

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. UNDOCKETED

INITIATION OF RULEMAKING TO
AMEND RULE 25-4.0665, FLORIDA
ADMINISTRATIVE CODE, LIFELINE
SERVICE, AND TO REPEAL RULE
25-4.113, FLORIDA ADMINISTRATIVE
CODE, REFUSAL OR DISCONTINUANCE
OF SERVICE BY COMPANY.

PROCEEDINGS: STAFF WORKSHOP

TAKEN AT THE
INSTANCE OF: The Staff of the Florida
Public Service Commission

DATE: Wednesday, January 18, 1012

TIME: Commenced at 1:30 p.m.
Concluded at 1:56 p.m.

PLACE: Betty Easley Conference Center
Room 140
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

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P R O C E E D I N G S

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2 **MS. GERVASI:** Okay. I think we will go ahead
3 and get started, so I will call this staff workshop to
4 order. This time and place has been noticed for an
5 undocketed staff rule development workshop on the
6 initiation of rulemaking to amend Rule 25-4.0665,
7 Florida Administrative Code, Lifeline service, and to
8 repeal Rule 25-4.113 consistent with the 2011 changes
9 made to Chapter 364 of the Florida Statutes.

10 I'm Rosanne Gervasi with the Commission's
11 legal staff, and with me are Bob Casey and Bill McNulty
12 of the technical staff. And we want to thank you all
13 for being here today, and we appreciate your input in
14 this rule development process. There are extra copies
15 of the agenda and the rule, if anybody needs them, on
16 the table here.

17 And then before we go into our brief overview
18 of the rule where we'll walk you through what our
19 changes are, I would like to remind everyone that the
20 meeting is being reported by our court reporter, so
21 when you do give your comments, please state and spell
22 your name first for the court reporter, and speak
23 clearly into your microphone for us.

24 Is there anybody on the telephone? We have
25 the lines open so people may call in, but for now --

1 UNIDENTIFIED SPEAKER: Yes.

2 MS. GERVASI: Oh, there is. Okay. Very
3 good. What we will do is after we take the commentary
4 of those who are present in the room, we'll then turn
5 it over to folks who are on the telephone to give your
6 comments at that time.

7 Finally, if you do plan to give us suggested
8 changes to the draft rule language, it is very helpful
9 if you would refer us to the specific paragraph and
10 line numbers of the draft rule and to provide us with
11 the specific alternative language that you would
12 suggest that we consider. And with that, I will it
13 turn it over to Bob Casey for a brief overview of the
14 changes to the rule.

15 MR. CASEY: Good afternoon. I'd like to go
16 section-by-section starting with Section 20, and what I
17 will do is briefly go over what we're trying to do, and
18 then ask for comments, if you have any comments.

19 Section 20, the old Section 20 is being
20 eliminated which required quarterly reports by all the
21 ETCs. Now, the reason we are doing that is because of
22 information being available from USAC. We can go to
23 USAC's website and pull down a lot of that information,
24 and we didn't think it was necessary anymore to have
25 the ETCs give this on a quarterly basis.

1 I know you are going to have hurt feelings.
2 (Laughter.) And what we are doing is we are also adding
3 something, which is the sentence that was in the Rule
4 25-4.113 about the discontinuance of Lifeline. Once we
5 get this sentence in this new rule, we can repeal the
6 total Rule 25-4.113. And, of course, the sentence
7 says, "The company may not discontinue a customer's
8 Lifeline local service if the charges, taxes, and fees
9 applicable to dial tone, local usage, dual tone
10 multifrequency dialing, emergency services, such as
11 911, and relay services are paid.

12 Now, does anyone have any comments on
13 Section 20?

14 **MR. FOLLENSBEE:** Bob, this is Greg Follensbee
15 with AT&T, F-O-L-L-E-N-S-B-E-E. I just want to confirm
16 what you said on it. That AT&T was having to file a
17 quarterly report, I think, for another reason dealing
18 with a settlement, and I just want to make sure that
19 what you said, that we don't have to file quarterly.
20 When you said all the companies, that would include
21 what AT&T previously had to file.

