

Ruth Nettles

From: Pam Keillor [pkeillor@radeylaw.com]
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To: Filings@psc.state.fl.us
Cc: Ben Dickens; Beth Salak; Carolyn Mason; Carolyn Ridley; Cecilia Bradley; Cindy Miller; Dale Mailhot; David Konuch; Douglas Nelson; Floyd Self; Gail Marie Perry; Howard Adams; J.R. Kelly; Jeffry Wahlen; Kathryn Cowdery; Marsha Rule; Mike Twomey; Rebecca Ballesteros; Scott Boyd; Vicki Kaufman; Wink Infinger
Subject: Docket No. 080641-TP - Electronic Filing
Attachments: Supplemental Comments of Joint Petitioners.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Susan F. Clark
Radey Thomas Yon & Clark, P.A.
301 South Bronough Street, Suite 200
Tallahassee, Florida 32301
(850) 425-6654
sclark@radeylaw.com

- b. Docket No. 080641-TP – In re: Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications
- c. Document being filed on behalf of Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company d/b/a TDS Telecom and Windstream Florida, Inc.
- d. There are a total of 11 pages.
- e. The document attached for electronic filing is the Supplemental Comments of Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company d/b/a TDS Telecom and Windstream Florida, Inc.

(See attached file: Supplemental Comments of Joint Petitioners)

Thank you for your assistance in this matter.

Pam L. Keillor
Assistant to Susan F. Clark and Travis L. Miller
Radey Thomas Yon & Clark, P.A.
Post Office Box 10967 (32302)
301 South Bronough Street, Suite 200
Tallahassee, Florida 32301
(850) 425-6654 Main
(850) 425-6663 Direct
(850) 425-6694 Fax
Email: pkeillor@radeylaw.com

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DOCUMENT NUMBER-DATE

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7/13/2009

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080641-TP

FILED: July 13, 2009

SUPPLEMENTAL COMMENTS OF JOINT PETITIONERS

1. On June 24, 2009, CS for CS for SB 2626, now Chapter 2009-226, Laws of Florida, was signed into law. In light of the changes to various sections in Chapter 364, Florida Statutes, the Florida Public Service Commission (“Commission”) provided the opportunity for supplemental comments on the effects of Chapter 2009-226 on its proposed changes to Rules 25-4.0185, 25-4.066, 25-4.070, 25-4.073, 25-4.110, and 25-4.083, F.A.C (collectively the “service rules”).

2. Chapter 2009-226 modified Section 364.02(1), Florida Statutes, to limit the definition of “Basic local telecommunications service” to “voice-grade, single-line, flat-rate residential local exchange service.” In addition, Section 364.15, Florida Statutes, was modified to limit the scope of the Commission’s authority under that section to “basic local telecommunications service.” The legislative changes to these sections eliminate the Commission’s authority to impose service quality rules on services other than basic local telecommunications service.

3. Based on the changes to Sections 364.02(1) and 364.15, Florida Statutes, Joint Petitioners submit that the Commission should modify its proposed service rules to reflect the new law’s limitation of the Commission’s authority over service quality to basic local

telecommunications service. Joint Petitioners' suggested changes to the Commission's proposed service rules are shown in legislative format and attached hereto as "Attachment A."¹

4. The overarching rationale for each of the suggested changes to the service rules is to conform the existing rules to the changes made by the legislature to Chapter 364 in SB 2626.

5. Joint Petitioners' explanation for the suggested changes for each of the service rules is as follows:

a) 25-4.0185 – The proposed changes to this rule are to clarify the applicability of the rule to basic local telecommunications service. In subsection 2 of the rule, schedules 2 and 3 of Form PSC/SSC 28 are deleted to reflect Joint Petitioners' proposed repeal of Rule 25-4-066, F.A.C. The proposed changes also provide that where a company is not yet able to isolate and specifically provide basic local telecommunications service data, aggregate data may be submitted, however, any differences between the data submitted and that required by the rule will be identified. This change provides a mechanism for compliance with the rule until a company can transition its systems to identify and collect only reportable data.

b) 25-4.066 – This rule should be repealed in its entirety. The carrier-of-last-resort obligation ("COLR") originally imposed by Section 364.025(1), Florida Statutes, has now expired by the terms of that section. There is no longer a statutory obligation for an Incumbent Local Exchange Carrier ("ILEC") to provide service to any specific person. Further, the Commission's authority to require changes, improvements, repairs or extensions to a customer's service is now limited to basic local telecommunications

