US States News

FLORIDA PSC ISSUES SUPPLEMENTAL AGENDA INFORMATION ON DOCKET NO. 070567-TL

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BY US STATES NEWS

TALLAHASSEE, Fla.—The Florida Public Service Commission issued the following summary of its agenda information:

TO: Office of Commission Clerk (Cole)
FROM: Division of Competitive Markets & Enforcement (Williams, Casey)
Office of the General Counsel (Teitzman)
RE: Docket No. 070567-TL - Request to Approve Lifeline Research Using Community Service Fund, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Embarq Florida, Inc.
AGENDA: 10/23/07 Regular Agenda - Proposed Agency Action - Interested Persons May Participate
COMMISSIONERS ASSIGNED: All Commissioners
PREHEARING OFFICER: Administrative
CRITICAL DATES: None
SPECIAL INSTRUCTIONS: None
FILE NAME AND LOCATION: S:\PSC\CMP\WP\070567.RCM.DOC

Case Background
In the fall of 1999, the Florida Public Service Commission (PSC or Commission) opened two show-cause dockets for apparent violations of service standard rules by BellSouth Telecommunications, Inc. (BellSouth) and Sprint-Florida, Incorporated (Sprint). Both dockets were resolved by a settlement agreement which required the companies, in part, to pay monies into a Community Service Fund (CSF). At issue here is the use of the monies in the CSF.

On September 10, 1999, the Commission opened Docket No. 991378-TL to require BellSouth to show cause why it should not be fined for violations of service standards. On September 17, 1999, BellSouth submitted its settlement offer to resolve the show cause proceedings. By Order PSC-99-2207-PAA-TL, issued November 9, 1999, the Commission approved BellSouth's settlement offer of $125,000 to be deposited in the State of Florida General Revenue Fund.

On November 30, 1999, the Office of Public Counsel (OPC) filed a petition requesting a hearing and protesting PAA Order PSC-99-2207-PAA-TL. Between December 1, 1999, and July 8, 2001, BellSouth and the OPC conducted negotiations for a settlement in Docket No. 991378-TL. On July 9, 2001, BellSouth and the OPC filed a Joint Motion Seeking Commission Approval of the Stipulation and Settlement to resolve the issues. The Stipulation and Settlement Agreement included a provision for the establishment of a Service Guarantee Plan that automatically provides payments in the form of credits to customers in the event certain objectives are not met.

It also requires the payment of monies to a CSF. By Order No. PSC-01-1643-AS-TL, issued August 13, 2001, the Commission approved the Stipulation and Settlement Agreement.

The Settlement Agreement provides that the CSF will be used "to educate customers about and promote BellSouth's Lifeline and Link-Up services." The agreement required BellSouth to contribute $250,000 in calendar year 2002 and $150,000 in calendar year 2003.

On September 10, 1999, the Commission opened Docket No. 991377-TL to initiate show cause proceedings against Sprint for apparent violation of service standards. On June 27, 2000, Sprint and the OPC filed a Stipulation and Settlement Agreement which provided for implementation of a Service Guarantee Plan wherein Sprint automatically provides direct credits to customers whose service is affected by delayed installation or repair of service. In addition, Sprint agreed to establish a CSF wherein Sprint will provide credits to the Fund when it fails to meet the proposed answer time and accessibility standards when customers call the business or repair offices. Separate and apart from any credits of the Service Guarantee Program, Sprint agreed to credit an initial amount of $100,000 to the CSF. The agreement specifies that the amounts in the CSF "?shall be disposed of, in coordination with the Office of Public Counsel, to educate customers about and promote Sprint's Lifeline service." By Order No. PSC-00-2462-PAA-TL, issued December 20, 2000, the Commission approved the Stipulation and Settlement Agreement.

On August 22, 2007, BellSouth d/b/a AT&T Florida (AT&T), and Embarq Florida, Inc. f/k/a Sprint (Embarq) filed a Joint Petition requesting the Commission to approve Lifeline Research using the CSF. This recommendation addresses the AT&T and Embarq Petition. We have jurisdiction in this matter pursuant to Sections 364.01, 364.025, 364.0252. 364.051, and 364.10, Florida Statutes.

Issue 1:

Should the Commission clarify that in addition to using the Lifeline Community Service Fund to educate and promote Lifeline and Link-Up services, it can be used to support research activities regarding Lifeline?