22 **MR. CASEY:** What we are actually doing is
23 crossing out -- you can see what is crossed out here.
24 What quarterly reports are you -- are you speaking of
25 the Lifeline Community Service Fund?

1 **MR. FOLLENSBEE:** Yes, sir. And the fund no
2 longer exists, so that would be part of it, as well.

3 **MR. CASEY:** It no longer exists at all?

4 **MR. FOLLENSBEE:** Yes. We have exhausted the
5 fund.

6 **MR. CASEY:** Okay. Well, if you have
7 exhausted the fund, there is no use sending a letter
8 saying we have zero.

9 **MR. FOLLENSBEE:** Correct.

10 **MR. CASEY:** Could you send us a letter to
11 that effect?

12 **MR. FOLLENSBEE:** Yes, sir.

13 **MR. CASEY:** Okay. And then we can respond
14 saying, yes, we agree you don't have to do any more
15 quarterly reports on the Community Service Fund.

16 **MR. FOLLENSBEE:** Thank you.

17 **MR. O'ROARK:** De O'Roark with Verizon. Two
18 or three comments on Section 20. Obviously, no
19 objection to the language that is being deleted.

20 On the sentence that you are adding, there
21 could be a concern if this were read as providing the
22 only basis on which a Lifeline customer's local service
23 could be discontinued. One suggestion that we have
24 that I think will make it clear and would capture what
25 we think your intent is, is to add after the words

1 "local service" add "for nonpayment." Because what we
2 think you are trying to get at is the circumstances
3 under which a Lifeline customer's service can be
4 discontinued for nonpayment.

5 There can be other valid reasons for
6 discontinuing service. I mean, if you go to Rule
7 25-4.113, the rule that you are proposing to repeal,
8 you have got a laundry list of reasons why service
9 could be discontinued. For example, fraudulent or
10 illegal use. And I'm sure that staff is not intending
11 to rule out those sorts of reasons for discontinuing
12 service.

13 And one thing that we would add, one
14 approach that -- and I think we may suggest this in our
15 comments -- in addition to adding the words "for
16 nonpayment," it might be to pick up some of the
17 language that you had in 113, and add it back here to
18 make clear some of the reasons that you can discontinue
19 a Lifeline customer's service. And we can provide that
20 for you.

21 When we do that, one thing that we think it
22 would be helpful to include is making it clear that,
23 you know, as we move forward in the industry, as you
24 know there's lots of changes, lots of changes in
25 technology and the kinds of facilities that we are

1 using. As you know, Verizon is more and more providing
2 service over fiber. We'd like to make it clear that if
3 we are changing the technology used to serve a customer
4 or the facilities used, that if a customer is not
5 willing to allow us to make those changes and we are
6 making those changes throughout the neighborhood, that
7 could be a reason for discontinuing service.

8 For example, let's say that a neighborhood
9 where we have got some fiber facilities and some copper
10 and we make the decision, look, we are going to serve
11 everybody on fiber, which is an upgrade and a good
12 thing. We wouldn't want to have to retain copper to
13 serve, say, a Lifeline customer who's not willing for
14 us to make that network upgrade for their residence.
15 Or, likewise, if you had a Lifeline customer in an
16 apartment complex, but the MDU owner is not willing to
17 allow us to provide the fiber to provide service to
18 that complex, that might be a reason why service might
19 need to be discontinued. We can discuss that in a
20 little more detail in our comments, but I think some of
21 that might be helpful, some of that fleshing out might
22 be helpful for guidance as we go forward.

23 **MR. CASEY:** We'll welcome any of those
24 comments. If you could, just put them in there. Our
25 intent is to push out the post-workshop comments until

1 after the Lifeline order is issued to give you an
2 opportunity to look through that order and include any
3 comments that you have on that, also, for any rule
4 changes we may make here.