¹ Please note that the changes proposed by Joint Petitioners in Attachment A are made to the text of the Commission's proposed rules attached to the Notice of Proposed Rule Making published in the Florida Administrative Weekly on January 23, 2009 (incorporating the Commission's proposed changes into the rules and showing the Joint Petitioners' suggested changes in legislative format).

service. Without an express obligation to provide any service and in view of the limits now in Section 364.15, there is no logical basis upon which to impose rules governing the availability of service. Such matters should now be governed by each company's service tariffs or schedules. To the extent that the Commission determines to retain this rule, it should be limited to basic local telecommunications service and the installation interval should be increased to five days for the reasons set forth in the Comments of the Joint Petitioners, filed in this docket on February 13, 2009.

c) 25-4.070 – The proposed changes to this rule are the same as were suggested in Joint Petitioners' comments filed February 13, 2009, with the addition of reflecting that the rule should only apply to basic local telecommunications service. The rationale for the suggested changes is set forth in those prior comments and is incorporated herein by reference.

d) 25-4.073 – The proposed changes to this rule are the same as were suggested in Joint Petitioners' comments filed February 13, 2009, with the addition of reflecting that the rule should only apply to basic local telecommunications service. The rationale for the suggested changes is set forth in those prior comments and is incorporated herein by reference.

e) 25-4.110 – The proposed changes to this rule are the same as were suggested in Joint Petitioners' comments filed February 13, 2009, with the addition of reflecting that the rule should only apply to basic local telecommunications service. The rationale for the suggested changes is set forth in those prior comments and is incorporated herein by reference.

6. Attachment A outlines the Joint Petitioners' specific alternative rule language for Rules 25-4.0185, 25-4.066, 25-4.070, 25-4.073, and 25-4.110, F.A.C. These proposed changes to the published amendments in the Commission's Notice of Proposed Rulemaking reflect the changes in Chapter 364 resulting from SB 2626 and will provide a safety net to basic local telecommunications service customers while allowing the ILECs the flexibility needed to compete in Florida's current telecommunications market.

Respectfully submitted,

/s/ Susan F. Clark

Susan F. Clark
Lisa C. Scoles
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
(850) 425-6654 (phone)
Attorneys for the Petitioners

/s/ Dulaney L. O'Roark III

Dulaney L. O'Roark III
P. O. Box 110, MC FLTC0007
Tampa, Florida 33601-0110
(678) 259-1449 (phone)
Attorney for Verizon Florida LLC

/s/ E. Earl Edenfield, Jr.

E. Earl Edenfield, Jr.
Tracy W. Hatch
Manuel A. Gurdian
c/o Gregory R. Follensbee
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301
(305) 347-5558 (phone)
**Attorneys for BellSouth Telecommunications,
Inc. d/b/a AT&T Florida**

/s/ Susan S. Masterton

Susan S. Masterton

1313 Blair Stone Road

Tallahassee, FL 32301

(850) 599-1560 (phone)

Attorney for Embarq Florida, Inc.

/s/ Peter R. Healey

Peter R. Healy

525 Junction Road, Suite 7000

Madison, WI 53717

(608) 664-4117 (phone)

Attorney for TDS Telecom

/s/ J. Jeffry Wahlen

J. Jeffry Wahlen

Ausley & McMullen

P. O. Box 391

Tallahassee, FL 32302

(850) 224-9115 (phone)

Attorney for Windstream Florida, Inc.

ATTACHMENT A
Joint Petitioners' Proposed Changes to the Commission's Rule Amendments

25-4.0185 Periodic Reports.

Each local exchange telecommunications company ("LEC") shall file with the Commission's Division of Service, Safety and Consumer Assistance the information required by Commission Form PSC/SSC 28 (xx/xx), which is incorporated into this rule by reference. Form PSC/SSC 28, entitled "Engineering Data Requirements," may be obtained from the Commission's Division of Service, Safety and Consumer Assistance.

(1) The information required by schedules ~~2, 3,~~ 8, 11, and 15 of Form PSC/SSC 28 shall be filed ~~on a quarterly basis by the large LECs and~~ semiannually by the small LECs on or before the end of the month following the reporting period.

(2) Schedules ~~2, 3,~~ 11, and 15 of Form PSC/SSC 28 shall apply to basic local telecommunications residential service only.

(3) If a LEC is unable to report results as specific in subsections (1) and (2) using its automated systems, the LEC will identify any differences when it makes its filing. Upon request by the Commission, the LEC will provide any additional information required to determine compliance with Rule 25-4.070(3).

