REPORT ON THE EFFORTS OF THE FLORIDA PUBLIC SERVICE COMMISSION TO REDUCE THE REGULATORY ASSESSMENT FEE FOR TELECOMMUNICATIONS COMPANIES

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FLORIDA PUBLIC SERVICE COMMISSION
STATE OF FLORIDA

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Office of Industry Development and Market Analysis

Introduction

During the 2011 Legislative Session, House Bill CS/CS/HB 1231, the "Regulatory Reform Act" (Act), was passed and signed into law by the Governor, effective July 1, 2011. Under the Act, the Legislature eliminated most of the Florida Public Service Commission's (FPSC's or Commission's) retail oversight authority for the telecommunications wireline companies, yet maintained the FPSC's authority over wholesale intercarrier issues. The FPSC was required to reduce its regulatory assessment fees (RAFs) charged to wireline telecommunications companies to reflect the concurrent reduction in FPSC workload. Section 364.336(3), Florida Statutes, requires:

> By January 15, 2012, and annually thereafter, the commission must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing a detailed description of its efforts to reduce the regulatory assessment fee for telecommunications companies, including a detailed description of the regulatory activities that are no longer required; the commensurate reduction in costs associated with this reduction in regulation; the regulatory activities that continue to be required under this chapter; and the costs associated with those regulatory activities.

As a result of this Act, the FPSC reduced its RAF rates 20%, from 0.0020 to 0.0016 of companies' gross operating revenues derived from intrastate business. This change became retroactively effective July 1, 2011. Florida telecommunications statutes have remained essentially unchanged since 2011. The FPSC has introduced numerous measures to streamline its telecommunications-related activities since that time, and continues to look for ways to streamline its remaining responsibilities.

Regulatory Activities That Are No Longer Required

The Act eliminated most of the retail regulation of local exchange telecommunications services by the FPSC, including the elimination of rate caps on all retail telecommunications services, elimination of telecommunications-related consumer protection and assistance duties of the FPSC, and elimination of the FPSC's remaining oversight of telecommunications service quality. The Act also reformed the FPSC's certification processes, authority over intercarrier matters, and other general revisions.

Consistent with the reduced authority of the FPSC from the Act, the FPSC ceased the following activities:

- Resolving non-basic retail consumer billing complaints.

- Addressing slamming or cramming complaints from consumers. The FPSC continues to address slamming complaints that are reported by carriers under the Commission's wholesale authority.

- Publishing and distributing materials informing consumers on billing-related matters or informative materials relating to the competitive telecommunications market.

- Designating wireless eligible telecommunications carriers (ETCs) in Florida for the federal universal service fund. Any wireless carrier seeking ETC status in Florida must petition the Federal Communications Commission (FCC) for that authority.

- Performing service evaluations on carriers or investigating and resolving service-related consumer complaints, except as they may relate to Lifeline service, Telephone Relay Service, and payphones.

- Allowing incumbent local exchange carriers (ILECs) to petition for recovery of storm-damage-related costs and expenses.

- Reviewing non-access service tariff filings for content, form, or format. It is the carrier's choice whether to file its rate schedules with the FPSC or publicly publish the schedules elsewhere, such as the companies' websites.

Regulatory Activities That Continue To Be Required

The FPSC regulates 287 telecommunications companies in some way as of November 1, 2021. The Commission continues to retain authority and responsibility in the following areas for telecommunications companies:

- Resolving intercarrier disputes involving interpretations and implementation of sections of the intercarrier agreements.

- Processing arbitrations of intercarrier agreements when the companies cannot negotiate all the terms of the agreement and request the FPSC to resolve issues the companies define.

- Reviewing interconnection agreements filed with the FPSC in accordance with federal requirements.

- Resolving cases involving area code relief, number conservation plans, number resource reclamation, local number portability, and other numbering issues.