5 **MR. O'ROARK:** Terrific. Thank you.

6 **MR. CASEY:** Because some of the things may
7 change. You know, what we are proposing here may
8 change because of that order.

9 **MR. O'ROARK:** That makes good sense.

10 **MR. HATCH:** Quick question, Bob.

11 **MR. CASEY:** Sure.

12 **MR. HATCH:** This is Tracy Hatch with AT&T.
13 With respect to when the FCC order come out, whatever
14 it is going to say, nobody knows yet, but are you
15 planning a subsequent workshop for that, or are you
16 just going to plan on including whatever our comments
17 are on top of this and taking that into conjunction?

18 **MR. CASEY:** I would anticipate that we would
19 probably have to do another workshop. I haven't talked
20 to our management yet, but I would anticipate we would
21 have to have another workshop for that. What I would
22 be looking for in post-workshop comments is anything
23 that came out in the Lifeline order which affects our
24 proposed language here.

25 **MR. HATCH:** And then take that up subsequent?

1 **MR. CASEY:** Yes. Any other comments?

2 **MS. GERVASI:** Anybody on the phone have
3 comments to Paragraph 20? Okay.

4 **MR. CASEY:** Okay. We can go on to Paragraph
5 21. This has to do with Lifeline outreach and
6 advertising. And what we're doing here in A and B is
7 adding what is basically already required through an
8 FCC order, FCC Order 0487.

9 (21) reads, "An eligible telecommunications
10 carrier shall advertise the availability of Lifeline
11 and Link-Up services in media of general distribution
12 throughout its service areas. The outreach materials
13 must target consumer groups that may be in need of
14 Lifeline, such as seniors, young adults, consumers who
15 live in remote areas, wireless users, non-English
16 speaking populations, the disabled community, users of
17 telecommunications relay service, and the unemployed."

18 Now, Subsection B says, "Eligible
19 telecommunications carriers must develop outreach
20 materials and methods designed to reach households that
21 do not currently have telephone service. The outreach
22 materials must be placed in locations where low-income
23 individuals are likely to visit, such as shelters, soup
24 kitchens, public assistance agencies, and public
25 transportation. Multi-media outreach approaches such

1 as newspaper advertisement, articles in consumer
2 newsletters, press releases, radio commercials, and
3 radio and television public service announcements are
4 also acceptable."

5 Now, does anyone have any comments on that?

6 **MR. FOLLENSBEE:** This is Greg Follensbee.
7 Just a couple of questions, and then we may have
8 further comments after others speak. Going to the last
9 sentence when you say are also acceptable, does that
10 mean in lieu of the others that are mentioned in (b)
11 above? In other words, rather than putting outreach
12 materials in specific locations, we simply can do
13 outreach through public media, or is it intended that
14 it would be required of us to do both?

15 **MR. CASEY:** I would have to -- could you put
16 that in your comments and ask that question?

17 **MR. FOLLENSBEE:** Absolutely.

18 **MR. CASEY:** We'll give you an answer.

19 **MR. FOLLENSBEE:** Okay.

20 **MR. CASEY:** I'd rather get together with the
21 group before I answer that.

22 **MR. HATCH:** This is Tracy Hatch again with
23 AT&T. Just sort of a quick thought that I understand
24 that all of your Lifeline stuff that you are doing is,
25 in part, coming out of your delegated federal authority

1 to start with. It strikes me as a little bit
2 overreaching, perhaps, to start building substantive
3 rules on a federal rule as your source authority that
4 doesn't already exist in your state statutory
5 authority. And as you recall when we addressed Chapter
6 364 last year, a lot of the specific statutory
7 authority for the Commission to require companies to go
8 out and do outreach and make publications and do that
9 advertising and that sort of thing, that went away.