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.17, 364.183(1) FS. History—New 12-14-86, Amended 7-20-89, 12-27-94, 3-10-96, 4-3-05.

25-4.066 Availability of Basic Local Telecommunications Residential Service.

~~(1) Each telecommunications company shall provide central office equipment and outside plant facilities designed and engineered in accordance with realistic anticipated customer demands for residential local telecommunications service within its certificated area in accordance with its filed tariffs.~~

~~(2) Where central office and outside plant facilities are readily available, at least 90 percent of all requests for primary service shall be installed within an interval of three working days after receipt of application when all tariff requirements relating thereto have been complied with, except those instances where a later installation date is requested by the applicant or when broadband or video services are requested in addition to the telecommunications service.~~

~~(3) If the applicant requests an installation date beyond three working days, the requested date shall be counted as day three for measurement purposes.~~

~~(4) Failure of the customer to afford the company representative entry to the premises during the appointment period shall exempt the order for measurement purposes.~~

~~(5) Each company shall report primary residential installation performance pursuant to Rule 25-4.0185, F.A.C., Periodic Reports.~~

Specific Authority 350.127(2) FS. Law Implemented 364.025, 364.03, 364.14, 364.15, 364.183, 364.185 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.66, Amended 3-10-96, 4-3-05, 4-3-05.

25-4.070 Customer Trouble Reports for Basic Local Telecommunications Residential Service.

(1) Each local telecommunications company ("company") shall make all reasonable efforts to minimize the extent and duration of service interruptions and service affecting conditions (collectively, "trouble conditions") that disrupt or affect basic local telecommunications residential customer telephone service. Trouble reports will be classified as to their severity on a service interruption (synonymous with out-of-service or OOS) or service affecting (synonymous with non-out-of-service or non-OOS) basis. Service interruption reports shall not be downgraded to a service affecting report; however, a service affecting report shall be upgraded to a service interruption if changing trouble conditions so indicate.

(a) Companies shall make every reasonable attempt to restore service on the same day that the interruption is reported to the serving repair center.

(b) In the event a subscriber's service is interrupted other than by a negligent or willful act of the subscriber and it remains out of service in excess of 24-48 hours after being reported to the company, an appropriate adjustment or refund shall be made to the subscriber automatically, pursuant to Rule 25-4.110, F.A.C. (Customer Billing). Service interruption time will be computed on a continuous basis, Sundays and holidays included. Also, if the company finds that it is the customer's responsibility to correct the trouble, it must notify or attempt to notify the customer within 24-48 hours after the trouble was reported.

(2) Sundays and Holidays:

(a) Except for emergency service providers, such as the military, medical, police, and fire, companies are not required to provide normal repair service on Sundays. Where any repair action involves a Sunday or holiday, that period shall be excepted when computing service objectivesstandards, but not refunds for service interruptions.

(b) Service interruptions occurring on a holiday not contiguous to Sunday will be treated as in paragraph (2)(a) of this rule. For holidays contiguous to a Sunday or another holiday, sufficient repair forces shall be scheduled so that repairs can be made if requested by a subscriber.

(3) Service ObjectivesStandards:

~~(a) Service Interruption: Trouble reports for trouble conditions for basic local telecommunications service shall be corrected 80 percent of the time within 48 hours. Restoration of interrupted service shall be scheduled to ensure at least 90 percent shall be cleared within 24 hours of the report.~~

~~(b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to ensure at least 90 percent of such reports are cleared within 72 hours of the report.~~

(4) If the customer requests that the service be restored on a particular day beyond the service objectivestandards in subsection (3) above, the trouble report shall be counted as having met the service objectivestandards if the requested date is met.

(5) Priority shall be given to service interruptions that affect public health and safety that are reported to and verified by the company and such service interruptions shall be corrected as promptly as possible on an emergency basis.

(6) The service objectivestandards of this rule shall not apply to subsequent customer reports or emergency situations, such as unavoidable casualties where at least 10 percent of an exchange is out of service.

(7) Each company shall report pursuant to Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to customer trouble reports.

~~(8) This rule shall apply to residential service only.~~

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.17, 364.18, 364.183, 364.386 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.70, Amended 6-24-90, 3-10-96, 4-3-05.

