POST RULEMAKING WORKSHOP COMMENTS OF SPRINT

Sprint Nextel Corporation, on behalf of itself and Sprint Communications Company Limited Partnership, its wholly-owned subsidiary providing wireline telecommunications services in the State of Florida ("Sprint"), provides the following brief Comments on the Rulemaking Workshop in the above-captioned matter held at the Florida Public Service Commission ("Commission") on March 30, 2010.

I. Introduction

Sprint has been granted authority by the Commission to operate as an intrastate interexchange telecommunications company and a competitive local exchange telecommunications company in Florida. Such entities have traditionally been afforded light regulation by the Commission and the Florida Legislature\(^1\) and the recent legislative changes to § 364.04, Florida Statutes ("Schedules of rates, tolls, rentals, and charges; filing; public inspection"), are not intended in any way to change that approach. In fact, the intent of the legislation is to replace outmoded traditional tariffs filed at the Commission with the flexibility to communicate the rates, terms and conditions of

\(^{1}\) For instance, an intrastate, interexchange telecommunications company is excluded from the definitions of "telecommunications company" and is subject only to portions of §364, Florida Statutes, that are specifically enumerated in § 364.02(14), F.S.
service to customers by other means that are more convenient for both customers and service providers, including posting service schedules online. And Commission Staff made it clear during the Rulemaking Workshop that the proposed rules under development are designed not to add requirements or expand the scope of the existing tariffing rules, but merely to change them to accommodate the alternative means of publishing rate schedules contemplated by the new § 364.04, F.S.

Sprint already has notified the Commission of its decision to withdraw its intrastate interexchange tariff and publish its schedule online consistent with the guidelines provided by Staff.² Sprint looks forward to continuing to work with Staff as it considers these rule changes. Overall, and as outlined below, Sprint urges that if the Commission believes any regulations are necessary and authorized under the recent changes to § 364.04, F.S., it should tailor such rules narrowly and ensure no unintended and unnecessary regulatory burdens result.

II. Rulemaking Authority and Purpose

As a threshold matter, the Staff and Commission should consider whether there exists a grant of rulemaking authority in the new § 364.04 that is sufficient to engage in the rulemaking that is contemplated. As Staff is aware, § 120.536, F.S., “Rulemaking authority; repeal; challenge,” states that there must be “a grant of rulemaking authority” and that “an agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute.” The original version of § 364.04 included references to actions to be taken by the Commission under the law that could be

interpreted to grant rulemaking authority (e.g., "[u]pon order of the commission, every telecommunications company shall file..."), public inspection copies shall be made accessible "at such places as may be designated by the commission"; a notice regarding schedules "shall be kept posted by every telecommunications company as the commission designates.") Sprint agrees with comments made by participants during the workshop that there is no rulemaking authority provided in the new § 364.04. The new section addresses only action to be taken by telecommunications companies and contains no instances like those in the prior version of the section cited above that would authorize rulemaking or Commission action. Instead, the new section is self-executing and rulemaking is neither authorized nor needed.

While it appears that Staff believes rules are necessary to achieve other goals (e.g., to facilitate the process of processing consumer complaints), such goals do not provide sufficient authority for rulemaking in this instance under § 120.536, F.S. ("No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy.")

While it may be defensible to retain existing rules for telecommunications companies that wish to continue to file tariffs with the Commission on the basis that the Commission has a role in receiving and processing such tariffs, there is no authority to promulgate rules related to the alternative schedules not filed with the Commission. The statute does not define a role for the Commission with respect to such schedules and, further, provides very specific requirements for telecommunications companies such that no rulemaking is
required. Thus, Sprint urges the Commission to consider whether rulemaking authority has been granted to permit development of the rules proposed.

III. Comments on Specific Rule Proposals

In the event the Commission chooses to move ahead with the proposed rules, Sprint provides the following comments on specific provisions. The rules should not expand carriers' obligations with respect to schedules and should instead provide greater flexibility than was provided in the past for Commission-filed tariffs. Sprint has been engaged in a detariffing project over the last several years to develop online resources for consumers and, where possible, to incorporate intrastate rates, terms and conditions into a single intrastate schedule posted online. This reduces administrative burden and makes it easier for consumers to find the information they need. The specific comments provided below address concerns with portions of the proposed rules that would make it difficult or impossible for Sprint to continue to consolidate and simplify its schedules as states like Florida remove tariffing requirements and permit online publication. Sprint also agrees with commenters during the workshop that the new rules should not seek to increase the current requirements competitive local exchange carriers must meet for schedules filed at the Commission. Such rules should, at a minimum, be no more onerous than the requirements that exist today.

As an initial matter, Sprint notes that the proposed rules would treat intrastate interexchange telecommunications companies and competitive local exchange companies largely the same as incumbent local exchange carriers in terms of requirements for publication of schedules. The rules do so by incorporating most of the rules covering
incumbents in 25-4.034 into the rules covering intrastate interexchange carriers in 25-24.470 and 25-24.485 and competitive local exchange carriers in 25-24.835. The proposed rules also would retain almost all of the requirements applicable to interexchange carrier tariffs before the recent legislative changes and actually add new requirements (e.g., inclusion of “fees and surcharges” in the schedules). The proposed rules would add rules as to the form and substance of CLEC schedules filed at the Commission. Sprint respectfully urges the Commission to re-consider whether such treatment is necessary given the characteristics of the interexchange market in Florida. The diversity and number of interexchange service providers in Florida and the intense competition between them strongly supports a minimalist approach. Consumers have abundant options and may easily change providers. In this environment, they are best served by allowing carriers to communicate with consumers flexibly in the most efficient way possible as dictated by market conditions and not as required by administrative rules. Interexchange carriers should be freed as much as possible to quickly respond to market conditions, streamline operations and keep costs down. Similarly, regulation of CLEC schedules should be decreased, not increased as called for in the proposed rules. Particularly after the legislative changes to § 364.04, the focus should be on eliminating rules, not carrying them forward or adding new ones.

A. New Requirement Regarding Fees and Surcharges

Sprint opposes any requirement that specific charges for “fees and surcharges” be included in the schedules of intrastate interexchange telecommunications companies or competitive local exchange carriers. Proposed Rule 25-4.034(1) would require
telecommunications companies to publish schedules that set forth "all intrastate rates and charges for customer services, fees and surcharges, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relation of customer and company." (See Notice of Proposed Rule Development, p. 8, line 5, emphasis added)³ Precedently, "fees and surcharges" have not been tariffed in Florida.

The Commission should not require intrastate interexchange telecommunications companies or CLECs to include charges for "fees and surcharges" in their schedules because such charges vary widely and the charges may be outside the Commission's intrastate jurisdiction. Further, in a highly competitive market such as the market for long distance services, customers are free to "vote with their feet" and change providers if they are unhappy with such charges.

Finally, the new legislative changes to § 364.04, F.S. do not provide the express rulemaking authorization necessary for the Commission to promulgate such a rule. That section makes no mention of "fees and surcharges" and, as discussed above, provides no rulemaking authorization. The legislature is aware of fees and surcharges but chose not to include them in the deregulatory changes to §364.04 and did not provide rulemaking authority with respect to such charges. To prove the point, one need only look to a different portion of § 364 where the legislature did expressly include such charges and

³ Portions of Rule 25-4.034 are incorporated by reference into the proposed rules impacting IXC and CLEC schedules. (See proposed Rules 25-24.470(2) and 25-24.485 (covering IXCs) and proposed Rule 25-24.8359covering CLECs). Specifically the draft rules incorporate Rule 25-4.034 (1)(a) through (e), (g) through (i) as applicable to intrastate interexchange carriers and CLECs. However, the "fee and surcharge" requirement appears in 25-4.034(1), before the incorporated 25-4.034(1)(a). Therefore, it is somewhat unclear whether the Staff would seek to apply this requirement to intrastate interexchange telecommunications companies and CLECs because the requirement that "fees and surcharges" be included is set forth in proposed Rule 25-4.034(1) and only later portions of Rule 25-4.034(1) are incorporated by reference as applicable to intrastate interexchange telecommunications companies and CLECs.
provide rulemaking authority. § 364.604, F.S., “Billing practices,” requires that “[e]ach billing party must clearly identify on its bill the name and toll-free number of the originating party; the telecommunications service or information service billed; and the specific charges, taxes, and fees associated with each telecommunications or information service.” [emphasis added] Further, § 364.604, F.S., expressly states that with respect to billing practices, “[p]ursuant to s. 120.536, the commission may adopt rules to implement this section.” No such mention of fees or surcharges and no such rulemaking authority is provided in the new § 364.04, F.S.

B. Continued Tariffing of Promotions is Unnecessary

As discussed above, the Commission should eliminate rules affecting intrastate interexchange carriers, not perpetuate them. Sprint respectfully urges the Commission to reconsider the need for the requirement that promotional offerings be included in schedules going forward. (See Notice of Proposed Rule Development, p. 8, line 20 through p. 9, line 1) In the intensely competitive long distance market, consumers are going to learn about promotions more through active publicity and marketing and less through information published in schedules as required by Commission rules. The requirement would serve only to create additional administrative tasks and burdens for the competing carriers and ultimately increase service costs. While a single such requirement in isolation may seem innocuous (e.g., requiring carriers to post promotions in their online schedules), each such separate state requirement makes it harder for carriers to simplify and streamline their process for posting rates. Ultimately, such requirements divert resources from the best option for consumers and carriers alike - communicating with consumers whichever way is most effective in the marketplace.
C. Clarification of "Florida-Specific Service Schedule" Requirement

Sprint is concerned that the language included in the draft rules referring to "Florida-specific service schedules" inadvertently creates a requirement that carriers publishing their schedules online must publish a separate schedule for Florida even though Florida-specific rates can be published in a consolidated intrastate schedule covering multiple states. As discussed above, Sprint has pursued a project to consolidate intrastate rates, terms and conditions into a single online intrastate service schedule. The project is designed to reduce administrative burden and makes it easier for consumers to find the information they need. Such an approach complies with § 364.04, F.S., which requires only that the published schedule show "the rates, tolls rentals, and charges of [the] company for service to be performed within the state." The statute does not require a separate "Florida-specific service schedule."

Sprint believes that the statute is self-effectuating and does not require or authorize rulemaking to implement it. However, if the Commission seeks to propose rules, it should ensure they track the language and intent of the statute by removing the phrase "Florida-specific service schedules." Instead the proposed rules should refer only to "service schedules consistent with Sec. 364.04, F.S."

D. The Commission Should not Impose Additional Requirements on Filed CLEC Schedules

Sprint agrees with commenters during the workshop that the Commission should not consider imposing additional requirements on CLEC schedules filed at the Commission. It would appear, however, that the proposed rules would do just that.

4 See Notice of Proposed Rule Development, p. 8, lines 3-4; p. 13, line 7; p. 14, line 15.
applying the same formatting and form rules that apply to incumbent LECs. For years CLECs have filed price lists according to existing rules and should at very least be permitted to continue to do so without change. As discussed above, the legislative changes to § 364.04 are deregulatory in nature and should not result in greater regulatory burden on CLECs. Further, there is no legislative authorization for the Commission to place new requirements on CLECs as contemplated in the proposed rule.

IV. Conclusion

For the reasons set forth above, Sprint respectfully requests that the Commission adopt its recommendations set forth herein and refrain from rulemaking on this topic on the basis that it is neither authorized nor necessary pursuant to § 364.04, F.S. However, Sprint urges that if the Commission believes any regulations are necessary and authorized under the recent changes to § 364.04, F.S., it should tailor such rules narrowly and ensure no unintended and unnecessary regulatory burdens result.

Respectfully submitted this 7th day of May, 2010

/s/ Douglas C. Nelson
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ATTORNEY FOR SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP
May 7, 2010

VIA ELECTRONIC FILING

Ms. Ann Cole  
Director  
Commission Clerk & Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

Re: Docket No. 100000

Dear Ms. Cole:

Attached for filing in the above-referenced Docket, please find tw telecom of florida, l.p. and the Competitive Carriers of the South, Inc.’s comments requested by Commission staff at the March 30, 2010 workshop.

Your assistance is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Matthew Feil

Enclosure
STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

In Re: Initiation of Rulemaking to Amend )
Rules in Chapters 25-4 and 25-14, F.A.C., ) Docket No. UNDOCKETED
To Address Publication of Service )
Schedules by Telecommunications )
Companies )

COMMENTS OF TWTC TELECOM OF FLORIDA, L.P. and
COMPETITIVE CARRIERS OF THE SOUTH, INC.