10 There is a provision that was put into
11 364.110, which is the Lifeline provision, that allows
12 the Commission to conduct outreach, but I'm not sure
13 that you can extend that piece to require us to now
14 start conducting outreach. And so that is just a
15 question in my mind that this substantive proposal of
16 you go do these things as to how you are proposing us
17 to require us to do that.

18 **MR. CASEY:** Well, if you're expecting a legal
19 opinion from me, I don't have esquire after my name.

20 **MR. HATCH:** No, but I was just simply giving
21 you a heads-up.

22 **MS. GERVASI:** It's certainly something that
23 we would like to consider. And are you planning to
24 file post-workshop comments, Tracy?

25 **MR. HATCH:** I hadn't considered that. In

1 part we are waiting to see what happens with the FCC's
2 rules, too. It may all go away. It may change
3 substantially. I mean, that's part of the reason why I
4 wanted to understand whether there will be a subsequent
5 workshop to really flesh all this out and figure out
6 where we are.

7 **MS. GERVASI:** Okay. I mean, I don't have an
8 answer either, but it is certainly something to think
9 about.

10 **MR. HATCH:** Yes.

11 **MR. O'ROARK:** De O'Roark, again, with
12 Verizon. We had the same concern that Tracy expressed
13 about the statutory authority for this rule and, I
14 think, for the others that we are about to cover. And
15 we will be filing post-workshop comments and will
16 address that in some more detail then.

17 **MS. GERVASI:** Thank you.

18 **MR. CASEY:** Any other comments? Anyone on
19 the phone like to comment?

20 Okay. Let's go ahead and move on to
21 Section 22. (22) states that, "Eligible
22 telecommunications carriers that resell Lifeline and/or
23 Link-Up services to non-eligible telecommunications
24 carriers are required to obtain a certification from
25 each reseller that it is complying with all the

1 Commission and Federal Communications Commission
2 Lifeline/Link-Up requirements. The eligible
3 telecommunications carriers shall file a copy of this
4 certification with the Division of the Commission Clerk
5 by October 1 of each year. Comments?

6 **MR. FOLLENSBEE:** This is Greg Follensbee.
7 Yes, we do have a couple of comments on this. We are
8 familiar somewhat with the certification program from
9 the standpoint, for instance, that annually we'll get a
10 certification from companies that they are sales tax
11 exempt. And so absent that, we will assess them sales
12 tax until we receive that certificate saying, no, don't
13 charge me sales tax, I'll be liable directly with the
14 Department of Revenue for those.

15 Under that same vein, we are wondering why it
16 wouldn't be better for the companies that are wanting
17 to do this to get a certificate from you. Because the
18 question that is raised in AT&T's mind is if they
19 certify they are compliant with the FCC Link-Up
20 requirements, which to me might also require the rules,
21 what if they aren't? There's nothing we can do,
22 because we've just simply got a piece of paper saying
23 they are. It would seem like if you are wanting them
24 to be required to comply with those, you would want
25 them to register and certify with you they are.

1 Now, I will tell that you that this is one
2 area I hear the FCC will be addressing in their rules.
3 I just don't know how. But that is the one thing we
4 are concerned with is trying to get these certificates,
5 and the question becomes then until we do, do we reject
6 their orders? Do we stop taking orders for them where
7 today when an order comes in, they say the customer is
8 Lifeline eligible, we'll process it, we'll make sure we
9 have the documentation we need, and then we will give
10 the reseller the credit. And we don't know then if
11 they are passing that credit on to the end users. But
12 if you are now requiring us to get a certificate that
13 they are compliant and we don't get one, now we're in a
14 process of having to reject their orders.

15 And so I think there is some more thought
16 that needs to be done on this on process, because that
17 will increase our cost of operations to know when will
18 we have to reject an order, what kind of reject code do
19 we have to put in, does it impact our SQM SEEMs,
20 because suddenly we are having to reject an order. So
21 I think there is a little bit more behind this for AT&T
22 than the simple -- what you think would be a simple
23 requirement on our behalf to make sure these companies
24 are compliant with whatever they are doing and telling
25 customers I can sell you Lifeline service.