25-4.073 Answering Time for Basic Local Telecommunications~~Residential Service.~~

(1) Each local telecommunications telephone company (“company”) shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide adequate personnel so as to meet the following service standards under normal operating conditions:

(a) Answer time for calls directed to repair services and calls directed to business offices for basic local telecommunications service customers will be measured and reported based on the average speed of answer (ASA). Measurement of ASA begins when the call leaves the Integrated Voice Response Unit (IVRU) and ends when a service representative answers the call or the caller abandons the call. Where an IVRU is not used, measurement of ASA begins as soon as the call is received and ends when a service representative answers the call or the caller abandons the call. The ASA shall not exceed 120 seconds. Upon request, the Commission may authorize a company to measure and report results on an alternative basis. At least 90 percent of all calls directed to business and repair offices for residential service shall be answered within 90 seconds after the last digit is dialed when no menu driven system is utilized.

(b) For calls initially routed to an automated menu and handled without the intervention of a live business office representative, the answer time for these calls should be counted as one second. When a company utilizes a menu driven, automated, interactive answering system (referred to as the system or as an Integrated Voice Response Unit (IVRU), at least 95 percent of the calls offered shall be answered within 30 seconds after the last digit is dialed. The initial recorded message presented by the system to the customer shall include the option of transferring to a live attendant within the first 60 seconds of the message.

(c) For subscribers who select the option of transferring to a live assistant, the call shall be transferred by the system to a live attendant. At least 90 percent of the calls shall be answered by the live attendant prepared to give immediate assistance within 90 seconds of being transferred to the attendant.

(~~c~~d) The terms “answered” as used in paragraphs (a) ~~and (c)~~ above, shall refer to calls in which the customer elects to speak to a service representative, and shall be construed to mean more than an acknowledgment that the customer is waiting on the line. It shall mean that the service representative is ready to render assistance.

(~~2~~3) All ~~telecommunications~~ companies are expected to answer their main published telephone number on a 24 hour a day basis. Such answering may be handled by a special operator at the toll center or directory assistance facility when the company offices are closed. Where after hours calls are not handled as described above, at least the first published business office number will be equipped with a telephone answering device which will notify callers after the normal working hours of the hours of operation for that business office. Where recording devices are used, the message shall include the telephone number assigned to handle urgent or emergency calls when the business

office is closed.

(3) Each company shall report pursuant to Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to answer time.

~~(4) This rule shall apply to residential service only.~~

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.386, 365.171 FS. History—New 12-1-68, Amended 3-31-76, Formerly 25-4.73, Amended 11-24-92, 4-3-05.

25-4.110 Customer Billing for Local Exchange Telecommunications Companies.

(1) Each telecommunications company shall meet the requirements as prescribed by the Federal Communications Commission in Title 47, Code of Federal Regulations, Part 64, Sections 64.2400 and 64.2401, Truth-in-Billing Requirements for Common Carriers, revised as of October 1, 2007. ~~issue bills monthly or may offer customers a choice of billing intervals that includes a monthly billing interval.~~

~~(2) If each recurring charge due and payable is not itemized, each bill shall contain the following statement: "Further written itemization of local billing available upon request." In addition, the billing party will provide a plain language explanation to any customer who contacts the billing party.~~

~~—(3) Each LEC shall provide an itemized bill for local service:~~

~~—(a) With the first bill rendered after local exchange service to a customer is initiated or changed; and~~

~~—(b) To every customer at least once each twelve months.~~

~~—(4) The annual itemized bill shall be accompanied by a bill insert or bill message which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill insert or bill message shall be submitted to the Commission's Division of Regulatory Compliance for prior approval. An itemized bill shall include, but not be limited to the following information, separately stated: —~~

~~(a) Number and types of access lines;~~

~~—(b) Charges for access to the system, by type of line;~~

~~—(c) Charges for each custom calling feature or package;~~

~~—(d) Unlisted number charges;~~

~~—(e) Local directory assistance charges;~~

~~—(f) Other tariff charges; and~~

~~—(g) Other nontariffed, regulated charges contained in the bill.~~

~~—(5) All bills rendered by a local exchange company shall clearly state the following items:~~

~~—(a) Any discount or penalty. The originating party is responsible for informing the billing party of all such penalties or discounts to appear on the bill, in a form usable by the billing party;~~

~~—(b) Past due balance;~~

~~—(c) Amounts or items for which nonpayment will result in disconnection of the customer's basic local service, including a statement of the consequences of nonpayment;~~

