

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: June 18, 2018

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

FROM: Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel

RE: Docket No. 080641-TP – Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications.

Please file the attached documents in the above-referenced docket. Thank you.

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2018 JUN 18 PM 12:15
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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**



F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

February 13, 2009

Ms. Kathryn G. W. Cowdery
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule Chapter 25-4

Dear Ms. Cowdery:

After reviewing the proposed changes to Rule Chapter 25-4, F.A.C., I offer the following comments and questions for your consideration and written response:

25-4.0185 Form PSC/SSC 28 is incorporated by reference in this rule. The form appears to have a few typographical errors. On pages 2 and 3, the form refers to Rule 25-4.066 instead of Rule 25-4.0185. Then, page 5 refers to Rule 25-4.070, and page 7 refers to Rule 25-4.073. Please make sure that the final version of the form refers only to the rule in which it is incorporated by reference.

25-4.083 Section 364.603, Florida Statutes, requires the Commission to adopt rules that are:

consistent with the Telecommunications Act of 1996, provide for specific verification methodologies, provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge, allow for a subscriber's change to be considered valid if verification was performed consistent with the commission's rules, provide for remedies for violations of the rules, and allow for the imposition of other penalties available in this chapter.

The proposed amendments to Rule 25-4.083 would provide only that: (1) a subscriber may request a preferred carrier freeze, (2) a provider cannot require a freeze as a condition for obtaining service, (3) the provider cannot charge the

Ms. Kathryn G. W. Cowdery

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customer for placing or lifting a freeze, and (4) providers must comply with the requirements in 47 CFR § 64.1190.

Does the proposed rule accomplish all of the requirements established in section 364.603? For example, what are the remedies for violations of this rule?

If you have any questions or need me to elaborate further on any of the above, please let me know. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Brian T. Moore". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brian T. Moore
Chief Attorney

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PATRICK L. "BOOTER" IMHOF
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Public Service Commission

February 25, 2009

Mr. Brian Moore
Joint Administrative Procedures Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

Re: Public Service Commission Rule Chapter 25-4
PSC Docket No. 080641-TP

Dear Mr. Moore:

This letter responds to your letter of February 13, 2009, wherein you provided comments and questions concerning proposed rule changes to Rules 25-4.0185 and 25-4.083 which were provided to your office by letter of January 16, 2009.

Your letter of February 13, 2009, requested that certain technical changes be made to the final version of Form PSC/SSC 28 which is incorporated by reference into Rule 25-4.0185. Pursuant to your suggestion, the Commission will make a technical change to the form so that the final version of the form refers to Rule 25-4.0185, instead of other rule numbers, at the top right-hand corner of each schedule, since the form is incorporated by reference in Rule 25-4.0185.

With regard to Rule 25-4.083, your question is whether the proposed rule accomplished all of the requirements established in Section 364.603, Florida Statutes.

Section 364.603, F.S., requires the Commission to adopt rules to prevent the unauthorized changing of a subscriber's telecommunication service, and requires that the rules address certain matters. Rule 25-4.083 is one of several Commission rules which implement the requirements of Section 364.603. The Section 364.603 requirements and the manner in which the rules address them are as follows:

1. The rules shall be consistent with the Telecommunications Act of 1996.

Commission staff has reviewed Rule 25-4.083 and concludes that it is consistent with the Telecommunications Act of 1996. As noted in your comments, one of the proposed amendments to Rule 25-4.083 is that providers must comply with the requirements of 47 C.F.R. Sec. 64.1190. The Commission's proposed rule incorporating 47 C.F.R. Sec. 64.1190 by reference is consistent with the Telecommunications Act of 1996.

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2. The rules shall provide for specific verification methodologies.

Rule 25-4.083(4), F.A.C., as proposed for adoption, requires local providers to meet the requirements as prescribed by the Federal Communications Commission in 47 C.F.R. Sec. 64.1190, revised as of October 1, 2007, which is incorporated by reference into the rule. 47 C.F.R. 64.1190(d)(2) and (3) provides specific verification methodologies.

3. The rules shall provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge

Rule 25-4.110(13), as proposed for adoption, requires this notification. Rule 25-4.110 pertains to customer billing for local exchange telecommunications companies. Rule 25-4.110(13), as proposed for adoption, states:

(13) Companies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC-Freeze is available at no charge. Existing customers must be notified annually that a PC-Freeze is available at no charge. Notification shall conform to the requirements of Rule 25-4.083.

4. The rules shall allow for a subscriber's change to be considered valid if verification was performed consistent with the commission's rules.

47 C.F.R. Sec 64.1190(d)(2), revised as of October 1, 2007, and incorporated by reference into Rule 25-4.083, allows a subscriber's request to impose a freeze to be implemented if the request has first been confirmed in accordance with one of the procedures found in 47 C.F.R. Sec. 64.1190(d)(2) (i), (ii), or (iii). Additionally, a local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection if it conforms to the requirements of 47 C.F.R. Sec. 64.1190. Finally, 47 C.F.R. Sec. 64.1190(e)(1) and (2) sets forth procedures for lifting a PC-Freeze by local exchange carriers, which require a local exchange carrier to accept a subscriber's written or electronically signed authorization, or to accept an oral authorization of intent to lift a PC-Freeze upon confirmation of appropriate verification data as set forth in Sec. 64.1190(e)(2).

5. The rules shall provide for remedies for violations of the rules.

The Public Service Commission uses the uniform procedures set forth in Rule 25-22.032, F.A.C., for resolution of customer complaints and requested relief for violations of Commission rules pertaining to regulation of gas, electric, telecommunications, water, or wastewater utilities. Rule 25-22.032, F.A.C., is applicable to disputes between regulated companies and their customers, and sets forth the procedures to be followed for processing complaints. These procedures involve a customer filing a complaint with the Commission, an expedited, informal customer complaint process, an informal Commission staff resolution process for unresolved complaints, and provide that if resolution does not occur, the Commission will address the matter through proposed agency action or a Section 120.57 hearing.

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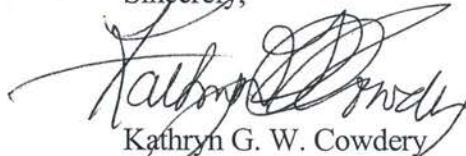
6. The rules shall allow for the imposition of other penalties available in this chapter.

Imposition of penalties by the Commission for violation of Rule 25-4.083, F.A.C., is authorized by Section 364.285, F.S. Section 364.285 (2) gives the Commission the power to impose upon any entity subject to its jurisdiction under Chapter 364 which is found to have refused to comply with or to have willfully violated any lawful rule, a penalty for each offense of not more than \$25,000.

Additionally, uniform rule of procedure Rule 28-106.2015 addresses agency enforcement and disciplinary actions, including imposition of administrative fines, against a jurisdictional entity. Pursuant to Rule 28-106.2015, the Commission may issue an administrative complaint or other enforcement action for a rule violation.

Please let me know if you have any additional questions.

Sincerely,



Kathryn G. W. Cowdery
Senior Attorney

Cc: Samantha Cibula
Cindy Miller