1 **MR. CASEY:** Now, this requirement is
2 something you should be doing already. ETCs should be
3 doing already. And, basically, all we are asking for
4 is, well, when you get this certification, we'd like a
5 copy of it. Because we don't know who the carriers are
6 out there that are selling Lifeline, the non-ETCs.

7 **MR. FOLLENSBEE:** Right. And I'm hoping the
8 FCC may shut the done door on that, so we can kind of
9 get to it, but we are just going to live with whatever
10 the rules changes are.

11 **MR. CASEY:** Right. This might be a moot
12 point, as you said.

13 **MR. FOLLENSBEE:** It is. But the point being
14 that if they don't get the certificate, we really today
15 don't have a process to stop processing the order. And
16 we also don't know if they are compliant or not,
17 because a certificate doesn't mean any kind of
18 compliance. It's just simply somebody gave you a piece
19 of paper saying, oh, yeah, I'm following some
20 guidelines.

21 **MR. CASEY:** Right. And if we get complaints
22 saying this carrier is supplying Lifeline, and they're
23 only given a \$10 credit or something, and then we would
24 ask you, well, do you have a certificate saying that
25 they have complied with all the rules and regulations,

1 and then we would go off that carrier. We're not going
2 to go after you. All we want is a copy of that
3 certificate saying that they have been following
4 Lifeline and Link-Up.

5 **MR. FOLLENSBEE:** And that's why we think that
6 it shortcuts us as the middle person. Let them come to
7 you and certify it; we'll get it from you saying they
8 have filed it.

9 **MR. CASEY:** We don't know who they are. See,
10 you know who is selling Lifeline because you are giving
11 the discount to them.

12 **MR. FOLLENSBEE:** Any company could, is the
13 point. Any company could, that isn't an ETC
14 themselves, could be doing it.

15 **MR. CASEY:** Right. But we don't know which
16 companies are.

17 **MR. FOLLENSBEE:** We don't either until they
18 place the order.

19 **MR. CASEY:** Right. But you know --

20 **MR. FOLLENSBEE:** So it is a chicken and egg.
21 I don't disagree, but I'm just saying we're probably
22 going to have some more comments on this. Because now
23 that you are putting in a rule that we have to do this,
24 it puts it at a higher level than probably we have been
25 processing in the past. We probably have been

1 processing some orders with the certificate not yet
2 received. Again, it gets to be is this really what we
3 need to be doing in the future with all of this going
4 on with Lifeline and all the issues that the FCC and
5 you all have addressed over the last 18 months.

6 MR. CASEY: The whole world of Lifeline may
7 change in a few weeks.

8 MR. FOLLENSBEE: Yes, sir, it just might.

9 MR. CASEY: And please include those in your
10 comments.

11 MR. FOLLENSBEE: We're give you more comments
12 on some of the issues we have with this particular
13 part.

14 MR. CASEY: Okay. I appreciate it.

15 MR. FOLLENSBEE: But we'll wait until the FCC
16 rule comes out to see if it has changed that whole
17 world.

18 MR. CASEY: That makes sense.

19 MR. FOLLENSBEE: Thank you.

20 MR. CASEY: De, did you have some comments?

21 MR. O'ROARK: No further comments from
22 Verizon.

23 MR. CASEY: Okay. Anyone else? Anyone on
24 the telephone like to comment on Section 22?

25 Okay. Let's go ahead with the last section

1 here. This is Section 23, and it reads, "Each eligible
2 telecommunications carrier shall retain its eligibility
3 documentation as a designated eligible
4 telecommunications carrier, as well as for its
5 customers receiving Lifeline discounts for a period of
6 three years."

7 Now, I open the floor for comments.

8 Susan.

9 **MS. BERLIN:** Hi, it's Susan Berlin with
10 Sprint. B-E-R-L-I-N. It's really just a question.
11 Would you consider digital copies of documents that
12 were retained for the requisite period of time
13 sufficient? If the originals are not retained, but
14 electronic copies are retained for this amount of time
15 and even longer, is that sufficient?