Pursuant to the request of the Commission staff at the March 30, 2010, workshop
held in the above-captioned matter, tw telecom of florida, l.p. ("TWTC") and the
Competitive Carriers of the South, Inc. ("CompSouth")\(^1\) hereby submit the following
comments.

Introduction

The Commission's approach to any rules in this proceeding should be governed
by the following guiding principles: (1) Any form/substance rule requirements for CLEC
filed schedules\(^2\) should not impose obligations that would cause current CLEC price lists
and existing filing practices to be non-compliant; (2) Form/substance rule requirements
for CLEC filed schedules should not be imposed without the Commission's
acknowledging that such schedules come with filed rate doctrine status; and (3) There
should be extremely limited or no form/substance requirements for posted CLEC
schedules, and no requirement to notify the Commission of changes to posted schedules.

\(^1\) Sprint, a CompSouth member, does not join in this filing.

\(^2\) Throughout these comments, references to "filed" schedules means those filed with the Commission and
"posted" schedules means those not filed with the Commission but available via website or other published
means.
CLEC Price Lists v. Filed Schedules

As staff acknowledged at the workshop, the biggest change in the proposed rules over the current rules is the imposition of specific form/substance requirements for CLEC schedules. And, as AT&T noted at the workshop, it would be ironic if after the 2009 de-regulatory legislative changes, the Commission were to impose more regulation on CLECs than existed before those legislative changes. However, TWTC and CompSouth believe that if current CLEC price lists on file with the Commission and current CLEC filing procedures for price lists are compliant with any new filed schedule rules, then such rules would not effectively impose an additional burden on CLECs. TWTC and CompSouth maintain that any new rules should not impose any new/additional burdens as to the form or filing process for schedules. CLEC price lists currently on file should not have to be re-formatted, re-written, re-labeled, or re-filed. Going-forward, CLECs who choose to file schedules should be able to file those schedules (and changes thereto) in the same manner as, and consistent with what was the generally accepted industry practice, under the prior price list regime. Accordingly, there should be no requirement that service levels offered for all non-basic services be included in filed schedules, as the existing rule requires a service level description only for basic service. And, as AT&T pointed out at the workshop, inclusion of all "fees and surcharges" should not be required for filed schedules, among other things not currently required.

1 Nor should there be any new noticing burdens on CLECs.

2 TWTC and CompSouth, however, tend to agree with Century Link that it is not necessary for going-forward schedule changes to be in legislative format, with marginal notations. An explanation of the changes via correspondence with the filing should suffice.

3 Compare existing 25-24.825(1) with proposed 25-24.825(1). Under the existing price list regime, some CLECs may include service level information for certain, but not all, of the CLEC's non-basic services.
Filed Schedules and Filed Rate Doctrine

TWTC and CompSouth believe that it would be inconsistent for the Commission to impose rules regarding form/substance of filed schedules without also acknowledging that such schedules have filed rate status, particularly if the Commission intends to enforce such filing rules or if the Commission intends to enforce all or part of the content of filed schedules as between a CLEC and its customers. Accordingly, rules for CLEC filed schedules should not be imposed without acknowledgment that such requirements come with filed rate status.

Posted Schedules

TWTC and CompSouth assert that if a CLEC chooses to post its schedules on a website rather than file schedules with the Commission, the posted schedules should not be subject to Commission rules on form/substance. Carriers were given a choice of filing or posting schedules. Posting schedules should be seen as a carrier's having made the definitive choice to step outside the realm of the traditional regulatory regime, by-pass the burdens and benefits that go along with that regime, and accept the de-regulated environment of private contracts. Not only should there be few, if any, form/substance rules for posted schedules, there should be no requirement that the Commission be notified each time there is a change to posted schedules. As long as schedules are posted and a carrier is able to produce a history for the posted schedules when the Commission so requests, the Commission should have sufficient access to the information it needs when it needs it.

Other Comments
TWTC and CompSouth support preserving the language staff has proposed to
delete on page 8, lines 8 – 12 (Rule 25-4.034 of the Notice). This language addresses
current Commission practice regarding contract service arrangements. The current
practice regarding such contracts should not change; and staff stated at the workshop
there was no intent that it change. Therefore, the current rule language should remain in
place. This will avoid questions and confusion.

In addition, while making any rule changes to Chapter 25-24, the Commission
should delete (1)(d) of Rule 25-24.820, Florida Administrative Code, which appears to
enable the PSC to revoke a CLEC certificate for "violation of" a price list (or, in the
future) a schedule. This rule, aside from being unduly discriminatory (there is no similar
rule for ILECs or IXCs) is needless and far too onerous.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by Email this 7th day of May, 2010.

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By:  
Matthew Feil, Esq.
May 7, 2010

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

RE: Undocketed Proposed Rules Related to Publication of Service Schedules

Dear Ms. Cole:

Enclosed please find CenturyLink’s Post Workshop Comments in the above Undocketed matter.

If you have any questions regarding this electronic filing, please do not hesitate to call my assistant, Roberta Cooper at (850) 599-1563.

Sincerely,

/s/ Susan S. Masterton
Susan S. Masterton
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Rulemaking to amend rules in Chapters 25-4 And 25-24, F.A.C., to address Publication of Service Schedules by Telecommunications Companies.

Docket No.: Undocketed

Filed: May 7, 2010

CENTURYLINK’S POST WORKSHOP COMMENTS

In accordance with the Staff’s request at the March 30, 2010 Workshop in this matter, CenturyLink\(^1\) submits the following post-workshop comments to address the draft rule changes discussed at the workshop, as well as additional suggested changes. CenturyLink also is attaching a legislative mark-up of the Proposed Rule showing CenturyLink’s suggested changes. CenturyLink’s changes to the staff’s draft are highlighted in yellow.

Scope of Rule 25-4.034

CenturyLink supports the Commission’s efforts to revise the rules related to publication of tariffs or service schedules to reflect the statutory changes enacted in 2009 and the rule changes made last year. CenturyLink believes the rule changes should recognize the increasingly market-based approach to telecommunications regulation in Florida. In this vein, CenturyLink suggests that the rules should address the styling and timing, rather than the content, of tariff filings and should not expand upon the statutory requirements.

\(^1\) These comments are filed on behalf of all of the affected CenturyLink entities in Florida, including, Embarq Florida, Inc. d/b/a CenturyLink, Embarq Communications, Inc. d/b/a CenturyLink Communications, CenturyTel Long Distance, LLC d/b/a CenturyLink Long Distance and Madison River Communications, LLC d/b/a CenturyLink.
CenturyLink's approach is consistent with the parameters for Commission rulemaking set forth in the Administrative Procedures Act. Specifically, s. 120.536, F.S. provides:

120.536 Rulemaking authority; repeal; challenge.--

(1) A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

In addition, as Mr. Hatch noted at the March 30, 2010 Rule Development Workshop, this approach is consistent with the "generic legislative intent language" guiding the Commission's exercise of its jurisdiction. (Tr. at 8) Specifically, section 364.01(4)(b), Florida Statutes, directs the Commission to exercise its authority in a manner that will "encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services." Paragraphs (f) and (g) of section 364.01(4), similarly direct the Commission to exercise its regulatory authority in a manner that encourages competition.
Revisions to Specific Provisions

Consistent with the scope and intent of the Commission’s rulemaking authority and section 364.04, F.S., CenturyLink recommends that subsections (2), (3) and (4) in Rule 25-4.034 be stricken. The requirements of section 364.04, F.S., speak for themselves and further clarification through rulemaking is not necessary, or appropriate. In addition, staff indicated at the workshop that the information required by subsection (4) was primarily related to Schedule 8 information and not to tariff information, further supporting deletion of this subsection. (Tr. at 29)

CenturyLink also recommends that the phrase “fees and surcharges” should not be added to the language in Rule 25-4.034 (1). Rather, the language in the rule should reflect the statute and should say “intrastate rates, tolls and rentals and charges for customer services.” Additionally, CenturyLink believes that the statement regarding contract service arrangements should remain in Rule 25-4.034(1) for purposes of clarity.

CenturyLink also suggests several revisions to specific provisions of the proposed rules, as follows:

- With regard to 25-4.034 (5), CenturyLink recommends that the rule be clarified to indicate that customer notice can be made electronically if the customer chooses to receive the bill electronically.

- With regard to 25-4.034(7)(g), CenturyLink suggests elimination of the requirement that tariff changes be filed in legislative format. Currently, in CenturyLink’s thirty-three state region, only three states in addition to Florida require legislative format
and one of those permits the legislative mark ups to be hand-written.\(^2\) Preparing filings in legislative format is time-consuming and administratively burdensome. As an alternative, the Company suggests that each tariff filing contain an Exhibit A which is the current tariff page(s) for which the revisions are being proposed and an Exhibit B which is the revised tariff pages. For further clarity, the Company could bold the changes on Exhibit B. Also, if a company chooses to detariff and post price schedules on the internet, that company should not be required to post superseded/outdated pages. A requirement to post all superseded/outdated pages would outweigh the administrative benefits of detariffing.

- With regard to Rule 25-24.470, relating to the service schedule section applicable to IXC\(s\), CenturyLink has no changes to the staff’s proposal but does point out that four of the five statutes cited in the “Law Implemented” reference are not applicable to IXC\(s\). Those statutes are 364.051, 364.08, 364.183 and 364.3381.

- With regard to Rule 25-24.825 (1), CenturyLink agrees with the comments made by Mr. Hatch at the workshop that it is unnecessary and inconsistent with the trend toward market-based regulation of telecommunications to expand the requirements for CLEC\(s\)’ price schedules. (Tr. at 39) In addition, the changes staff suggests on line 2 of page 22 of the proposed rule, i.e., deletion of the words “basic local,” puts paragraph (d) in conflict with Section 364.337(5), F.S., which only requires CLEC\(s\) to include the levels of service quality the company holds itself out to provide for basic local service. Therefore, the scope of the rule should remain “basic local telecommunications service” and the words “basic local” should be reinserted.

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\(^2\) The three other states which require legislative formatting are Oklahoma, Maryland and Oregon. CenturyLink is an ILEC in only one of those states.
Conclusion

In conclusion, CenturyLink supports rule changes which reflect market-oriented regulatory environment for telecommunications companies in Florida. Accordingly, CenturyLink requests the Commission to adopt the rule changes suggested by CenturyLink in the attached document.

Respectfully submitted this 7th day of May, 2010.

/s/ Susan S. Masterton
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COUNSEL FOR CENTURYLINK
NOTICE OF PROPOSED RULE DEVELOPMENT
UNDOCKETED
CENTURYLINK'S PROPOSED CHANGES TO STAFF DRAFT RULE

25-4.034 Service Schedules Tariffs.

(1) Pursuant to Section 364.04, F.S., Except to the extent otherwise permitted by Section 364.051(5)(a), F.S., each telecommunications company shall publish its Florida-specific service schedules maintain on file with the Commission tariffs which shall set forth all intrastate rates, tolls, rentals and charges for customer services, fees and surcharges, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relation of customer and company. The rates and charges for contract service arrangements for an individual customer need not be filed where the company’s tariff provides a description of the circumstances under which such arrangements are offered for specified tariffed services.

(2) The schedules shall plainly state the places telecommunications service will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in anywise change, affect, or determine any of the aggregate of the rates, tolls, rentals, or charges for the service rendered.

(a) Service schedules shall be clearly written in simple words, sentences and paragraphs, avoiding unnecessarily long, complicated or obscure phrases or acronyms so that the customer is able to understand the services offered.

(b) Service schedules shall have a table of contents or index identifying the location of the rates, fees and surcharges, terms and conditions for service.

(c) Service schedules shall fully define company-specific technical terms and abbreviations.

(d) No public statement of service quality, rates, or service offerings or billings shall be misleading or differ from the terms stated in the service schedules.

CODING: Words underlined are additions; words in struck through type are deletions from existing law.
NOTICE OF PROPOSED RULE DEVELOPMENT
UNDOCKETED
CENTURYLINK’S PROPOSED CHANGES TO STAFF DRAFT RULE

(ae) If a company intends to temporarily bill lower rates or charges than is contained in a published service schedule, the company shall publish a single service schedule change reflecting the conditions of the temporary service. Such a service schedule provision shall include the heading “Promotion,” and shall state the name of the promotion, a specific description of the scheduled service involved, including all applicable rates, benefits, terms, and conditions, and the beginning and ending dates of the promotion.

