

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 30, 2018

TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

FROM: Pamela H. Page, Senior Attorney, Office of the General Counsel *PHP*

RE: Docket No. 20170262-TP; Amendments to Rule 25-4.004, F.A.C., Certificates of Necessity or Authority; Application, and repeal of Rule 25-4.005, F.A.C., Transfer of Certificate of Necessity or Authority

Please file the attached rule certification packet materials for Rules 25-4.004 and 25-4.005, F.A.C., in the docket file listed above.

Thank you.

Attachment

RECEIVED-PPSC
2018 MAY 30 PM 1:16
COMMISSION
CLERK

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 30, 2018

Mr. Ernest Reddick
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

Re: Rule Certification Packet for Rule 25-4.004, F.A.C., Certificates of Necessity or Authority; Application, and Rule 25-4.005, F.A.C., Transfer of Certificate of Necessity or Authority

Dear Mr. Reddick:

Enclosed for filing is a complete rule certification packet for Rules 25-4.004 and 25-4.005, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rule;
- (2) One original and two copies of the e-mail approval confirmation with the certification form required by Rule 1-1.013, F.A.C., for the materials incorporated by reference that were filed electronically.
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (6) One original and two copies of the summary of the rules;
- (7) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (8) One original and two copies of the summary of the hearings held on the rules.

2018 MAY 30 4:11:02
FILED
OFFICE OF THE GENERAL COUNSEL
TALLAHASSEE, FLORIDA


Mr. Ernest Reddick

May 30, 2018

Page 2 of 2

Please let me know if you have any questions. The contact name and information for these rules are Pamela H. Page, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6214, phpage@psc.state.fl.us.

Sincerely,


Pamela H. Page
Senior Attorney

Enclosures

Julie Phillips

From: FL-Rules@dos.state.fl.us
Sent: Friday, May 25, 2018 11:29 AM
To: Julie Phillips
Cc: flrules@dos.state.fl.us
Subject: {BULK} 25-4.004 Reference Material for Rule Adoption Approved

Importance: Low

Dear JPhillips:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 25-4.004

Reference Number: Ref-09511; Reference Name: PSC 1020 (4/18) Application for Original Authority or Transfer of Authority to Provide Telecommunications Service in the State of Florida

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State

CERTIFICATION OF MATERIALS INCORPORATED

BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code:

(1) That materials incorporated by reference in Rule 25-4.004, F.A.C., have been electronically filed with the Department of State.

(2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

PSC 1020 (4/18)

Application for Original Authority or Transfer of Authority to Provide Telecommunications Service in the State of Florida

Under the provisions of Section 120.54(3)(e)6., F. S., the attached material(s) take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.

Carlotta S. Stauffer
Carlotta S. Stauffer

Commission Clerk

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-4.004

25-4.005

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)

Carlotta S. Stauffer
CARLOTTA S. STAUFFER

Commission Clerk _____
Title 3 _____
Number of Pages Certified _____

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

25-4.004

Rules covered by this certification:

Rule No(s).

25-4.004

25-4.005



Signature of Agency Head

Chairman, Florida Public Service Commission
Title

25-4.004 Application for Original Certificates Necessity or Transfer of Certificate of Authority;

Application.

(1) ~~In order to No person shall provide telecommunications service services to the public without either a certificate of necessity issued prior to July 1, 2011, or a certificate of authority issued after July 1, 2011, is required.~~ Service Services may not be provided, nor may deposits or payment for service services be collected, until the effective date of a certificate or transfer of a certificate. However, marketing and development activities may begin prior to the effective date of the certificate at the applicant's risk that the certificate may not be granted. Prior to certification, the applicant must advise the public in any customer contacts or advertisements that certification has not and may not be granted.

