs that do not charge federal End User Common Line charges, or equivalent federal

charges, to apply the lifeline discount to bundled service offering which include functionality that is comparable to that described at 47 CFR 54.101(a)(1)-(9) or Section 364.02(1), Florida Statutes?

Position: \* Yes. The companies misinterpret 47 CFR 54.403(b). This section is not a restriction on Lifeline consumers' choice of calling services at comparable terms, but rather is a prescriptive rule directed at ETC's to assure that federal support is passed through to low-income eligible consumers in its entirety. \*

Discussion: 47 CFR 54.403(b) states that carriers that do not charge an end user charge "shall apply" federal Lifeline support "to reduce their lowest tariffed (or otherwise generally available) residential rate for the services enumerated in Section 54.101(a)(1) through (a)(9) and charge Lifeline consumers the resulting amount." Sprint Nextel and Alltel argue that this rule restricts Lifeline service offered by Commercial Mobile Radio Service ("CMRS") providers to only the lowest tariffed rate they provide. They are wrong.

In 1997, the FCC agreed with the Federal-State Joint Board that low-income universal service support should be available for distribution to designated ETCs, whether an incumbent local exchange carrier ("ILEC") or any other carrier. *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, ¶365 (May 8, 1997). The FCC acknowledged that "the distribution of support to non-ILEC carriers cannot be achieved simply by waiving the SLC"(Subscriber Line Charge). *Id.*, ¶366. At that time, Lifeline support could be flowed through to the end users of wireline carriers

by waiving the Subscriber Line Charge (“SLC”). CMRS providers, however, did not (and still do not) charge a Subscriber Line Charge. For carriers without SLCs, the FCC concluded “that Lifeline support must be passed through directly to the consumer in the form of a reduction in the total amount due” based upon 47 USC. § 254. *Id.*

47 CFR. § 54.403(b) is, therefore, not a restriction on Lifeline consumers’ choice of calling services at comparable terms, but rather a prescriptive rule directed at the ETC to assure that federal support is passed through to low-income eligible consumers in its entirety and not siphoned off by the ETC through higher charges. *See Id.*, ¶368.

The interpretation of 47 CFR. §54.403(b) espoused by Sprint Nextel and Alltel -- as a restriction on a Lifeline consumer’s choice -- does not advance federal universal service, but would instead serve as a barrier to Lifeline participation. This is evident by the pitifully small number of Lifeline customers served by Sprint-Nextel and Alltel. Casey, Tr. 93, 133-134. The Commission should reject this interpretation of 47 CFR. §54.403(b), just as the Kansas Corporation Commission rejected it. *See Casey*, Tr. 110.

Issue 3: Should the Commission require each Florida ETC that charges federal End User Common Line charges, or equivalent federal charges, to apply the lifeline discount to bundled service offerings which include functionality that is comparable to that described at 47 CFR 54.101(a)(1)-(9) or Section 364.02(1), Florida Statutes?

Position: \* Yes. The dwindling number of Lifeline customers served by Verizon, compared to the growing number of Lifeline customers served by AT&T and Sprint, demonstrates the need to require ETC's to apply the Lifeline discount to bundled service offerings. \*

Discussion: Exhibit 9 vividly shows different trends in Lifeline participation for AT&T and Embarq compared to Verizon. AT&T increased the number of their Lifeline subscribers from 87,291 in September 2006, to 93,337 in September 2007, and 104,506 in June 2008. Embarq increased the number of their Lifeline subscribers from 23,104 to 30,016 and 34,803 during these same time periods. Yet, the number of customers that receive Lifeline assistance through Verizon actually *declined* during this time period, dropping from 26,428 Lifeline subscribers in September 2006, to 23,918 in September 2007, and 22,720 in June 2008. There is little explanation for this other than the fact that Verizon, unlike AT&T and Embarq, refuses to provide Lifeline to customers who wish to purchase a bundled service offering from the company. See Vasington, Tr. 60-62.

Another telling statistic relates to the number of persons who are qualified for Lifeline by the Florida Department of Children and Families ("DCF") through the Commission's automated Lifeline enrollment program, but who are nonetheless denied Lifeline by Verizon because of the customer's desire to subscribe to a bundled service offering. Mr. Casey's prefiled testimony stated that over 9,700 such applicants were denied Lifeline because of Verizon's policy. At the hearing, Mr. Casey updated that figure from 9,700 to 11,399 applicants



denied Lifeline for a bundled service package by Verizon. Casey, Tr. 92-93, 125. Verizon's policy continues to adversely affect qualified customers who wish to participate in, and need, the Lifeline program.

Verizon's policy of denying Lifeline to customers selecting bundled service packages contravenes the policy of the state supporting participation in Lifeline by eligible customers. Section 364.0252, Florida Statutes, states that it is a "specific concern" to inform consumers concerning the availability of the Lifeline and Link-Up programs for low-income households. Consistent with this specific concern, the Commission must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each year on the number of customers who are subscribing to Lifeline service and the effectiveness of any procedures to promote participation. Section 364.10(3)(i), Florida Statutes.

Lifeline service is inextricably intertwined with the concept of universal service. Pursuant to Section 364.025(1), Florida Statutes, "the term "universal service" means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the Commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services.

This section further demonstrates legislative intent that universal service is not limited to a dial tone with no additional features. It evolves with advances in technologies, services, and market demand. Lifeline should likewise evolve, and not be denied to customers desiring a bundled package, as advocated by Verizon.

There are customers who need the vertical services included in bundled service offerings. Unemployed consumers need voicemail to receive messages from potential employers. Abuse victims need caller ID to identify callers. Disabled consumers may subscribe to a high-end package with internet and television because it is their only means of communication to the outside world. Casey, Tr. 115-116.

The Commission should require all ETCs, including Verizon, to provide Lifeline to qualified customers subscribing to bundled service packages, just as many other state Commissions have done. See Casey, Tr. 92, 110-113.

Issue 4: Should the Commission require the Florida ETC that does not charge federal End User Common Line charges, or equivalent federal charges, to apply the lifeline discount to its bundled services which include functionality that is comparable to that described at 47 CFR 54.101(a)(1)-(9) or Section 364.02(1), Florida Statutes?

Position: \* Yes. The small number of Lifeline customers served by Sprint and Alltel demonstrates the need to require ETC's to apply the Lifeline discount to bundled service offerings. \*

Discussion: Since inception of the Lifeline automatic enrollment process in April 2007, Sprint-Nextel received 11,936 Lifeline applications from eligible customers, yet it reports only 78 Lifeline customers as of June 2008. Casey, Tr. 93, 133. Similarly, Alltel received 5,373 Lifeline applications from eligible customers, and reports only 32 Lifeline customers as of June 2008. Casey, Tr. 93, 134. This extremely poor “take” rate will certainly improve if the Commission requires Sprint-Nextel, Alltel, and other wireless ETCs to provide Lifeline to eligible persons who wish to subscribe to their bundled service offerings.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Statement of the Office of Public Counsel has been furnished by electronic mail and U.S. Mail to the following parties on this 3<sup>rd</sup> day of April, 2009, to the following persons:

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