(f) Service schedules shall define a telecommunications company’s service area(s) as identified in its certificate of public convenience and necessity.

(g) Each telecommunications company shall make its retail service schedules available for public inspection upon request.

(h) Notification of proposed changes to an existing nonbasic service schedule must be received by the Division of Regulatory Analysis before 5:00 p.m. on a normal Commission work day in order for the Commission to be noticed on that day and the changes to become effective on the following day.

(i) Services schedules shall be current. Changes to the rates, tolls, rentals and charges surcharges, fees, or the terms and conditions of the offered services, or the addition of new services shall be published before taking effect.

(ii) All published service schedules, whether filed with the Commission or published through other reasonably publicly accessible means, including on a website, shall contain, at a minimum:

(a) The name(s) used to market the service;

(b) A description of the service;

(c) The current rate(s) for the service, including all surcharges and fees;

(d) The service-specific terms and conditions; and

CODING: Words underlined are additions; words in struck-through type are deletions from existing law.
NOTICE OF PROPOSED RULE DEVELOPMENT
UNDOCKETED
CENTURYLINK'S PROPOSED CHANGES TO STAFF DRAFT RULE

1. (9) The availability and effective date(s) for the service(s) and rate(s).

2. (3) Changes to service schedules shall be retained to permit a historical review of all
changes to the schedules for a period of six years and shall be made available to the
Commission upon request.

3. (4) Complete information concerning a company's service offerings, rates and charges,
conditions of service, terms and conditions, service area, and subscribership information
identified by exchange shall be made available to Commission staff upon request.

4. (35) Each telecommunications company shall inform the Commission and its
customers, in writing, where its published service schedules may be viewed. If a customer
chooses to receive bills through electronic means, then the notice may be made electronically.
The Commission shall be notified at the address in 25-4.034(6), or electronically following the
procedures set forth at http://www.psc.state.fl.us/utilities/telecomm/. For existing customers,
customer notification shall be in the form of a prominent notice on the customer bill or other
reasonable method and shall be made once annually. New customers shall be informed upon
application and thereafter once annually in writing.

5. (462) If a telecommunications company chooses to publish its schedules by filing them
with the Commission, it shall file two copies of all new service schedules and proposed
changes to existing service schedules with the Director of the Division of Regulatory
Analysis, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850, or it shall file electronically pursuant to the requirements set forth at
http://www.psc.state.fl.us/utilities/telecomm/. A filing must be received by the Division of
Regulatory Analysis before 5:00 p.m. on a normal Commission work day in order to be
considered filed on that day. Filing shall mean received by the office of the Division of
Regulatory Analysis during normal business hours. Any tariff received by the Division of

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Regulatory Analysis after 5:00 p.m. shall be considered filed on the next regular business day.

All proposed changes to an existing tariff that are submitted by hard copy shall be directed to
the Director of the Division of Regulatory Analysis, Florida Public Service Commission, 2540
Shumard Oak Boulevard, Tallahassee, FL 32309-0850 and shall include an original and two
(2) copies of each revised tariff sheet. A letter of transmittal shall accompany each tariff
filing, which lists the included sheets, by sheet number and revision level as specified in
paragraphs (6)(c)(e), and gives a brief description of all changes. If acknowledgment of
receipt a hard copy filing is desired, the letter of transmittal shall be sent in duplicate with a
request that the duplicate be returned and a postage paid envelope shall be provided for that
purpose.

(3) Each company shall file, as an integral part of its tariff, maps defining the exchange
service areas. These maps shall delineate the boundaries in sufficient detail that they may be
located in the field and shall embrace all territory included in the certificate of convenience
and necessity.

(4) Each telecommunications company shall make available for public inspection upon
request, either a printed copy or an electronic copy of its retail schedules tariffs.

(5) Companies shall charge only the rates and credits contained in their tariffs. If a
company intends desires to deviate temporarily from its normal tariffed rates and credits, the
company shall publish file a single tariff change reflecting the conditions of the temporary
tariff change. Such schedule tariff provision shall include the heading “Promotion,” and shall
state the name of the promotion, a specific description of the tariffed service(s) involved,
including all applicable rates, terms, and conditions, and the beginning and ending dates of the
promotion.

(526) Service schedules filed with the Commission Tariffs shall comply with the

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following conventions:

(a) Each sheet shall have a left-hand margin of at least 3/4". All sheets and copies must be clear and legible. Service schedules Tariffs submitted in hard copy form shall be in loose leaf form on 8 1/2" × 11" sheets, typewritten on white paper, using one side of the paper only.

(b) Each sheet shall bear the name of the company, as certificated with the Commission, the name and title of the issuing officer, and the effective date of the sheet.

(c) Every sheet in the tariff shall be numbered.

(d) Each initially received approved sheet in the tariff shall be marked “Original Sheet” in the upper right-hand corner of the sheet. As an example: Original Sheet No. 4, or Original Sheet No. 5.

(e) Revised sheets in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the sheet it replaces. As an example:
First Revised Sheet No. 4
Cancels Original Sheet No. 4

(f) The tariffs shall contain at a minimum the following:

1. Table of Contents and Index. All tariffs shall have a table of contents identifying the page location of each section in the tariff. Each section shall also be individually indexed by subject.

(g) Symbols Used in Service Schedule Tariff Filings. Symbols used in any proposed change to the existing service schedule tariff shall appear on the right hand side of each sheet on the same line(s) in which any change has been made. If three or more consecutive lines are affected, one symbol shall be placed on the first and last lines with a vertical line connecting the two symbols. Two or more symbols shall be placed next to each other on any line with multiple types of changes. The symbol page shall identify and explain all symbols used in the

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service schedule tariff.

3. Technical Terms and Abbreviations. This section shall contain all technical and
special terms and abbreviations used in the tariff.

(g?) With each filing, the company shall provide a coded copy of each service
schedule tariff sheet filed showing changes to the existing tariff sheet. Changes shall be
indicated by inserting and underlining new words; words to be deleted shall be lined through
with hyphens.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.04, 364.051(5), 364.183,
364.463 FS. History—New 3-31-76, Amended 11-29-82, Formerly 25-4.34, Amended 9-13-88,
4-16-90, 3-10-96, 1-25-09.

25-24.470 Registration Required.

(1) No person shall provide intrastate interexchange telephone service without first
publishing its Florida-specific service schedules as required by Sec. 364.04, F.S., and filing an
initial tariff containing the rates, terms, and conditions of service and providing the company's
current contact information with the Office of Commission Clerk using Form PSC/RAD 31
(xx/xx), entitled “IXC Registration Form” which is hereby incorporated into these rules. A
copy of the form may be obtained from the Commission’s website at
www.floridapsc.com/utilities/telecomm/ or by contacting the Commission’s Division of
Regulatory Analysis.

(2) Publication of the company’s service schedules. An original and two (2) copies of
the company’s initial tariff shall be filed. The tariff filing shall conform to the requirements of
Rule 25-4.034(1)(a) – (e), (g) – (i) and (2) – (7)(a) – (f). If a company chooses the option of
publishing its initial service schedules by filing them with the Commission, it shall file two
copies by attaching them to the IXC Registration Form PSC/RAD 31, 25-24.485, F.A.C.

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(3) The company’s contact information shall be provided using Form PSC/RAD-31
(08/05), entitled “IXC Registration Form” which is hereby incorporated into these rules. A
copy of the form may be obtained from the Commission’s website at
www.floridapsc.com/utilities/telecomm/ or by contacting the Commission’s Division of
Regulatory Compliance.

(34) Each IXC shall file and update, within 10 days after any change, the following
contact information with the Office of Commission Clerk:

(a) Official company name, including any fictitious names, as filed with the
Department of State, Division of Corporations; and

(b) Mailing address, including street name and address and post office box, city, state,
and zip code.

(c) Name, address, telephone number, and e-mail address and FAX number, where
applicable, of the individual who is to serve as primary liaison with the Commission in regard
to ongoing operations of the company within the state.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.02, 364.04 FS. History—New 2-
23-87, Amended 8-25-05, 5-29-08.


(4) All initial tariffs filed as part of the registration process in Rule 25-24.470, F.A.C.,
shall be filed with the Office of Commission Clerk, using the following guidelines, before
becoming effective.

(a) Each IXC shall publish its Florida-specific service schedules pursuant to Rule 25-
4.034(4)(a), (e), (g)—(i), and (2) — (7)(a) — (f), which shall set forth maintain on file with the
Commission tariffs which set forth all of the rates and charges for customer services, the
different services available to subscribers and the conditions and circumstances under which

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1 service will be furnished:

2 (b) The tariff will be Florida-specific all intrastate rates and charges for customer
3 services, fees and surcharges, the classes and grades of service available to subscribers, the
4 conditions and circumstances under which service will be furnished, and all general rules and
5 regulations governing the relation of customer and company, and all intrastate rates, charges,
6 and service descriptions shall be for intrastate usage, unless interstate rates are necessary to
7 compute the intrastate portion of a customer's monthly bill, then, the interstate rates, charges,
8 and service descriptions shall also be quoted in the tariff to the extent necessary to compute
9 the intrastate portion of a customer's bill.

10 (c) The tariff must be clearly expressed in simple words, sentences and paragraphs. It
11 must avoid unnecessarily long, complicated or obscure phrases or acronyms so that the
12 customer will understand that for which he is contracting.

13 (d) No public statement of service quality, rates, or service offerings or billings should
14 be misleading or differ from those stated in the tariff.

15 (e) All proposed changes to an existing tariff shall be directed to the Director of the
16 Division of Regulatory Analysis, Florida Public Service Commission, 2540 Shumard Oak
17 Boulevard, Tallahassee, FL 32309-0850. A filing must be received by the Division of
18 Regulatory Analysis before 5:00 p.m. of a normal Commission workday in order for it to be
19 "filed" on that day.

20 (f) All tariff changes shall be submitted to the Division of Regulatory Analysis in
21 triplicate in the form prescribed herein. If acknowledgement of the filing at the time of receipt
22 is desired, the letter of transmittal shall be sent in duplicate with a request that the duplicate be
23 returned.

24 (g) Companies shall charge only the rates contained in their tariff. If a company desires
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1 to charge rates or charges at a lower level than is contained in an existing tariff and wishes to
2 charge those lower rates only temporarily file a single tariff change reflecting the conditions of
3 the temporary tariff change. Such tariff provision shall include the heading "Promotion," and
4 shall state the name of the promotion, a specific description of the tariffed service involved,
5 including all applicable rates, terms, and conditions, and the beginning and ending dates of the
6 reduction.

7 (b) The requirements of the following subsections shall apply on a prospective basis
8 from the effective date of this rule. Existing tariffs on the effective date of this rule need not be
9 amended to comply with the following except upon Commission staff request.
10
11 (2) The initial tariff will become effective on the date of the company's registration
12 pursuant to Rule 25-24.470, F.A.C. Changes to an existing tariff will become effective on the
13 day following the day it is filed with the Division of Regulatory Analysis unless the company
14 requests a later effective date.
15
16 (3) Tariffs shall comply with the following format requirements:
17
18 (a) All tariffs shall be submitted in loose-leaf form on 8 1/2" x 11" sheets, typewritten
19 on a good grade of white paper of durable quality, using one side of the paper only. All copies
20 must be clear and legible. Sufficient margin shall be allowed on each sheet for a left-hand
21 binding edge so that when the tariff book is open all printed matter will be in view.
22
23 (b) Every sheet in the tariff shall be numbered;
24
25 (c) Each sheet shall bear the name of the company, as registered with the Commission;
26 in the upper left-hand corner of the sheet.
27
28 (d) Each initially approved sheet in the tariff shall be marked "Original Sheet" in the
29 upper right-hand corner of the sheet. As an example: Original Sheet No. 1, or Original Sheet
30 No. 5-2.

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(e) Revised sheets in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the sheet(s) it replaces. As an example:
First Revised Sheet No.-1
Cancels Original Sheet No.-1
of
Fourth Revised Sheet No.-5.2
Cancels Third Revised Sheet No.-5.2

(f) The name and title of the issuing officer shall be placed at the bottom of each sheet, to the right of the issuing officer’s name there shall appear “Effective: 8-25-05.”

(g) The tariffs shall contain the following:

1. Title Page. The title page shall contain a brief description of the tariff and the services offered therein.

2. Table of Contents or Index. All tariffs shall have a table of contents identifying the page location of each section in the tariff. In tariffs of 30 sheets or more, each subsection shall also be individually indexed by subject.