- Analyzing information for and producing several statutorily required reports: the *Annual Report on* the *Status of the Telecommunications Access System Act of 1991*, the *Annual Report on Lifeline Assistance*, the *Report on the Efforts of the Florida Public Service Commission to Reduce the Regulatory Assessment Fee for Telecommunications Companies*, and the *Report on the Status of Competition in the Telecommunications Industry*.

- Maintaining oversight of the Florida Telecommunications Relay Service.

- Maintaining oversight of the Lifeline Program and monitoring ETCs.

- Issuing certificates of authority for telecommunications companies to operate in Florida, including evaluating the applicant's technical, financial, and managerial capability to provide service.

- Resolving consumer complaints relating to Lifeline, Relay Service, and payphones.

- Publishing network access tariff information for all incumbent local carriers.

- Publishing other tariff/rate schedule information for any certificated company if the company so decides.

- Publishing and distributing informative materials relating to the Lifeline Program and conducting related consumer outreach.
- Monitoring and/or participating in federal proceedings where the state's consumers may be affected and conveying the FPSC's policy positions.

During the 2021 Legislative Session, Senate Bill CS/SB 1944 was passed and signed into law by the Governor, effective July 1, 2021. The bill created Section 366.94(8), F.S., requiring the FPSC to regulate and enforce rates, charges, terms, and conditions of pole attachments, which is currently regulated by the FCC. Section 366.02(7), F.S., defines "pole attachment" as "any attachment by a public utility, local exchange carrier, communications services provider, broadband provider, or cable television operator to a pole, duct, conduit, or right-of-way owned or controlled by a pole owner." Pursuant to Section 366.94(8)(e), F.S., the Commission shall hear and resolve complaints concerning rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments. Such complaints will likely involve local exchange carriers and other communications services providers. The Commission is required to propose procedural rules to implement this new authority by January 1, 2022. Once rules are adopted, the Commission must certify to the FCC pursuant to 47 U.S.C. § 224(c)(2), that the Commission now regulates the rates, terms, and conditions of pole attachments in Florida.

Senate Bill CS/SB 1944 also created Section 366.94(9), F.S., requiring the FPSC to regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for certain poles owned by communications services providers. The Commission must propose rules to implement this new authority by April 1, 2022. Sections 366.94(8) and (9), F.S., represent an expansion of the FPSC's regulation of telecommunications companies in Florida.

Savings

The FPSC has been pursuing cost savings and efforts to streamline regulatory processes for well over a decade. The origin of these streamlining efforts is not limited to the emergence and evolution of competition in the telecommunications industry. In fiscal year 1999/2000, the FPSC had 401 full time positions. That number was reduced over the years, leading to a total of 261 full time positions for the 2021/2022 fiscal year, a total reduction of 35 percent. Many of these reductions came as a result of projected workload reductions in the telecommunications area.

The FPSC is currently implementing CS/SB 1944. The implementation of this bill may require additional full time positions at the agency, some of which may be dedicated to the telecommunications industry.

As previously discussed, effective July 2011, the FPSC reduced the telecommunications RAF rate from 0.0020 to 0.0016 of the gross operating revenues derived from intrastate business. In addition, all local telephone service providers now pay $600 as the minimum fee instead of varying rates based upon the service offered.[1] At the current 0.0016 rate, carriers will pay this minimum fee up to $375,000 in gross intrastate operating revenues. The reduced RAF rate was determined assuming reduced responsibilities, projecting staff hours on continuing telecommunications workload, and projecting telecommunications company revenues. As they have for several years, revenues subject to RAFs from telecommunications companies regulated by the FPSC continued to decline in 2021 as traditional wireline revenues are replaced by unregulated (VoIP/broadband) services.