~~—(d) Long distance monthly or minimum charges, if included in the bill;~~

~~—(e) Long distance usage charges, if included in the bill;~~

- ~~— (f) Usage based local charges, if included in the bill;~~
 - ~~— (g) Telecommunications Access System Surcharge, per subsection 25-4.160(3), F.A.C.;~~
 - ~~— (h) “911” fee per Section 365.171(13), F.S.; and~~
 - ~~— (i) Delinquent date.~~
- ~~— (6) Each company shall make appropriate adjustments or refunds where the subscriber’s service is interrupted by other than the subscriber’s negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month’s charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.~~
- ~~— (7) Bills shall not be considered delinquent prior to the expiration of 15 days from the date of mailing or delivery by the company.~~
- ~~— (8) Each telephone company shall include a bill insert or bill message advising each subscriber of the directory closing date and the subscriber’s opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. The notice shall be included in the billing cycle closest to 60 days preceding the directory closing date.~~
- ~~— (9) Annually, each telephone company shall include a bill insert or bill message advising each residential subscriber of the option to have the subscriber’s name placed on the “No Sales Solicitation” list maintained by the Department of Agriculture and Consumer Services, Division of Consumer Services, and the 800 number to contact to receive more information.~~
- ~~— (10) Where any undercharge in billing of a customer is the result of a company mistake, the company may not backbill in excess of 12 months.~~
- ~~— (11) Each LEC shall apply partial payment of an end user/customer bill first towards satisfying any unpaid regulated charges. The remaining portion of the payment, if any, shall be applied to nonregulated charges.~~
- ~~— (12) The LEC or IXC will adjust the first bill containing Pay Per Call charges upon the end user’s/customer’s stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will be made if necessary to reflect calls billed in the following month which were placed prior to the Pay Per Call service inquiry. At the time the charge is removed, the end user/customer shall be notified of the availability of free blocking of Pay Per Call service (900 and 976).~~
- ~~— (13) Companies that bill for local service must provide notification with the customer’s first bill or via letter, and annually thereafter that a PC Freeze is available at no charge. Existing customers must be notified annually that a PC Freeze is available at no charge. Notification shall conform to the requirements of Rule 25-4.083.~~
- ~~— (14) If a customer notifies a billing party that they did not order an item appearing on their bill or that they were not provided a service appearing on their bill, the billing party shall promptly provide the customer a credit for~~

~~the item and remove the item from the customer's bill, with the exception of the following:~~

~~(a) Charges that originate from:~~

- ~~1. Billing party or its affiliates;~~
- ~~2. A governmental agency;~~
- ~~3. A customer's presubscribed intraLATA or interLATA interexchange carrier; and~~

~~(b) Charges associated with the following types of calls:~~

- ~~1. Collect calls;~~
- ~~2. Third party calls;~~
- ~~3. Customer dialed calls for; and~~
- ~~4. Calls using a 10-10-xxx calling pattern.~~

~~—(15)(a) Upon request from any customer, a billing party must restrict charges in its bills to only:~~

~~1. Those charges that originate from the following:~~

- ~~a. Billing party or its affiliates;~~
- ~~b. A governmental agency;~~
- ~~c. A customer's presubscribed intraLATA or interLATA interexchange carrier; and~~

~~2. Those charges associated with the following types of calls:~~

- ~~a. Collect calls;~~
- ~~b. Third party calls;~~
- ~~c. Customer dialed calls; and~~
- ~~d. Calls using a 10-10-xxx calling pattern.~~

~~(b) Customers must be notified of this right by billing parties annually and at each time a customer notifies a billing party that the customer's bill contained charges for products or services that the customer did not order or that were not provided to the customer.~~

~~(c) Small local exchange telecommunications companies as defined in Section 364.052(1), F.S., are exempted from this subsection.~~

~~—(16) In addition to the requirements listed in subsections (1) through (15) above, a local provider shall meet the requirements as prescribed by the Federal Communications Commission in Title 47, Code of Federal Regulations, Part 64, Sections 64.2400 and 64.2401, Truth-in-Billing Requirements for Common Carriers, revised as of October 1, 2007, which are incorporated into this rule by reference.~~

Specific Authority 350.127, 364.604(5) FS. Law Implemented 350.113, 364.03, 364.04, 364.05, 364.052, 364.17, 364.19, 364.602, 364.604 FS. History—New 12-1-68, Amended 3-31-76, 12-31-78, 1-17-79, 7-28-81, 9-8-81, 5-3-82, 11-21-82, 4-13-86, 10-30-86, 11-28-89, 3-31-91, 11-11-91, 3-10-96, 12-28-98, 7-5-00, 11-16-03.