3. Symbols Used in Tariff Filings. Symbols used in any proposed change to the existing tariff shall appear in the right-hand margin of each sheet on the same line(s) in which any change has been made. If three or more consecutive lines are affected, one symbol shall be placed on the first and last lines with a vertical line connecting the two symbols. Two or more symbols may be placed next to each other on the affected line. The symbol page shall identify all symbols used in the tariff.

4. Technical Terms and Abbreviations. This section shall contain all technical and special terms and abbreviations used in the tariff.

5. Rules and Regulations. This section shall include all rules, regulations, practices.

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exceptions and conditions which are general and apply to all or many of the services offered.

If a general regulation does not apply to a particular service, that fact should be clearly stated.

6. Description of Services Offered. This section shall describe all services available to
end-users in Florida:

7. Rates. All rates and charges for all services, and other data necessary to compute the
 customers’ bills for intrastate service shall be placed in this section:

(4) Information to Accompany Tariff Filings:
(a) A letter of transmittal shall accompany each filing, which lists the sheets (by sheet
 number and revision level) being transmitted and gives a brief description of all changes.
(b) Along with each tariff filing the company shall include three (3) copies of the tariff
 pages which contain proposed changes as they will appear in the approved tariff.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.04, 364.051, 364.06, 364.183,


For purposes of this Part XII, Shared Tenant Services, Rules 25-24.555 through 25-24.585,
F.A.C., the definitions for the following terms apply:

(1) “Alternative Access Vendor” (AAV) means any telecommunications company, as
defined in Section 364.337(6)(a), Florida Statutes.

(2) “Agent” means one authorized to act on behalf of another.

(3) “Competitive local exchange telecommunications company” (CLEC) means any
company as defined in Section 364.02(54), Florida Statutes.

(4) “Company” means a shared tenant service company.

(5) “Interexchange Company” (IXC) means any telecommunications company, as
defined in Section 364.02(146), Florida Statutes, which provides telecommunication service

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between exchange areas as those areas are described in the approved tariffs of individual local
exchange companies.

(6) “Local Exchange Telecommunications Company” (LEC) means any
telecommunications company, as defined in Section 364.02(86), Florida Statutes.

(7) “Local Service Area” or “Local Calling Area” means the area within which
telecommunications service is furnished to subscribers under a specific schedule of exchange
rates and within which calls may be completed without toll charges. A local service area may
include one or more exchange areas or portions of exchange areas.

(8) “Pay telephone service company” means any telecommunications company, as
defined in Section 364.02(146), Florida Statutes, other than a Local Exchange Company,
which provides pay telephone service as defined in Section 364.335(3), Florida Statutes.

(9) “Private Branch Exchange” (PBX) means a system in which trunk lines connect a
telephone company central office to a switching system which directs incoming calls to the
appropriate user.

(10) “Shared tenant service” (STS) as defined in Section 364.339(1), Florida Statutes,
means the provision of service which duplicates or competes with local service provided by an
existing local exchange telecommunications company and is furnished through a common
switching or billing arrangement to tenants by an entity other than an existing local exchange
telecommunications company.

(11) “Tenant” means any person entitled to occupy a premises under a rental or lease
agreement.

(12) “Unaffiliated Entities” means those corporations, partnerships, proprietorships, or
other groups that control less than 50 percent of the stock of the entity which claims to be
affiliated.

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Rulemaking-Specific Authority 350.127(2) FS. Law Implemented 364.33, 364.335,


(1) Every company providing operator services shall clearly state the name of the
company upon answer and again after accepting billing information before the call is
connected.

(2) In its service schedules tariffs for and contracts with billing and collection agents
and other companies providing operator services, every company providing operator services
shall require the other party to:

(a) Allow end-users to access, at no charge, all locally available interexchange
companies via all locally available methods of access, such as 10XXX, 10XXXX, 101XXXX,
950, and toll-free access codes, such as 800, 877, and 888; except that Feature Group A
(seven-digit local number) access lines are exempt from this requirement;

(b) Allow end users to access the universal telephone number “911”, where operable,
at no charge to the end-user, and where not operable, to allow end-users to access the operator
of the provider of local exchange telecommunications services at no charge;

(c) Route all end user dialed 0+ local and all 0- calls to the provider of local exchange
telecommunications services unless the end user dials the appropriate access code for his
carrier of choice, such as 950, 800, 877, 888, 10XXXX, 101XXXX, or 10XX.; and

(d) Route all end user dialed 1+ and 0+ toll calls to the preselected carrier unless the
end user dials the appropriate access code for his carrier of choice, such as 950, 800, 877, 888,
or 10XXXX, 101XXX, or 10XX.; and

(e) Route all end user dialed 0- calls to the operator of the provider of local exchange
telecommunications services at no charge to the end user when no additional digits are dialed

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after five seconds.

(3) Each operator services provider shall provide an opportunity for each caller to be
identified by name to the called party before any collect calls may be completed.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.043, 364.044, 364.3376
FS. History--New 9-6-93, Amended 1-16-96, 9-10-97, 2-1-99.

25-24.721 Service Schedules Tariffs Not Required.

Alternative Access Vendors are not required to file Service Schedules Tariffs.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.337 FS. History--New
1-8-95.


(1) The Commission may on its own motion, after notice and opportunity for hearing,
revoke a company's certificate for any of the following reasons:

(a) Violation of a term or condition under which the authority was originally granted;

(b) Violation of Commission rule or order;

(c) Violation of Florida Statute; or

(d) Violation of a service schedule price list standard.

(2) If a certificated company desires to cancel its certificate, it shall request
cancellation from the Commission in writing and shall provide the following with its request.

Cancelling of a certificate shall be ordered subject to the holder providing the required
information.

(a) A statement of intent and date certain to pay regulatory assessment fee.

(b) A statement of why the certificate is proposed to be cancelled.

(c) A statement as to how customer deposits and final bills will be handled.

(d) Proof of individual customer notice regarding discontinuance of service.

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Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.345 FS. History-New
12-27-95.

25.24.825 Service Schedules Price List.

(1) Prior to providing service, each telecommunications company subject to these rules shall publish its Florida-specific service schedules file and maintain with the Commission a current price list which shall clearly sets forth the following information for the provision of residential dial-tone, single-line business dial-tone, and dial-tone with any combination of the services included as part of basic local telecommunications services, as defined in Section
364.02(2), F.S.: If residential dial-tone, single-line business dial-tone, or dial-tone with any combination of the services included as part of basic local telecommunications service is offered on a package basis, the following information must be provided for each package:

(a) Current prices,
(b) Customer connection charges,
(c) Billing and payment arrangements, and
(d) Conditions and circumstances under which services will be furnished, and Levels of service quality which the company holds itself out to provide for each service.

(e) All general rules and regulations governing the relations of customer and company.

(2) At the company's option, price list information in subsection (1) above and other information concerning the terms and conditions of service may be filed for services other than basic local telecommunications services.

(3) A price list revision must be physically received by the Commission's Division of Regulatory Analysis at least one day prior to its effective date.

(4) Price lists must be on 8 1/2 by 11 inch paper in loose leaf form and must utilize an ongoing page identification system which will allow for the identification of inserted and

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removed pages. The color of paper on which price lists are filed must be amenable to being
clearly photocopied on standard photocopy equipment.

(5) Complete information concerning a company’s service offerings, rates and charges,
conditions of service, service quality, terms and conditions, service area, and subscriber
information identified by local exchange company exchange must be made available to
Commission staff upon request.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.04, 364.337(5) FS. History-
New 12-27-95, Amended 4-8-98.

25-24.830 Consumer Information.

(1) The quality of service information in paragraph (1)(d) of Rule 25-24.825, F.A.C.,
shall be provided, verbally or in writing, upon request to any person inquiring about the
company’s basic local exchange telecommunications service. In addition, the above
information shall be provided in writing before or in the basic local exchange
telecommunications customer’s first bill for service. The above information shall be expressed
in simple words, sentences, and paragraphs. Unnecessarily long, complicated, or obscure
phrases or acronyms must be avoided.

(2) If a CLEC elects not to provide any third-party billing or collect call services to its
customers, the CLEC shall so state in its service schedule price list and shall notify customers
of such prior to a customer agreeing to obtain local service from the CLEC. In addition, the
above information shall be provided in writing before or in the basic local exchange
telecommunications customer’s first bill for service. The above information shall be expressed
in simple words, sentences, and paragraphs. Unnecessarily long, complicated, or obscure
phrases or acronyms must be avoided.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.337(5) FS., Ch. 95-403,
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§ 32, L.O.F. History—New 12-27-95, Amended 4-7-03.


(1) The following rules are incorporated herein by reference and apply to competitive local exchange companies.

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<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Portions</th>
</tr>
</thead>
<tbody>
<tr>
<td>25-4.0161</td>
<td>Regulatory Assessment Fees</td>
<td>All</td>
</tr>
<tr>
<td>25-4.020</td>
<td>Location and Preservation of Records</td>
<td>(2) (3)</td>
</tr>
<tr>
<td>25-4.043</td>
<td>Response to Commission Staff Inquiries</td>
<td>All</td>
</tr>
<tr>
<td>25-4.034</td>
<td>Service Schedules Tariffs</td>
<td>All</td>
</tr>
<tr>
<td>25-4.036</td>
<td>Design and Construction of Plant</td>
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<tr>
<td>25-4.043</td>
<td>Response to Commission Staff Inquiries</td>
<td>All</td>
</tr>
<tr>
<td>25-4.160</td>
<td>Operation of Telecommunications Relay</td>
<td>All</td>
</tr>
</tbody>
</table>

(2) Each company shall file updated information for the following items with the Office of Commission Clerk within 10 days after any changes to the following:

(a) The address of the certificate holder's main corporate and Florida offices (if any) including street name and address and post office box, city, state and zip code; or

(b) Telephone number, name, and address of the individual who is to serve as primary liaison with the Commission in regard to the ongoing Florida operations of the certificated

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company.

Rulemaking Specific Authority 350.127(2), 364.337(2), 427.704(8) FS. Law Implemented
364.016, 364.183, 364.336, 364.337(2) FS. History—New 12-27-95, Amended 4-8-98, 6-24-
99, 8-25-05.

25-24.915 Service Schedules Tariffs or Price Lists.

(1) This section applies to all companies as defined in subsection 25-24.905(1), F.A.C.
(2) Each company shall file a service schedule tariff or price list for PPCS.
(3) Each company shall include in its service schedule tariff or price list the following
information:

(a) Maximum amount a person will be charged per billing increment for PPCS, and
(b) Any applicable surcharges or other fees assessed in addition to the billing
increment that reduces the value of the card.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.04, 364.051, 364.057,
364.08, 364.09, 364.10, 364.19, 364.27, 364.337 FS. History—New 3-26-98, Amended 8-25-
05.

25-24.920 Standards for Prepaid Calling Services and Consumer Disclosure.

(1) The following information shall be legibly printed on the card:
(a) The Florida certificated or registered name, or “doing business as” name as
provided for by Rule 25-24.910, F.A.C., clearly identified as the provider of the PPCS;
(b) Toll-free customer service number;
(c) Toll-free network access number; and
(d) Authorization code, if required to access service.
(2) Each company shall provide the following information legibly printed either on the
card, packaging, or display visibly in a prominent area at the point of sale of the PPCS in such

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1 a manner that the consumer may make an informed decision prior to purchase:
2 (a) Maximum charge per billing increment for PPCS;
3 (b) Any applicable surcharges or other fees assessed in addition to the billing
4 increment that reduces the value of the card; and
5 (c) Expiration policy, if applicable.
6 The company must insure by contract with its retailers or distributors that the information is
7 provided to the consumer.
8 (3) Each company shall provide through its customer service number the following
9 information:
10 (a) Certificate or registration number;
11 (b) Rates and surcharges;
12 (c) Balance of use in account; and
13 (d) Expiration date or period, if any.
14 (4) Each company shall provide a live operator to answer incoming calls 24 hours a
15 day, 7 days a week or shall electronically voice record end user complaints. A combination of
16 live operators or recorders may be used. If a recorder is used, the company shall attempt to
17 contact each complainant no later than the next business day following the date of the
18 recording.
19 (5) The rates displayed in accord with subsection (2) above shall be no more than those
20 reflected in the service schedule tariff or price list for PPCS.
21 (6) A company shall not reduce the value of a card by more than the charges printed on
22 the card, packaging, or visible display at the point of sale. The service may, however, be
23 recharged by the consumer at a rate higher than the rate at initial purchase or last recharge.
24 The higher rate and surcharges shall be no more than the rates and surcharges in the service
25 CODING: Words underlined are additions; words in struck through type are deletions
from existing law.
NOTICE OF PROPOSED RULE DEVELOPMENT
UNDOCKETED
CENTURYLINK'S PROPOSED CHANGES TO STAFF DRAFT RULE

schedule tariff or price list and the consumer shall be informed of the higher charges at the
time of recharge.