Efforts to Reduce Costs

As previously stated, the FPSC has a long history of seeking cost savings and streamlining regulatory processes. With specific regard to the implementation of the Act, the FPSC initially undertook three new processes. First was the RAF rate reduction previously discussed. Second, the FPSC assessed the number of staff equivalents required to perform the duties associated with the deregulation measures in the Act. Based upon time sheet information, twelve positions were eliminated effective July 1, 2011. These positions reflected the elimination of service requirements, processing of most telecommunications customer complaints, long distance carrier activities, a reduction in price schedule maintenance, and a reduction in consumer information and outreach.

Third, the FPSC retained the National Regulatory Research Institute (NRRI) in May 2011, to review the FPSC's organization structure and work flow processes to determine if the FPSC should implement any additional changes in the telecommunications area. NRRI reviewed the agency operating procedures, organizational charts, and workload. Key telecommunications staff were interviewed and most telecommunications direct staff were given a survey to complete. NRRI studied the Act and the resulting changes to the FPSC's responsibility. The

[1] Previously, the minimum fee ranged from $600 to $1,000, depending on the type of service offered. Payphone operators continue to pay a minimum fee of $100.

telecommunications-direct staff of the FPSC was then compared to that of other states with respect to statutory authority and number of technical staff assigned. NRRI concluded that the structure of the FPSC's telecommunications group was appropriate and compared favorably to those in other states.

NRRI found that the size of the telecommunications group was correct, but made a few suggestions where the FPSC could add more streamlining or cost reduction measures. The FPSC implemented NRRI's recommendations, including:

- The FPSC further shifted responsibilities to the administrative staff for the competition report's document control and relay data collection functions.

- The FPSC simplified the review process, analysis of data, and reduced the length of the competition report.

- The FPSC encouraged and trained companies to submit tariffs and service schedules online.

In subsequent years, the FPSC has implemented many additional efficiency measures. In 2011, the FPSC had 115 telecommunications-related rules. Through consolidation, revision, and elimination, there are now 20 active telecommunications rules.

In 2013, the FPSC implemented agency-wide electronic filing and submission policies that will substantially reduce the number of paper documents at the agency. Coincidentally with the agency-wide policy, the telecommunications group began updating its online tariff filing procedures and converting its existing tariff documents to digital format. All official copies of telecommunications tariffs, price lists, and service schedules are now available on the agency's website, as are all tariff updates. This development allows greater access to both consumers and companies, and reduces costs associated with record requests. Additionally, the FPSC continues the process of eliminating all obsolete or redundant paper archives of companies' rates and schedules.

Additionally, the telecommunications staff has become very flexible and able to perform a wide variety of functions. It has conducted periodic internal cross training on its remaining responsibilities, through both scheduled office-wide training sessions and temporary transfers of job duties. It has also developed comprehensive written Standard Operating Procedures for its functions. As staff become familiar with each other's duties, the requisite training time will be reduced should the need arise to further consolidate or transfer functions.

During 2012, the technical staff responsible for continuing statutory mandates were consolidated and established as a stand-alone unit within the agency to maximize efficiency and minimize supervisory needs. Then, in 2017, as further efficiency measures and staff changes were implemented, the FPSC merged its telecommunications staff with another office to streamline its processes further. Some administrative and management functions were consolidated, creating more savings for the agency. Other efficiency-related activity has included the transfer of call testing for Relay Service from FPSC staff to the relay provider, streamlined telecommunications certification and certificate transfer processes, and further transfers of duties to administrative staff.

Summary

The FPSC has proactively responded to the changes in its statutory authority as a result of the Act. The agency has assessed the appropriate staffing levels for the telecommunications staff, and will continue to monitor the workload and staffing needs. The FPSC hired NRRI in 2011 to audit the FPSC's telecommunications program to determine if additional changes needed to be made. The audit results reflected favorably upon the program, and the FPSC has implemented NRRI's suggestions. The FPSC has reviewed its telecommunications rules and eliminated unnecessary or obsolete regulations. The agency continues to seek ways to economize its resources while maintaining a high quality work product for all industries under the FPSC's authority, including telecommunications.