Recommendation:

Yes. The Commission should clarify that in addition to using the Lifeline Community Service Fund to educate and promote Lifeline and Link-Up services, it can be used to support research activities which are in the public interest and designed to benefit Lifeline and Link-Up service. However, the responsibility for approval of specific disbursements from the Community Service Fund should remain with the OPC, AT&T, and Embarq. (Williams, Casey, Teitzman)

Staff Analysis:

The Community Service Fund (CSF) was implemented as a result of stipulation and settlement agreements between the OPC and AT&T, and the OPC and Embarq. At the November 2, 2004 agenda conference, while addressing the disposition of unclaimed refunds of BellSouth late payment charges,[1] the Commission decided that it should exercise minimal oversight over the CSF. It was agreed that day-to-day oversight of the operation and prior approval of disbursement of monies from the CSF by the FPSC would be excessively bureaucratic. The Commission believed that OPC and the company needed to have the flexibility to do what they think is best to meet their statutory and other duties to enhance the Lifeline and Link-Up program.

In their petition, AT&T and Embarq seek to expand the use of the funds to include research activities. The Joint Petition requests that monies from this fund be used to retain the Public Utility Research Center ("PURC") to conduct research that will address four fundamental questions regarding Lifeline and Link-Up enrollment:

* How do enrollment procedures impact households' participation in Lifeline?

* What do eligible households understand from the enrollment efforts?

* How does low income household use of wireless communications impact enrollment in Lifeline?

* What communications services are low income households and consumers in Florida purchasing and/or using?

The Joint Petitioners assert that obtaining answers to these questions will provide information that will better promote Lifeline and Link-Up by:

* Examining how enrollment procedures impact participation;

* Measuring how use of wireless communications impacts Lifeline enrollment; and

* Studying what communications services low income households and consumers are using.

The Joint Parties believe that using the Fund in this manner is consistent with the overall intent and purpose of the commitment to promote and educate Florida consumers about Lifeline and Link-Up. They also assert that Florida consumers will benefit by obtaining this information to implement measures specifically designed to increase Lifeline and Link-Up enrollment based on the results of the research.

The Petition requests that monies from the CSF be used for purposes which may be considered beyond the original intent of the fund as expressed in the order, which was to "educate customers about and promote BellSouth's Lifeline and Link-Up services." In response to a September 14, 2007, data request to Embarq and AT&T regarding the original intent of the fund, AT&T responded that:

In order to increase subscribership and continue to educate customers about and promote the Lifeline and Link-Up programs, AT&T believes the expansion of the Fund for the use of the research activities as described in its Petition is necessary.

Embarq responded that:

Embarq believes the proposed study, while perhaps not strictly falling within the scope of "education" or "promotion," will provide valuable information that ultimately will be useful in achieving these important goals.

Staff believes that monies from the CSF should further the public interest and benefit Florida consumers since the majority of the monies in the fund were from unclaimed refunds of Florida consumers.

Conclusion

Staff is not addressing the merits of implementing the proposed PURC Lifeline research. Staff believes it is ultimately the responsibility of the OPC and companies to determine the merits of the plan and the appropriate use of the CSF funds. The stipulation and settlement agreement between the OPC and AT&T specifically states that "In the event the Parties disagree as to the method of disposing of the contribution amounts, the Parties shall submit such disagreement to the Florida Public Service Commission for resolution."

The stipulation and settlement agreement between the OPC and Embarq states that if Embarq makes credits to the CSF, "such amounts shall be disposed of in coordination with the Office of Public Counsel?" Embarq's agreement does include a clause which provides that "the Parties reserve the right to agree to a different manner to dispose of amounts credited pursuant to Section 3(A)(3) of the Service Guarantee Plan, subject to the approval of the Florida Public Service Commission."

Staff does not see any disagreement between the Parties regarding expansion of the use of the CSF to include Lifeline and Link-Up research. The Petition explicitly states that "OPC does not oppose this request." (.14) Therefore, staff recommends that the Commission should clarify that in addition to using the Lifeline Community Service Fund to educate and promote Lifeline and Link-Up services, it can be used to support research activities which are in the public interest and designed to benefit Lifeline and Link-Up service. However, the responsibility for approval of specific disbursements from the Community Service Fund should remain with the OPC, AT&T, and Embarq.

Issue 2:

Should this docket be closed?

Recommendation:

If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

Staff Analysis:

At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

[1] Docket No. 000733-TL, In Re: Investigation to determine whether BellSouth Telecommunications, Inc.'s tariff filing to restructure its late payment charge is in violation of Section 364.051, F.S. The majority of funds in the BellSouth CSF were derived from unclaimed refunds of $1,589,368 in late payment charges in Docket No. 000733-TL. Order PSC-04-1124-FOF-TP, issued November 15, 2004, stated that the $1,589,368 in monies shall be used to promote Lifeline and Link-Up programs.