(7) Cards without a specific expiration period printed on the card, and with a balance
of service remaining, shall be considered active for a minimum of one year from the date of
first use, or if recharged, from the date of the last recharge.

(8) If PPCS are sold without a card or printed material, tariffed charges and surcharges
as shown on the service schedule shall be disclosed at the point of sale.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.03,
364.04, 364.19 FS. History--New 3-26-98, Amended 8-25-05.

CODING: Words underlined are additions; words in struck through type are deletions from existing law.
May 7, 2010

VIA ELECTRONIC FILING

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

Re: Undocketed — Initiation of Rulemaking to Amend Rules in Chapters 25-4 and 25-24, F.A.C., to Address Publication of Service Schedules by Telecommunications

Dear Ms. Cole:

Enclosed for electronic filing are the post-workshop Comments of the Florida Cable Telecommunications Association, Inc. in response to the Commission Staff’s March 16, 2010 Notice.

If you have any questions whatsoever, please do not hesitate to contact me at (850) 681-1990.

Your assistance in this matter is greatly appreciated.

Sincerely,

[Signature]

David A. Konuch  
Senior Counsel, Regulatory Law and Technology  
Florida Cable Telecommunications Association  
246 E. 6th Avenue  
Tallahassee, FL 32303  
Phone: 850-681-1990  
Fax: 850-681-9676

Enclosures
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Rulemaking to Amend Rules in Chapters 25-4 and 25-24, F.A.C., to Address Publication of Service Schedules by Telecommunications

Undocketed
May 7, 2010

POST-WORKSHOP COMMENTS OF FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION

Florida Cable Telecommunications Association, Inc. ("FCTA")\(^1\) hereby submits its post-workshop comments in response to the Commission Staff's March 16, 2010 Notice of proposed changes to Commission rules as a result of Incumbent Local Exchange Carrier ("ILEC") deregulation provisions enacted during the 2009 Florida legislative session.

INTRODUCTION AND BACKGROUND

In 2009, the Florida Legislature passed and the governor signed into law SB 2626, which largely deregulated retail telecommunications service provided by Incumbent Local Exchange Carriers ("ILECs"). The Staff convened a workshop on March 30, 2010 to consider its draft rules to implement the deregulatory changes resulting from SB 2626. At the workshop, Staff explained that some of the rule changes would result in a "significant change" in regulation of Competitive Local Exchange Carriers ("CLECs"). Specifically, Staff proposed that CLECs would be subject to additional regulation as they would need to file many of the same rules concerning tariff filing as the ILECs.

When opening the Florida market to local telecommunications competition, the Commission wisely chose to do two things among others: 1) it maintained jurisdiction over ILEC retail service to remove impediments to competition and resolve disputes between

\(^1\) FCTA represents cable telephony providers throughout the state of Florida who provide, by and large, the only facilities-based mass market telephony competition to Florida's ILECs. FCTA's six largest members include Advanced, Atlantic Broadband, Bright House Networks, Comcast, Cox, and Mediacom.
competitors over bottleneck inputs; and 2) it maintained a light regulatory touch over the
activities of CLECs. Years later, that strategy has borne fruit, as competitors have begun
to make progress by winning customers from the ILECs. It would indeed be ironic were the
Commission to use ILEC deregulation as an opportunity to increase regulation of CLECs.
The Commission should retain its "light touch" approach and refrain from imposing any
new regulatory obligations upon CLECs.

1. Staff Should Not Use ILEC “Deregulation” as a Reason for a “Significant
Change” that Would Require Additional CLEC Regulation

At the workshop, Staff proposed to delete the “price list” language in the rules
stating that CLECs only need to file price lists, and replace it with language stating CLECs
must file "service schedules." Staff Proposed Draft Rules, p. 21, line 21. While seemingly
innocuous, Staff stated their intent is that all telecommunications companies, including
CLECs will now be subject to the same tariff formulation requirements that previously had
only applied to ILECs. Staff asserted that the governing statute, Ch. 364.04, F.S., makes
no distinction between ILECs and CLECs, and thus, this change to the law has a basis in
the statute. 2 The Staff stated that, in their view, this was a “significant change” to the
current regime. 3

Although the Staff terms this a significant change — and it would be for certificated
CLECs — there are significant limits to the effect of this change on providers, for two
reasons. First, the Commission lacks authority to regulate VoIP service by statute. Ch.

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2 See e.g. pp. 38:19-24 ("I think the biggest [proposed] change to that rule is requiring CLECs to have the same
requirements as ILECs. Years ago [the Commission] only required CLECs to file a price list when they offered
basic local as defined. And after talking with our legal staff, they believe that 364.04 doesn't exempt anyone from
having requirements.")

3
364.02(13), F.S. ("The term 'service' does not include broadband service or voice-over-Internet protocol service for purposes of regulation by the commission.") Therefore, these provisions would not apply to cable's VoIP telephony service. And second, the statute limits regulation to "basic" service. See e.g. Ch. 364.337(5), F.S. (providing that "the Commission shall have continuing regulatory oversight over the provision of basic local exchange telecommunications service," emphasis supplied). Cable's business model has been to offer unlimited VoIP telephony service, including numerous vertical features, for a flat fee. Any combination of basic service and non-basic or unregulated service is considered unregulated "non-basic service" for purposes of Commission regulation. See Ch. 364.02(10). At present, after polling FCTA members, the amount of customers who subscribe to "basic only" is either zero or a de minimis amount. Therefore, even if the Commission had jurisdiction to regulate VoIP telephony providers – which it does not, pursuant to Ch. 364.02(13), F.S. – these provisions would only apply to the extent a certificated CLEC provided basic only service – which cable telephony providers by and large do not do.

Nevertheless, even though such a regulation would touch few if any cable telephony customers, FCTA does not see any purpose for extending this regulation to CLECs at this time. By definition, the CLEC will be competing with an ILEC. Where, as here, competition exists in the form of the ILEC, which started out with all of the customers, there is no basis exists for regulating the service quality or other aspects of the competitive provider's service.\(^4\)

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\(^3\) Tr. p. 29:11-19 (Ms. King: "I know in that original rulemaking there were comments about, you know, this is new, new and we want to be less burdensome on the CLECs, . . . if somebody wants to make a comment on [the change from that regime], we'd appreciate getting those comments because that is a significant change.")

\(^4\) In contrast, ample basis exists for continuing to regulate an ILEC's provision of wholesale service, which is a bottleneck input for CLECs and for other measures that serve to ensure markets remain open and that a level playing
Not all competitive providers who have sought to serve Florida’s telephony market have been successful. The ultimate arbiter of whether a competitive provider is succeeding or failing is the marketplace. If cable’s telephony service does not meet the customer’s service quality or price standards, the customer can switch to the ILEC. Thus far, the marketplace has validated cable telephony’s price and service quality. Cable has gained customers and currently services over 1.4 million residential customers.

It would be ironic were the Staff and Commission to use a re-write designed to implement the ILEC deregulation statute as an opportunity to add regulation to CLECs. Staff did not identify any need at the workshop that would serve as a basis for imposing additional regulations on CLECs. Rather, the Staff appeared to want to extend regulations to CLECs because the legislative language supported such an extension, even though it had never been done before. Yet, just because someone arguably can do something does not mean that they should. The current rules have enabled competitors to make inroads into the Florida telephony market. It would be difficult to determine how much of those gains resulted from the Commission’s efforts to ensure a level playing field, its light touch regulation, and each competitor’s own dogged efforts to win customers. Rather than experiment with changes to these rules, and with no demonstrated need for changes, the Staff should leave the current rules concerning CLECs as they are. The Staff should not recommend that the Commission extend new regulation to CLECs.

field exists. Thus, for example, the legislature did not remove or lessen any regulations on the ILEC wholesale services.

5 Even cable’s competitors recognize that using the ILEC deregulation and SB 2626 as an opportunity to add regulations to CLECs would be unusual. See Tr. p. 5:23-25, (statement by Verizon’s counsel that “the impetus of this legislation was not to expand regulation to places it’s never been before”); see also Tr. p. 38-39 (AT&T counsel Tracy Hatch stating no intent in SB 2626 to “drag [CLECs] back in” to regulation).
II. If the Commission Does Amend The Rules, It Should Make Clear That No New Tariff Filings Will be Required Other Than Prospective Ones

At the Staff Workshop, Staff indicated that no new tariff filings needed to be made for ILECs, and that all changes would be accomplished prospectively.  See Tr. p. 10:1-20;  See also Tr. pp. 33:22-34:7. However, because the CLECs have never filed tariffs using the same format as the ILECs, does this mean that CLECs would need to re-file their tariffs as a result of the "significant change" in regulation? If the Commission does amend the rules and apply them to CLECs, it should also make clear that the amended rules apply only prospectively to both ILECs and CLECs. Thus, CLECs would not need to re-file all of their tariffs or price lists once the rules take effect, but rather, would need to follow the new format only when filing a tariff for a new product or service that is subject to the rules.

Cable's success in the marketplace would not have occurred without provision of high quality, reliable service at an attractive price. Thus, no need exists for a "significant change" that would result in additional regulation of CLEC service. If there is a change, however, the Commission should make clear that re-filing of every CLEC tariff is not required as a result of the new regulations. Rather, as the Staff stated during the workshop, any new tariffs would comply with the rules, and therefore, the new rules would be prospective, with tariffs phased in gradually over time.

III. Rules, If Any, Governing Internet Posted Rates and Tariffs Should Be Flexible

Tariff filings tend to follow a certain format designed to be comprehensive by including certain elements and to follow Commission rules. However, that format, often designed for use by regulators as opposed to the general public, may not be the most comprehensible one for customers seeking to understand service offerings, and who may be
Comments of FCTA
Undocketed in Response to March 16, 2010 Staff Notice
May 7, 2010

used to seeing web sites which lay out service pricing and other terms more informally and in a perhaps easier to read fashion. For tariffs or price lists that appear on web sites, there should be some leeway as to how the Internet tariff filings are to be formatted, with the hallmark being, will customers understand them? No specific format rules should exist for Internet filings of rates other than generally what they should contain.

IV. The Commission Should Clarify that ICBs Do Not Need to Be Filed, As Long As A Price List Is Published, Either on A Web Site or With the PSC

Several workshop participants at the March 30, 2010 workshop expressed concern that the proposed rule revisions could be read as requiring that ICB arrangements be filed with the Commission or on a web site. Specifically, there was concern that deletion of lines 8-10 on page 8 of the current staff draft would imply that ICBs now have to be filed with the Commission, because those lines currently state that, as long as a party files its tariff with the Commission (or presumably, posts it on a web site), it would not need to file the ICB arrangements with the Commission. At the workshop, Staff stated that no filing of ICBs has been required for the last 20 years, as long as the tariff is otherwise filed with the Commission, and therefore, these lines of the rule were unnecessary. See e.g., pp. 11:1-13, 13:3-4 (Stating it’s “not [Staff’s] intent to make customer service arrangements be filed [at the Commission].”)

Numerous parties expressed the concern that deleting these lines would imply that ICBs would now need to be filed. Given how many parties expressed concern over this deletion, FCTA is concerned that deleting this language could inadvertently impose an ICB

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6 The lines Staff proposes to delete state: “The rates and charges for contract service arrangements for an individual customer need not be filed where the company’s tariff provides a description of the circumstances under which such arrangements are offered for specified tariffed services.”
Comments of FCTA
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filing requirement on providers, even though that is not Staff’s intent. There is a relatively simple fix that would solve this problem. FCTA proposes that Staff keep the language in lines 8-10, but change the word “file” to “publish” to ensure that parties still will not need to file their ICBs. FCTA’s proposed change ensures that publishing the general tariff on a web site obviates the need to file the ICBs with the commission.

CONCLUSION

FCTA respectfully requests that the Staff adopt the positions set forth in the above comments.

Respectfully submitted this 7th day of May, 2010.

