

Ruth Nettles

080641-TP

From: Martha Johnson [marthaj@fcta.com]
Sent: Monday, September 14, 2009 3:59 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 080641 - FCTA's Letter Re: PC Freeze
Attachments: 080641 - FCTA's Letter Regarding PC Freeze.pdf

A. The person responsible for this electronic filing is:

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B. The docket title is: **In Re: Docket No. 080641** – Initiation of Rulemaking to Amend and Repeal Rules in Chapters 35-4, F.A.C., Pertaining to Telecommunications

C. This document is filed on behalf of the Florida Cable Telecommunications Association, Inc.

D. This document has a total of 2 pages.

E. Attached is the Florida Cable Telecommunications Association's Letter re: PC Freeze.

Thank you,

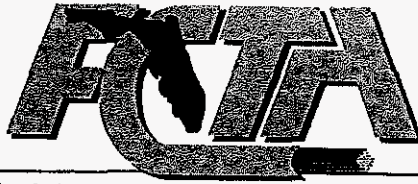
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DOCUMENT NUMBER-DATE

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9/14/2009

FPSC-COMMISSION CLERK



Florida Cable Telecommunications Association

Steve Wilkerson, President

September 14, 2009

VIA ELECTRONIC FILING

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

RE: 080641 - In re: Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications

Dear Ms. Cole:

Please place this letter in the record of this proceeding. The Commission's rules currently prohibit ILECs from marketing, inducing or soliciting customers to place local PC freezes on customer accounts. The Staff's recommendation (9/2/09) proposes to delete this rule. The original purpose of the local PC freeze was to prevent local slamming. Yet, the current rule, which bans solicitation of PC freezes, has virtually eliminated slamming. In 2008, there were only 140 local slamming complaints out of millions of customers served. Cable served over 700,000 telephony customers in 2008, with only 5 local slamming complaints. The current rule, which bans solicitations, works well and should not be changed.

Allowing for solicitation of PC freezes could lead to a different problem – one that affects competition. Where a local PC freeze exists, the customer can't switch providers without first contacting his or her original provider. With local slamming becoming a rarity, the only purpose for *soliciting* customers to institute PC freezes today is to make it more difficult for ILEC customers to switch to competitors, such as cable. Faced with this extra hurdle, many customers decide to stay with their original provider rather than switch. Allowing solicitation of PC freezes will increase the number of customers who have this problem, and make it more difficult for the competitive market to function properly.

The Commission should keep the current ban on soliciting PC freezes, which is working well, rather than deleting the rule and waiting to see whether problems develop. The ILECs claim that, if problems occur and anti-competitive activity results, FCTA could request that a rulemaking be commenced to restore the ban on soliciting PC freezes. Sept. 2 Staff Rec. at 7-8.

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FCTA disagrees. To delete the current rule, which has been working, wait to see if a problem develops, and then commence a rulemaking to return the rule to the prior version, would not be an effective use of Commission resources, and would confuse consumers. It would also allow anticompetitive activity to persist while a rulemaking is pending. The ILECs also claim “ambiguity” exists in the current rule, stating there is a “fine line between ‘marketing’ and ‘informing’” customers about PC freezes. *Id.* at 8. That concern is also misplaced. The ILECs speculated about ambiguity in the rule for the first time in August of 2009, even though the rule has existed for many years, and they cite no complaints to back up their claim.

To prevent anti-competitive activity, the Commission should retain the ban on solicitation of PC freezes by adding the first sentence of subsection (5) back into the final rule. In the Sept. 2 Recommendation, the Staff suggested that:

If the Commission believes instead that the preventative step of prohibiting solicitation of PC-Freezes is important to competition, the first sentence of subsection (5) provision on no-solicitation could be added back into the final rule.

FCTA believes that adding the first sentence of subsection (5) back into the final rule is an acceptable compromise that would aid consumers. ILECs would be permitted to notify customers that the PC freeze option exists, but not send out mass mailings to “market, induce or solicit” customers to place further local PC freezes on their accounts.

At least three states – Georgia, Oklahoma, and Texas, already prohibit local PC freezes. Texas’s prohibition has been in place since 2000. While Florida still permits local PC freezes, at a minimum, the Commission should contain the anti-competitive impact of PC freezes by retaining the “no solicitation” rule.

Sincerely,



David A. Konuch
Senior Counsel, Regulatory Law and Technology
Florida Cable Telecommunications Association

cc: Chairman Matthew M. Carter, II
Commissioner Nancy Argenziano
Commissioner Lisa Polak Edgar
Commissioner Katrina J. McMurrian
Commissioner Nathan A. Skop
Cindy Miller, Office of Public Information
Beth Salak, Division of Regulatory Compliance
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