16 **MR. CASEY:** That's something I would like to
17 take up again with the group, and if you would include
18 that in your comments, I would appreciate it.

19 **MS. BERLIN:** Okay. Thank you.

20 **MR. CASEY:** I don't think that would be a
21 problem, but before I say okay I'd like to get with the
22 group, the Lifeline group.

23 Any other comments? How about on the
24 telephone, any comments on Section 23?

25 Well, this is going pretty fast. I will turn

1 it over to the attorney now. Rosanne.

2 **MS. GERVASI:** I think the only other course
3 of business at this point is to set a date for the
4 post-hearing comments. Do we know when the FCC order
5 is going to be issued?

6 **MR. CASEY:** They are going to meet on
7 January 31st, and its anybody guess when the order will
8 be released, but we can push the date out. Any
9 suggestions, 30 or 60 days, or --

10 **MR. FOLLENSBEE:** Well, I was going to ask you
11 a question on that point to understand process. This
12 is Greg Follensbee, excuse me. If we get the rules out
13 from the FCC, there might be other things you want to
14 add to your rule. So the question becomes does it make
15 sense to give you comments on what you have proposed if
16 you might have to propose a whole brand new set of
17 other rules? So the question is are you going to do a
18 two-part process? Do this rule once and come back in
19 four months and do it again, or are you intending to do
20 it all at once?

21 The only reason I'm asking is it just depends
22 on when comments would then be due. Because, in other
23 words, we could give you comments knowing that we would
24 discuss them at the next workshop, knowing that you may
25 be proposing three more pages of rules, you may be not,

1 it's just an unknown.

2 **MR. CASEY:** Right. We're looking at it in
3 sort of a two-part. Let's take care of this now.
4 Let's get that one section repealed, the other rule
5 repealed by putting that sentence in this, and then we
6 will work on, you know, the new rules, if there's going
7 to be new rules.

8 **MR. FOLLENSBEE:** Then if you're looking for
9 advice, I would think we could have something to you in
10 45 days, which would be roughly 30 days after the FCC
11 votes. If you want to go 60 just in case there's a
12 concern the order won't be out that much sooner, that's
13 fine with us. I mean, I think we would need a minimum
14 probably of about 30 days after the vote, which could
15 be two weeks or three weeks after the actual written
16 rules are out.

17 **MR. CASEY:** Let me ask Rosanne. Rosanne,
18 could we word it such as 30 days after the issuance of
19 the order, the FCC order?

20 **MS. GERVASI:** Sure.

21 **MR. CASEY:** Because what happens if they
22 issue it three or four weeks after Agenda? I don't
23 want to be tied down, have you tied down. Would that
24 be okay?

25 **MR. HATCH:** Anything after the end of the

1 session would be very helpful.

2 **MR. CASEY:** I don't keep track of those
3 dates.

4 **MS. GERVASI:** So 30 days after the issuance
5 of the FCC order. Does that sound good? And when you
6 file those comments, if you would please file them in
7 the Clerk's office with a cover letter saying to please
8 put these comments in the undocketed file. The Clerk's
9 Office has a big massive undocketed file, and we'll
10 know to look for them there, and this way it is more
11 easily accessible to all of the staff.

12 And with that, if nobody has any other
13 comments or questions, we can go ahead and adjourn the
14 workshop.

15 Thank you all for being here and for your
16 participation.

17 **MR. CASEY:** Thank you very much.

18 (The Workshop concluded at 1:56 p.m.)
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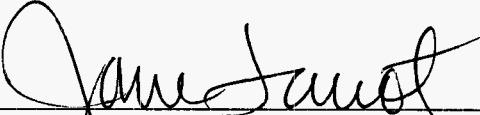
STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 23rd day of January, 2012.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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