[Signature]

David A. Konuch
Sr. Counsel, Regulatory Law & Technology
Florida Cable Telecommunications Association
246 E. 6th Avenue, Suite 100
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Tel: 850/681-1990
Fax: 850/681-9676
May 7, 2010

Ann Cole, Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Initiation of Rulemaking to Amend Rules in 25-4 and 25-24, Florida Administrative Code, To Address Publication of Service Schedules By Telecommunications Companies

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida’s Comments, which we ask that you file in the captioned undocketed matter.

Sincerely,

\[Signature\]

Tracy W. Hatch

Enclosures

cc: Jerry D. Hendrix
    Gregory R. Follensbee
    E. Earl Edenfield, Jr.
    Kathryn Cowdery
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Rulemaking to Amend Rules in 25-4 and 25-24, Florida Administrative Code, To Address Publication of Service Schedules By Telecommunications Companies

Docket: Undocketed

Filed: May 7, 2010

COMMENTS OF AT&T FLORIDA

BellSouth Telecommunications, Inc. d/b/a AT&T Florida (“AT&T Florida”) submits the following comments regarding the Notice of Proposed Rule Development issued March 16, 2010, in the above referenced proceeding.


Section 364.04 now provides:

(1) Every telecommunications company shall publish through electronic or physical media schedules showing the rates, tolls, rentals, and charges of that company for service to be performed within the state. A telecommunications company may, as an option, file the published schedules with the commission or publish its schedules through other reasonably publicly accessible means, including on a website. A telecommunications company that does not file its schedules with the commission shall inform its customers where a customer may view the telecommunications company’s schedules.
(2) The schedules shall plainly state the places telecommunications service will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in anywise change, affect, or determine any of the aggregate of the rates, tolls, rentals, or charges for the service rendered.

The legislative changes to 364.04 are the most recent in a long series of actions by the legislature to transition the telecommunications market in Florida to a fully competitive market place. Indeed, the Commission is directed by the express intent of the legislature to eliminate any rules or regulations which will delay or impair the transition to competition and to eliminate unnecessary regulatory restraint. See Sections 364.1(4)(f) and (g), Florida Statutes.

The proposed rules continue to perpetuate an obsolete regulatory mechanism for which there is no demonstrated need. The proposed rules attempt to engrant numerous detailed prescriptive requirements that go far beyond the explicit requirements set forth in 364.04 or 364.051(5) – the sections that the proposed rules are intended to implement. Section 364.04 is explicit as to the legislature's requirements for the information that is needed to be provided to customers. This section is self-executing and does not require additional rules to "explain or interpret" the legislature's language. Moreover, the legislature did not provide any specific rulemaking authority directing the Commission to adopt rules to implement Section 364.04 or 364.051(5). The proposed rules are not consistent with either the directives of the legislature or of the law governing requirement to engage in rulemaking.
Florida law is clear that an agency may only initiate and pursue rulemaking when a sufficient legislative grant of rulemaking authority exists. Section 120.536(1) Florida Statutes, provides:

A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

(Emphasis Added)

See also, Florida Dept. of highway Safety and Motor Vehicles v. JM Auto, Inc., 977 So.2d 733 (Fla. 1st DCA 2008) (finding that a “broadly worded” statute generally authorizing the Department to adopt rules to implement statutes regarding motor vehicle licenses was insufficient statutory rulemaking authority to support the Department’s proposed rule addressing unauthorized supplemental dealership locations).

The First District Court of Appeal has issued a string of opinions which recognize that the Legislature intended to restrict the scope of agency rulemaking so that rules can only be adopted to implement the subject matter of the statute. See, e.g., Hanger Prosthetics & Orthotics, Inc. v. Dep’t of Health, 948 So.2d 980 (Fla. 1st DCA 2007); Hennessey v. Dep’t of Bus. & Prof’l Regulation, 818 So.2d 697 (Fla. 1st DCA 2002; Bd. Of Trs. Of the Internal Improvement Trust Fund v. Day Cruise Ass’n Inc., 794 So.2d 696
(Fla. 1st DCA 2001); Sw. Fla. Water Mgmt. Dist. V. Save the Manatee Club, Inc., 773 So.2d 594 (Fla. 1st DCA 2000).

AT&T Florida believes that the proposed rules should not be adopted because the rules do not seek to reduce regulatory restraint or move towards a more competitive marketplace. Further, the legislature has not provided the Commission with a specific grant of authority to adopt any rules to implement either 364.04 or 364.051(5). Indeed, it should be noted that the largest growing segment of the communications market, wireless and cable service providers, are entities that are not subject to the Commission’s rules or even its jurisdiction.

Notwithstanding that AT&T Florida does not believe that the proposed rules are appropriate, if the Commission determines that rules should be adopted to implement changes to 364.04 and 364.051(5), the Commission should only adopt rules that are specifically necessary to interpret or explain the specific purpose of the statute. AT&T Florida submits that, to the extent necessary, the changes set forth in Attachment A should be made to the proposed rules.
Respectfully submitted this 7th day of May, 2010.

[Signature]

E. EARL EDENFIELD, JR.
TRACY W. HATCH
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ATTORNEYS FOR BELL SOUTH
TELECOMMUNICATIONS, INC. d/b/a
AT&T FLORIDA
25-4.034 Service Schedules Tariffs.

(1) Pursuant to Section 364.04, F.S., Except to the extent otherwise permitted by Section 364.051(5)(a), F.S., each telecommunications company shall publish its Florida-specific service schedules maintain on-file with the Commission tariffs which shall set forth all intrastate rates, tolls, rentals, and charges for customer services. The rates, tolls, rentals and charges for contract service arrangements for an individual customer need not be filed where the company's schedules provide a description of the circumstances under which such arrangements are offered for specified services, fees and surcharges, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relation of customer and company. The rates and charges for contract service arrangements for an individual customer need not be filed where the company's tariff provides a description of the circumstances under which such arrangements are offered for specified tariffed services.

(2) The schedules shall plainly state the places telecommunications service will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in anywise change, affect, or determine any of the aggregate of the rates, tolls, rentals, or charges for the service rendered.

(a) Service schedules shall be clearly written in simple words, sentences and paragraphs, avoiding unnecessarily long, complicated or obscure phrases or acronyms so that the customer is able to understand the services offered.

(ab) Service schedules shall have a table of contents or index identifying the location of the rates, fees and surcharges, terms and conditions for services offered.

(c) Service schedules shall fully define company-specific technical terms and
abbreviations:

(d) No public statement of service quality, rates, or service offerings or billings shall be misleading or differ from the terms stated in the service schedules.

(e) If a company intends to temporarily bill lower rates or charges than is contained in a published service schedule, the company shall publish a single service schedule change reflecting the conditions of the temporary service. Such a service schedule provision shall include the heading "Promotion," and shall state the name of the promotion, a specific description of the scheduled service involved, including all applicable rates, benefits, terms, and conditions, and the beginning and ending dates of the promotion.

(f) Service schedules shall define a telecommunications company's service area(s) as identified in its certificate of public convenience and necessity.

(g) Each telecommunications company shall make its retail service schedules available for public inspection upon request.

(h) Notification of proposed changes to an existing nonbasic service schedule must be received by the Division of Regulatory Analysis before 5:00 p.m. on a normal Commission work day in order for the Commission to be noticed on that day and the changes to become effective on the following day.

(i) Services schedules shall be current. Changes to the rates, tolls, rentals and charges, surcharges, fees, or the terms and conditions of the offered services, or the addition of new services shall be published before taking effect.

(32) All published service schedules, whether filed with the Commission or published through other reasonably publicly accessible means, including on a website, shall contain, at a minimum:

(a) The name(s) used to market the service;

(b) A description of the service;

CODING: Words underlined are additions; words in struck through type are deletions from existing law.
(c) The current rates, tolls, rentals or charges for the service, including all surcharges and fees;

(d) The service-specific terms and conditions, and

(e) The availability and effective date(s) for the service(s) and rate(s).

(3) Changes to service schedules shall be retained to permit a historical review of all changes to the schedules for a period of six years and shall be made available to the Commission upon request.

(4) Complete information concerning a company's service offerings, rates and charges, conditions of service, terms and conditions, service area, and subscribership information identified by exchange shall be made available to Commission staff upon request.

(245) Each telecommunications company shall inform the Commission and its customers, in writing, where its published service schedules may be viewed. The Commission shall be notified at the address in 25-4.034(6), or electronically following the procedures set forth at http://www.psc.state.fl.us/utilities/telecomm/. For existing customers, customer notification shall be in the form of a prominent notice on the customer bill or other reasonable method and shall be made once annually. New customers shall be informed upon application and thereafter once annually in writing.

(3562) If a telecommunications company chooses to publish its schedules by filing them with the Commission, it shall file two copies of all new service schedules and proposed changes to existing service schedules with the Director of the Division of Regulatory Analysis, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, or it shall file electronically pursuant to the requirements set forth at http://www.psc.state.fl.us/utilities/telecomm/. A filing must be received by the Division of Regulatory Analysis before 5:00 p.m. on a normal Commission work day in order to be considered filed on that day. Filing shall mean received by the office of the Division of Regulatory Analysis.

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Regulatory Analysis during normal business hours. Any tariff received by the Division of
Regulatory Analysis after 5:00 p.m. shall be considered filed on the next regular business day.
All proposed changes to an existing tariff that are submitted by hard copy shall be directed to
the Director of the Division of Regulatory Analysis, Florida Public Service Commission, 2540
Shumard Oak Boulevard, Tallahassee, FL 32399-0850 and shall include an original and two
(2) copies of each revised tariff sheet. A letter of transmittal shall accompany each tariff
filing, which lists the included sheets, by sheet number and revision level as specified in
paragraphs (6)(e) (e), and gives a brief description of all changes. If acknowledgment of
receipt of a hard-copy filing is desired, the letter of transmittal shall be sent in duplicate with a
request that the duplicate be returned and a postage paid envelope shall be provided for that
purpose.

(3) Each company shall file, as an integral part of its tariff, maps defining the exchange
service areas. These maps shall delineate the boundaries in sufficient detail that they may be
located in the field and shall embrace all territory included in the certificate of convenience
and necessity.

(4) Each telecommunications company shall make available for public inspection upon
request, either a printed copy or an electronic copy of its retail schedules tariffs.

(5) Companies shall charge only the rates and credits contained in their tariff. If a
company intends desires to deviate temporarily from its normal tariffed rates and credits, the
company shall publish file a single tariff change reflecting the conditions of the temporary
tariff change. Such schedule tariff provision shall include the heading “Promotion,” and shall
state the name of the promotion, a specific description of the tariffed service(s) involved;
including all applicable rates, terms, and conditions, and the beginning and ending dates of the
promotion.

(676) Service schedules filed with the Commission Tariffs shall comply with the
CODING: Words underlined are additions; words in struck through type are deletions from existing law.
following conventions:

(a) Each sheet shall have a left-hand margin of at least 3/4". All sheets and copies must be clear and legible. Service schedules Tariffs submitted in hard copy form shall be in loose leaf form on 8 1/2" × 11" sheets, typewritten on white paper, using one side of the paper only.

(b) Each sheet shall bear the name of the company, as certificated with the Commission, the name and title of the issuing officer, and the effective date of the sheet.

(c) Every sheet in the tariff shall be numbered.

(d) Each initially received approved sheet in the tariff shall be marked “Original Sheet” in the upper right-hand corner of the sheet. As an example: Original Sheet No. 4, or Original Sheet No. 5, 2.

(c) Revised sheets in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the sheet it replaces. As an example:

First Revised Sheet No. 4

Cancels Original Sheet No. 4

(f) The tariffs shall contain at a minimum the following:

1. Table of Contents and Index. All tariffs shall have a table of contents identifying the page location of each section in the tariff. Each section shall also be individually indexed by subject.

2. Symbols Used in Service Schedule Tariff Filings. Symbols used in any proposed change to the existing service schedule tariff shall appear on the right hand side of each sheet on the same line(s) in which any change has been made. If three or more consecutive lines are affected, one symbol shall be placed on the first and last lines with a vertical line connecting the two symbols. Two or more symbols shall be placed next to each other on any line with multiple types of changes. The symbol page shall identify and explain all symbols used in the service schedule tariff.

CODING: Words underlined are additions; words in struck through type are deletions from existing law.
3. Technical Terms and Abbreviations. This section shall contain all technical and special terms and abbreviations used in the tariff.

With each filing, the company shall provide a coded copy of each service schedule tariff sheet filed showing changes to the existing tariff sheet. Changes shall be indicated by inserting and underlining new words; words to be deleted shall be lined through with hyphens.


25-24.470 Registration Required.