(2) ~~Each An applicant for a certificate of authority shall apply by using submit an application on Form PSC 1020 (4/18) PSC/TEL 162 (12/12), entitled "Application Form for Original Authority or Transfer of Authority to Provide Telecommunications Company Service In Within the State of Florida," The application which is incorporated into this rule by reference and which is available at~~ http://www.flrules.org/Gateway/reference.asp?No=Ref-09511,
http://www.flrules.org/Gateway/reference.asp?No=Ref-02034, and from the Florida Public Service Commission's website at www.floridapsc.com/utilities/TelecomCLECApplication/ www.floridapsc.com/utilities/telecomm/, or from ~~by contacting the Florida Public Service Commission's Office of Industry Development and Market Analysis Telecommunications.~~ Except as provided in Section 364.33, F.S., a certificate holder and the person seeking to obtain the certificate by transfer from the holder shall submit a joint application using Form PSC 1020 (4/18). A non-refundable application or transfer fee of \$500.00 must accompany the filing of each application. The Commission's acceptance of the application fee does not imply that the application or transfer of a certificate will be granted.

(3) The company transferring the certificate shall pay to the Florida Public Service Commission all regulatory assessment fees owed pursuant to Section 364.336, F.S., and Rule 25-4.0161, F.A.C.

~~(4)(3) The An application for certificate of authority or transfer shall be filed with the Office of Commission Clerk; Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.~~

~~(4) Each holder of a certificate of necessity or authority shall file with the Commission's Office of Commission Clerk updated information for the following items within ten days after a change occurs:~~

mailing address if it differs from the street address.

(b) Name, title, and phone number of the individual responsible for contact with the Commission.

*Rulemaking Authority 350.127(2) FS. Law Implemented 350.113 ~~350.127(1)~~, 364.32, 364.33, 364.335, FS. History—
New 12-1-68, Formerly 25-4.04, Amended 12-16-12, _____.*

25-4.005 Transfer of Certificate of Necessity or Authority.

(1) Except as provided in Section 364.33, F.S., a certificate holder and the person seeking to obtain the certificate by transfer from the holder shall submit a joint application on Commission Form PSC/TEL 162 (12/12), entitled "Application Form for Authority to Provide Telecommunications Company Service Within the State of Florida," incorporated by reference into Rule 25-4.004, F.A.C. The application shall be filed with the Office of Commission Clerk. A nonrefundable application fee of \$500.00 must accompany the filing of each application to cover processing costs. The Commission's acceptance of the application fee does not imply that the application for transfer of a certificate will be granted.

(2) The company transferring the certificate shall pay to the Commission all regulatory assessment fees owed pursuant to Sections 350.113 and 364.336, F.S. and Rule 25-4.0161, F.A.C.

*Rulemaking Authority 350.127(2) FS. Law Implemented 350.113 ~~350.127(1)~~, 364.32, 364.33, 364.335, FS. History—
New 12-1-68, Formerly 25-4.04, Amended 12-16-12, Repealed.*

25-4.005 Transfer of Certificate of Necessity or Authority.

*Rulemaking Authority 350.127(2) FS. Law Implemented 350.113 ~~350.127(1)~~, 364.32, 364.33, 364.335, FS. History—
New 12-1-68, Formerly 25-4.04, Amended 12-16-12, Repealed.*

SUMMARY OF THE RULE

The amendments streamline Rule 25-4.004, F.A.C., so that applicants are on notice of the procedures and requirements for filing an application to provide telecommunications service or the transfer of such certificate. Rule 25-4.005, F.A.C., would be repealed and its provisions included in Rule 25-4.004, F.A.C.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rule 25-4.004, F.A.C., and Rule 25-4.005, F.A.C., set forth the requirements and the forms necessary to apply for a certificate to provide telecommunications service or for the transfer of such certificate. Rule 25-4.005, F.A.C., will be repealed and its provisions included in Rule 25-4.004, F.A.C. in order to eliminate any redundancy in the rules. The rule amendments modify, streamline and clarify the application form and assist in avoiding application confusion as to the information required to be submitted to obtain a certificate.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.