(1) No person shall provide intrastate interexchange telephone service without first publishing its Florida-specific service schedules as required by Sec. 364.04, F.S., and filing an initial tariff containing the rates, terms, and conditions of service and providing the company’s current contact information with the Office of Commission Clerk using Form PSC/RAD 31 (xx/xx), entitled “IXC Registration Form” which is hereby incorporated into these rules. A copy of the form may be obtained from the Commission’s website at www.floridapsc.com/utilities/telecomm/ or by contacting the Commission’s Division of Regulatory Analysis.

(2) Publication of the company’s service schedules An original and two (2) copies of the company’s initial tariff shall be filed. The tariff filing shall conform to the requirements of Rule 25-4.034(1)(a)–(e), (g)–(i) and (2)–(7)(a)–(f). If a company chooses the option of publishing its initial service schedules by filing them with the Commission, it shall file two copies by attaching them to the IXC Registration Form PSC/RAD 31. 25-24.485, F.A.C.

(3) The company’s contact information shall be provided using Form PSC/RAD 31 (08/05), entitled “IXC Registration Form” which is hereby incorporated into these rules. A CODING: Words underlined are additions; words in struck-through type are deletions from existing law.
copy of the form may be obtained from the Commission’s website at
www.floridapse.com/utilities/telecomm/ or by contacting the Commission’s Division of
Regulatory Compliance:

(34) Each IXC shall file and update, within 10 days after any change, the following
contact information with the Office of Commission Clerk:

(a) Official company name, including any fictitious names, as filed with the
Department of State, Division of Corporations; and

(b) Mailing address, including street name and address and post office box, city, state,
and zip code.

(c) Name, address, telephone number, and e-mail address and FAX number, where
applicable, of the individual who is to serve as primary liaison with the Commission in regard
to ongoing operations of the company within the state.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.02, 364.04 FS. History—New 2-
23-87, Amended 8-25-05, 5-29-08.


(1) All initial tariffs filed as part of the registration process in Rule 25-24.470, F.A.C.,
shall be filed with the Office of Commission Clerk, using the following guidelines, before
becoming effective.

(a) Each IXC shall publish its Florida-specific service schedules pursuant to Rule 25-
4.034(1)(a)–(e), (g)–(i), and (2)–(7)(a)–(f), which shall set forth maintain on file with the
Commission tariffs which set forth all of the rates and charges for customer services, the
different services available to subscribers and the conditions and circumstances under which
service will be furnished.

(b) The tariff will be Florida-specific all intrastate rates, tolls, rentals and charges for
customer services, fees and surcharges, the classes and grades of service available to

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Comments - AT&T Florida
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subscribers, the conditions and circumstances under which service will be furnished, and all

general rules and regulations governing the relation of customer and company, and all

intragate rates, charges, and service descriptions shall be for intrastate usage, unless interstate

rates are necessary to compute the intrastate portion of a customer’s monthly bill; then, the

interstate rates, charges, and service descriptions shall also be quoted in the tariff to the extent

necessary to compute the intrastate portion of a customer’s bill.

(e) The tariff must be clearly expressed in simple words, sentences and paragraphs. It

must avoid unnecessarily long, complicated or obscure phrases or acronyms so that the

customer will understand that for which he is contracting.

(d) No public statement of service quality, rates, or service offerings or billings should

be misleading or differ from those stated in the tariff.

(e) All proposed changes to an existing tariff shall be directed to the Director of the

Division of Regulatory Analysis, Florida Public Service Commission, 2540 Shumard Oak

Boulevard, Tallahassee, FL 32399-0850. A filing must be received by the Division of

Regulatory Analysis before 5:00 p.m. of a normal Commission workday in order for it to be

“filed” on that day.

(f) All tariff changes shall be submitted to the Division of Regulatory Analysis in

triplicate in the form prescribed herein. If acknowledgement of the filing at the time of receipt

is desired, the letter of transmittal shall be sent in duplicate with a request that the duplicate be

returned.

(g) Companies shall charge only the rates contained in their tariff. If a company desires

to charge rates or charges at a lower level than is contained in an existing tariff and wishes to

charge those lower rates only temporarily, file a single tariff change reflecting the conditions of

the temporary tariff change. Such tariff provision shall include the heading “Promotion,” and

shall state the name of the promotion, a specific description of the tariffed service involved,

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including all applicable rates, terms, and conditions, and the beginning and ending dates of the
reduction:

(h) The requirements of the following subsections shall apply on a prospective basis
from the effective date of this rule. Existing tariffs on the effective date of this rule need not be
amended to comply with the following except upon Commission staff request.

(2) The initial tariff will become effective on the date of the company's registration
pursuant to Rule 25-24.470, F.A.C. Changes to an existing tariff will become effective on the
day following the day it is filed with the Division of Regulatory Analysis unless the company
requests a later effective date.

(3) Tariffs shall comply with the following format requirements:

—— (a) All tariffs shall be submitted in loose leaf form on 8 1/2" x 11" sheets, typewritten
on a good grade of white paper of durable quality, using one side of the paper only. All copies
must be clear and legible. Sufficient margin shall be allowed on each sheet for a left hand
binding edge so that when the tariff book is open all printed matter will be in view.

—— (b) Every sheet in the tariff shall be numbered.

—— (c) Each sheet shall bear the name of the company, as registered with the Commission,
in the upper left-hand corner of the sheet.

—— (d) Each initially approved sheet in the tariff shall be marked "Original Sheet" in the
upper right-hand corner of the sheet. As an example: Original Sheet No.-1, or Original Sheet
No.-5.2.

—— (e) Revised sheets in the tariff shall be marked with the number of the revision in the
upper right-hand corner and the number of the sheet(s) it replaces. As an example:
First Revised Sheet No.-1
Cancels Original Sheet No.-1

or

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Fourth Revised Sheet No. 5.2

Cancels Third Revised Sheet No. 5.2

(f) The name and title of the issuing officer shall be placed at the bottom of each sheet.

To the right of the issuing officer's name there shall appear "Effective: 8-25-05."

(g) The tariffs shall contain the following:

1. Title Page. The title page shall contain a brief description of the tariff and the services offered therein.

2. Table of Contents or Index. All tariffs shall have a table of contents identifying the page location of each section in the tariff. In tariffs of 30 sheets or more, each subsection shall also be individually indexed by subject.

3. Symbols Used in Tariff Filings. Symbols used in any proposed change to the existing tariff shall appear in the right-hand margin of each sheet on the same line(s) in which any change has been made. If three or more consecutive lines are affected, one symbol shall be placed on the first and last lines with a vertical line connecting the two symbols. Two or more symbols may be placed next to each other on the affected line. The symbol page shall identify all symbols used in the tariff.

4. Technical Terms and Abbreviations. This section shall contain all technical and special terms and abbreviations used in the tariff.

5. Rules and Regulations. This section shall include all rules, regulations, practices, exceptions and conditions which are general and apply to all or many of the services offered. If a general regulation does not apply to a particular service, that fact should be clearly stated.

6. Description of Services Offered. This section shall describe all services available to end users in Florida.

7. Rates. All rates and charges for all services, and other data necessary to compute the customers' bills for intrastate service shall be placed in this section.

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(4) Information to Accompany Tariff Filings:

(a) A letter of transmittal shall accompany each filing, which lists the sheets (by sheet number and revision level) being transmitted and gives a brief description of all changes.

(b) Along with each tariff filing the company shall include three (3) copies of the tariff pages which contain proposed changes as they will appear in the approved tariff.


For purposes of this Part XII, Shared Tenant Services, Rules 25-24.555 through 25-24.585, F.A.C., the definitions for the following terms apply:

(1) “Alternative Access Vendor” (AAV) means any telecommunications company, as defined in Section 364.337(6)(a), Florida Statutes.

(2) “Agent” means one authorized to act on behalf of another.

(3) “Competitive local exchange telecommunications company” (CLEC) means any company as defined in Section 364.02(54), Florida Statutes.

(4) “Company” means a shared tenant service company.

(5) “Interexchange Company” (IXC) means any telecommunications company, as defined in Section 364.02(146), Florida Statutes, which provides telecommunication service between exchange areas as those areas are described in the approved tariffs of individual local exchange companies.

(6) “Local Exchange Telecommunications Company” (LEC) means any telecommunications company, as defined in Section 364.02(86), Florida Statutes.

(7) “Local Service Area” or “Local Calling Area” means the area within which telecommunications service is furnished to subscribers under a specific schedule of exchange rates and within which calls may be completed without toll charges. A local service area may

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include one or more exchange areas or portions of exchange areas.

(8) "Pay telephone service company" means any telecommunications company, as defined in Section 364.02(146), Florida Statutes, other than a Local Exchange Company, which provides pay telephone service as defined in Section 364.335(3), Florida Statutes.

(9) "Private Branch Exchange" (PBX) means a system in which trunk lines connect a telephone company central office to a switching system which directs incoming calls to the appropriate user.

(10) "Shared tenant service" (STS) as defined in Section 364.339(1), Florida Statutes, means the provision of service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

(11) "Tenant" means any person entitled to occupy a premises under a rental or lease agreement.

(12) "Unaffiliated Entities" means those corporations, partnerships, proprietorships, or other groups that control less than 50 percent of the stock of the entity which claims to be affiliated.


(1) Every company providing operator services shall clearly state the name of the company upon answer and again after accepting billing information before the call is connected.

(2) In its service schedules tariffs for and contracts with billing and collection agents and other companies providing operator services, every company providing operator services

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shall require the other party to:

(a) Allow end-users to access, at no charge, all locally available interexchange companies via all locally available methods of access, such as 10XXX, 10XXXX, 101XXXX, 950, and toll-free access codes, such as 800, 877, and 888; except that Feature Group A (seven-digit local number) access lines are exempt from this requirement;

(b) Allow end users to access the universal telephone number “911”, where operable, at no charge to the end-user, and where not operable, to allow end-users to access the operator of the provider of local exchange telecommunications services at no charge;

(c) Route all end user dialed 0+ local and all 0- calls to the provider of local exchange telecommunications services unless the end user dials the appropriate access code for his carrier of choice, such as 950, 800, 877, 888, 10XXXX, 101XXXX, or 10XXX; and

(d) Route all end user dialed 1+ and 0+ toll calls to the preselected carrier unless the end user dials the appropriate access code for his carrier of choice, such as 950, 800, 877, 888, or 10XXXX, 101XXX, or 10XXX; and

(e) Route all end user dialed 0- calls to the operator of the provider of local exchange telecommunications services at no charge to the end user when no additional digits are dialed after five seconds.

(3) Each operator services provider shall provide an opportunity for each caller to be identified by name to the called party before any collect calls may be completed.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.04364.04, 364.3376
FS. History—New 9-6-93, Amended 1-16-96, 9-10-97, 2-1-99.

25-24.721 Service Schedules Tariffs Not Required.

Alternative Access Vendors are not required to file Service Schedules Tariffs.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.337 FS. History—New 1-8-95.

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(1) The Commission may on its own motion, after notice and opportunity for hearing, revoke a company’s certificate for any of the following reasons:

(a) Violation of a term or condition under which the authority was originally granted;
(b) Violation of Commission rule or order;
(c) Violation of Florida Statute; or
(d) Violation of a service schedule price list standard.

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.

Cancellation of a certificate shall be ordered subject to the holder providing the required information.

(a) A statement of intent and date certain to pay regulatory assessment fee.
(b) A statement of why the certificate is proposed to be cancelled.
(c) A statement as to how customer deposits and final bills will be handled.
(d) Proof of individual customer notice regarding discontinuance of service.

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 364.345 FS. History—New 12-27-95.


(1) Prior to providing service, each telecommunication company subject to these rules shall publish its Florida-specific service schedules file and maintain with the Commission a current price list which shall clearly sets forth the following information for the provision of residential-dial tone, single line business-dial tone, and dial tone with any combination of the services included as part of basic local telecommunications services, as defined in Section 364.02(2), F.S.: If residential-dial tone, single line business dial tone, or dial tone with any combination of the services included as part of basic local telecommunications service is

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Comments - AT&T Florida
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offered on a package basis, the following information must be provided for each package:

(a) Current prices,

(b) Customer connection charges,

(c) Billing and payment arrangements, and

(d) conditions and circumstances under which service will be furnished, and

(e) all general rules and regulations governing the relation of customer and

company. Levels of service quality which the company holds itself out to provide for each

service.

(2) At the company's option, price list information in subsection (1) above and other

information concerning the terms and conditions of service may be filed for services other

than basic local telecommunication services.

(3) A price list revision must be physically received by the Commission's Division of

Regulatory Analysis at least one day prior to its effective date.

(4) Price lists must be on 8 1/2 by 11 inch paper in loose-leaf form and must utilize an

ongoing page identification system which will allow for the identification of inserted and

removed pages. The color of paper on which price lists are filed must be amenable to being

easily photocopied on standard photocopy equipment.

(5) Complete information concerning a company's service offerings, rates and charges,

conditions of service, service quality, terms and conditions, service area, and subscribership

information identified by local exchange company exchange must be made available to

Commission staff upon request.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.04, 364.337(5) FS. History-

New 12-27-95, Amended 4-8-98.

25-24.830 Consumer Information.

(1) The quality of service information in paragraph (1)(d) of Rule 25-24.825, F.A.C.,

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shall be provided, verbally or in writing, upon request to any person inquiring about the
company's basic local exchange telecommunications service. In addition, the above
information shall be provided in writing before or in the basic local exchange
telecommunications customer's first bill for service. The above information shall be expressed
in simple words, sentences, and paragraphs. Unnecessarily long, complicated, or obscure
phrases or acronyms must be avoided.

(2) If a CLEC elects not to provide any third-party billing or collect call services to its
customers, the CLEC shall so state in its service schedule price list and shall notify customers
of such prior to a customer agreeing to obtain local service from the CLEC. In addition, the
above information shall be provided in writing before or in the basic local exchange
telecommunications customer's first bill for service. The above information shall be expressed
in simple words, sentences, and paragraphs. Unnecessarily long, complicated, or obscure
phrases or acronyms must be avoided.


(1) The following rules are incorporated herein by reference and apply to competitive local
exchange companies.

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Portions</th>
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<tr>
<td>21</td>
<td>25-4.0161 Regulatory Assessment Fees</td>
<td>Applicable</td>
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<td>22</td>
<td>25-4.020 Location and Preservation of Records</td>
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<td>25-4.043 Response to Commission Staff Inquiries</td>
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<td>24</td>
<td>25-4.034 Service Schedules Tariffs</td>
<td>All</td>
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</tbody>
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(g) (i) and (2)

(7)(a) (f)

25-4.036 Design and Construction of Plant All

25-4.038 Safety All

25-4.043 Response to Commission Staff Inquiries All

25-4.160 Operation of Telecommunications Relay Service

(2) Each company shall file updated information for the following items with the Office of Commission Clerk within 10 days after any changes to the following:

(a) The address of the certificate holder’s main corporate and Florida offices (if any) including street name and address and post office box, city, state and zip code; or

(b) Telephone number, name, and address of the individual who is to serve as primary liaison with the Commission in regard to the ongoing Florida operations of the certificated company.


25-24.915 Service Schedules Tariffs or Price Lists.

(1) This section applies to all companies as defined in subsection 25-24.905(1), F.A.C.

(2) Each company shall file a service schedule tariff or price list for PPCS.

(3) Each company shall include in its service schedule tariff or price list the following information:

(a) Maximum amount a person will be charged per billing increment for PPCS, and

(b) Any applicable surcharges or other fees assessed in addition to the billing increment that reduces the value of the card.

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25-24.920 Standards for Prepaid Calling Services and Consumer Disclosure.

(1) The following information shall be legibly printed on the card:

(a) The Florida certificated or registered name, or "doing business as" name as provided for by Rule 25-24.910, F.A.C., clearly identified as the provider of the PPCS;

(b) Toll-free customer service number;

(c) Toll-free network access number; and

(d) Authorization code, if required to access service.

(2) Each company shall provide the following information legibly printed either on the card, packaging, or display visibly in a prominent area at the point of sale of the PPCS in such a manner that the consumer may make an informed decision prior to purchase:

(a) Maximum charge per billing increment for PPCS;

(b) Any applicable surcharges or other fees assessed in addition to the billing increment that reduces the value of the card; and

(c) Expiration policy, if applicable.

The company must insure by contract with its retailers or distributors that the information is provided to the consumer.

(3) Each company shall provide through its customer service number the following information:

(a) Certificate or registration number;

(b) Rates and surcharges;

(c) Balance of use in account; and

(d) Expiration date or period, if any.

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(4) Each company shall provide a live operator to answer incoming calls 24 hours a day, 7 days a week or shall electronically voice record end user complaints. A combination of live operators or recorders may be used. If a recorder is used, the company shall attempt to contact each complainant no later than the next business day following the date of the recording.

(5) The rates displayed in accord with subsection (2) above shall be no more than those reflected in the service schedule tariff or price list for PPCS.

(6) A company shall not reduce the value of a card by more than the charges printed on the card, packaging, or visible display at the point of sale. The service may, however, be recharged by the consumer at a rate higher than the rate at initial purchase or last recharge. The higher rate and surcharges shall be no more than the rates and surcharges in the service schedule tariff or price list and the consumer shall be informed of the higher charges at the time of recharge.

(7) Cards without a specific expiration period printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the date of first use, or if recharged, from the date of the last recharge.

(8) If PPCS are sold without a card or printed material, tariffed charges and surcharges as shown on the service schedule shall be disclosed at the point of sale.
May 7, 2010 – VIA ELECTRONIC MAIL

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

Re: Undocketed
Initiation of Rulemaking to Amend Rules in 25-4 and 25-24, Florida Administrative
Code, to Address Publication of Service Schedules by Telecommunications
Companies

Dear Ms. Cole:

Enclosed for filing in the above matter are the Post-Workshop Comments of Verizon
Florida LLC. If there are any questions regarding this filing, please contact me at (770)
284-3620.

Sincerely,

s/Dulaney L. O’Roark III
Dulaney L. O’Roark III

tas

c: Jeff Bates, FPSC – via electronic mail
   Samantha Cibula, FPSC – via electronic mail
   Sandy Khazraee, CenturyLink – via electronic mail
   Tracy Hatch, AT&T – via electronic mail
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Rulemaking to Amend Rules ) Docket: Undocketed
in 25-4 and 25-24, Florida Administrative ) Filed: May 7, 2010
Code, to Address Publication of Service )
Schedules by Telecommunications Companies )

POST-WORKSHOP COMMENTS OF VERIZON FLORIDA LLC

At the proposed rule development workshop held on March 30, 2010, Staff requested comments from the parties on draft revisions to several Commission rules relating to tariffs and price lists. Verizon Florida LLC ("Verizon") files these comments to address two concerns: (i) many of the proposed rules would exceed the Commission's statutory authority; and (ii) the proposed rules would eliminate a provision expressly authorizing customer service arrangements.

A. BACKGROUND

Before it was revised in 2009, section 364.04, Florida Statutes, required that every telecommunications company, upon order of the Commission, file with the Commission schedules showing its rates, terms and conditions and to make those schedules available for public inspection. Under section 364.051(5)(a), price-regulated ILECs were permitted to publish nonbasic rates, terms and conditions, rather than filing them, subject to publication guidelines established by the Commission. The 2009 statutory revisions substantially changed this scheme. Section 364.04(1) now permits telecommunications companies to file their schedules with the Commission or publish them "through other reasonably publicly accessible means, including on a website." Consistent with these changes, the optional tariffing language provision in section
364.051(5)(a) was removed because it was no longer necessary. Moreover, the legislature eliminated the Commission's authorization to establish publication guidelines.

The current Commission rules require telecommunications companies to maintain on file with the Commission tariffs that set forth the rates, terms and conditions of the carriers' services.¹ Rule 25-4.034(1), Florida Administrative Code. The current rules describe when and where tariffs must be filed, how they must be formatted and what contents must be included. Rule 25-4.034(2)-(7). They also make clear that contract service arrangements for an individual customer need not be filed when the tariff describes the circumstances under which arrangements are offered for specified services. Rule 25-4.034(1).

The proposed rules would impose a number of new requirements on published service schedules, regardless of whether they were filed at the Commission or published online or elsewhere. The proposed rules would require, for example, that published schedules use simple language, include a table of contents or index, include specified information, publish promotions in a specific way and meet certain timing requirements. They would prohibit carriers from making any public statement about their "service quality, rates, or service offerings or billings" that is misleading or that differs from the terms in the carrier's service schedules. And the proposed rules would require carriers to make their retail service schedules available to public inspection, notify the Commission of changes to nonbasic service one day before the changes become effective, and retain information on schedule changes for six years.

¹ This requirement is subject to exceptions for certain services and providers.
B. STATUTORY AUTHORITY

To be valid under the Administrative Procedure Act, a rule adopted under the Commission's general rulemaking authority\(^2\) must implement or interpret specific statutory powers and duties, which means those powers and duties must be stated explicitly in the statute. *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594, 599 (Fla. 1st DCA 2000). Statutory language generally describing the Commission's powers and functions, or setting forth general legislative intent or policy, does not suffice to create authority for rulemaking purposes. See Fla. Stat. §§ 120.52(8), 120.536(1). Moreover, the rule must not enlarge, modify or contravene the statute being implemented. Fla. Stat. § 120.52(8)(c).

The proposed rules purport to implement sections 364.04, 364.051(5) and 364.183, Florida Statutes, but the proposed rules in fact go far beyond the scope of these statutory provisions. As discussed above, section 364.04 permits carriers to publish rates, terms and conditions at the Commission or through other reasonably publicly accessible means, such as a website. This provision does not authorize the Commission to establish publication guidelines, and indeed such authority was eliminated by the 2009 statutory revisions. Section 364.051(5) establishes certain parameters for nonbasic pricing and no longer addresses the publication of rates. Section 364.183 provides the Commission with access to certain data and authorizes it

\(^2\) See Fla. Stat. § 350.127(2) ("The commission is authorized to adopt, by affirmative vote of a majority of the commission, rules pursuant to s. 120.536(1) and 120.54 to implement provisions of laws conferring duties on it").
to require carriers to file certain information "directly related to matters within the commission's jurisdiction."

Many provisions in the proposed rules would go beyond the bounds of the Commission's rulemaking powers. For example:

- The proposed rules include a number of provisions that would regulate the style, structure, terms and timing of carriers' publications. (See proposed Rule 25-4.034(1)(a), (b), (c), (e), (f) and (i) and (2).) Such publication guidelines are no longer authorized.

- The proposed prohibition on making public statements about service quality, rates, offerings and billings that are misleading or different than the terms in a carrier's service schedules (see proposed Rule 25-4.034(1)) purports to regulate carriers' speech relating to their published terms. Nothing in Chapter 364 gives the Commission such powers and such a rule would give rise not only to issues of statutory authority, but also of constitutionality.

- The requirement that carriers make their retail service schedules available to public inspection was eliminated in the 2009 revisions to Chapter 364. The proposed rules, however, would continue to impose such a requirement (see proposed Rule 25-4.034(1)(g)) despite the lack of statutory authority.

- Proposed Rule 25-4.034(1)(h) would require carriers to provide one-day's notice of nonbasic rate changes to the Commission. Section 364.051(5) permits price-regulated ILECs to set or change nonbasic rates on one-day's notice, but does not require that carriers give such notice to the Commission. To be sure, for carriers that publish their nonbasic rates through a schedule filed with the Commission, the only way
to provide the statutory notice is through a Commission filing. But for carriers that publish their nonbasic rates online, the best way to provide customer notice is through an online posting.

- Proposed Rule 25-4.034(3) would require carriers to retain schedule changes for six years. As a matter of business practice, carriers almost certainly will retain records for some reasonable period so they can address customer questions and disputes. But section 364.183 does not authorize the Commission to regulate how carriers maintain their business records.

In short, the 2009 revisions to Chapter 364 concerning publication of rates, terms and conditions were intended to provide carriers with an alternative to the traditional tariff system. The proposed rules in many ways would perpetuate the old regulatory regime by imposing many of the same tariff requirements to rates, terms and conditions that are published online. Such requirements would undermine the purpose of the statutory revisions and therefore should not be included in the new rules.

C. CUSTOMER SERVICE ARRANGEMENTS

Rule 25-4.034(1) provides that “[t]he rates and charges for contract service arrangements for an individual customer need not be filed where the company’s tariff provides a description of the circumstances under which such arrangements are offered for specified tariffed services.” The proposed rules would eliminate this provision, apparently because the term “contracts” was removed from section 364.04 in the 2009 statutory revisions. The customer service arrangement language is still necessary, however, to make clear that customer service arrangements continue to be authorized.
The existing provision therefore should be retained, but revised so it applies regardless of how publication is made.

Respectfully submitted on May 7, 2010.

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