

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: August 22, 2018
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Samantha Cibula, Office of the General Counsel *S.M.C.*
RE: Docket No. 20040167-TP

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC
2018 AUG 22 PM 2:34
COMMISSION
CLERK

JAMES E. "JIM" KING, JR.
President



Representative Juan-Carlos "J.C." Planas, Chair
Senator Michael S. "Mike" Bennett, Vice-Chair
Senator Nancy Argenziano
Senator Gwen Margolis
Representative Bill Galvano
Representative Yolly Roberson

JOHNNIE BYRD
Speaker



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

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

June 4, 2004

Ms. Samantha M. Cibula
Public Service Commission
Office of the General Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rules 25-4.082, 25-4.083

Dear Ms. Cibula:

I have completed a review of the rules referenced above and prepared the following comments for your consideration and response.

25-4.082

Should not section 364.01, F.S., be cited as law implemented?

25-4.083

(5): Please identify the specific statutory authority supporting the requirement that providers shall not solicit, market or induce subscribers to request a freeze.

(6)(c): Please identify the specific statutory authority supporting the requirement that independent third parties must not be owned, managed or directly controlled by the provider or the provider's marketing agent; must not have any financial incentive to confirm freeze requests; and must operate in a different location than the provider. What is the meaning of "appropriately qualified?"

I am available at your convenience to discuss the foregoing comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Rosner".

John Rosner
Chief Attorney

JAMES E. "JIM" KING, JR.
President

JOHNNIE BYRD
Speaker



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Telephone (850) 488-9110

MEMORANDUM

TO: Samantha Cibula
FROM: John Rosner *JR*
DATE: June 8, 2004
RE: Public Service Commission Rule 25-24.490(4)

RECEIVED
04 JUN 11 PM 3:46
FLA PUBLIC SERVICE COM.
OFFICE OF THE
GENERAL COUNSEL

Please identify the specific statutory provision supporting proposed subsection (4) which pertains to interexchange telecommunications companies.

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STATE OF FLORIDA

COMMISSIONERS:
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CHARLES M. DAVIDSON



OFFICE OF THE GENERAL COUNSEL
RICHARD D. MELSON
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

June 11, 2004

Mr. John Rosner
Chief Attorney
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, Florida 32399-1300

RE: Docket No. 040167-TP – Commission Rules Nos. 25-4.082, 25-4.083, 25-24.490, and 25-24.845, F.A.C.

Dear Mr. Rosner:

I am in receipt of your letter dated June 4, 2004, in which your office provided comments on Commission proposed Rules 25-4.082 and 25-4.083. The following is my response to your comments.

Your first comment pertains to Rule 25-4.082, and you asked whether section 364.01, Florida Statutes, should be cited as law implemented. This section will be added to the law implemented for Rule 25-4.082.

You also commented on Rule 25-4.083. In regard to subsection (5) of the rule, you asked that the specific statutory authority supporting the requirement that providers shall not solicit, market or induce subscribers to request a freeze be identified. A PC Freeze prevents telephone service from being switched without the customer's authorization. By soliciting, marketing, or inducing subscribers to request a freeze on their telephone service, companies can create barriers that make it more difficult for customers to switch to another provider, and that is anticompetitive behavior. It is the Commission's duty, pursuant to section 364.01(4)(g), Florida Statutes, to "[e]nsure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior. . . ." Section 364.01, Florida Statutes, will be added to the specific authority supporting this rule.

In regard to Rule 25-4.083(6)(c), you asked for the specific authority supporting the requirement that independent third parties must not be owned, managed or directly controlled by the provider or the provider's marketing agent; must not have any financial incentive to confirm freeze requests; and must operate in a different location than the provider. Section 364.603, Florida Statutes, specifically states that the Commission's rules preventing the unauthorized changing of a subscriber's telecommunications service must be consistent with the Telecommunications Act of 1996 (Act), and that the rules must provide for specific verification methodologies. In accordance with this statutory requirement, the Commission looked to the Act, codified in the Code of Federal Regulations, Title 47, Part 64, Subsection 1190, entitled Preferred Carrier Freezes, to ensure that the rule is in conformance

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Mr. John Rosner
Page 2
June 11, 2004

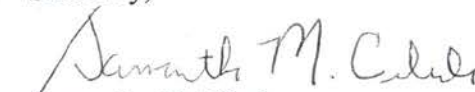
with the Act. A copy of Part 64, Subsection 1190 is included with this letter. As you can see, section 64.1190(d)(2)(iii) has the exact same language as the language you question. Also, the requirement that third parties not be owned, managed or directly controlled, etc., is a way of defining "independent" in that sentence. Thus, in response to your question, the specific authority for this requirement is section 364.603, Florida Statutes.

You also asked about the meaning of "appropriately qualified" in Rule 25-4.083(6)(c). To ensure the clarity of our rules, I will recommend to the Commission that these two words be removed from the subsection (6)(c) of Rule 25-4.083.

The Commission has also received comments from another entity in regard to proposed Rule 25-4.082. Thus, I will bring my recommendation on your comment on Rule 25-4.083(6)(c), as mentioned above, as well as the comments raised by the other entity for the Commission's consideration at its July 20, 2004, agenda conference. As proposed Rules 25-24.490 and 25-24.845 directly reference proposed Rules 25-4.082 and 25-4.083, the Commission will be considering all of these rules at the July 20, 2004, agenda conference, and all the rules will be filed together once the Commission considers whether any changes to the rules should be made. I anticipate that the notice for hearing on Rules 25-4.082, 25-4.083, 25-24.490, and 25-24.845 will appear in the July 2, 2004, Florida Administrative Weekly.

I hope this response addresses your concerns. You can reach me at (850)413-6202, if you would like to discuss this matter further.

Sincerely,


Samantha M. Cibula
Senior Attorney

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



OFFICE OF THE GENERAL COUNSEL
RICHARD D. MELSON
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(850) 413-6199

Public Service Commission

June 14, 2004

Mr. John Rosner
Chief Attorney
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, Florida 32399-1300

RE: Docket No. 040167-TP – Commission Rules Nos. 25-4.082, 25-4.083, 25-24.490, and 25-24.845, F.A.C.

Dear Mr. Rosner:

I am in receipt of your letter dated June 8, 2004, in which your office provided comments on Commission proposed Rule 25-24.490. The following is my response to your comments.

Specifically, you asked for the statutory provision supporting proposed subsection (4) of Rule 25-24.490. Section 364.337(4), Florida Statutes, sets forth the sections that do not apply to interexchange telecommunications companies. Section 364.16, addressing the transferring or porting of telephone numbers, is not listed. Furthermore, section 364.337(4) specifically states that interexchange telecommunications companies may not be granted a waiver of the requirements of section 364.16. I will add section 364.337(4) as supporting authority for this rule.

As I stated in my response letter dated June 11, 2004, regarding your comments on proposed Rules 25-4.082 and 25-4.083, I will bring a recommendation for the Commission's consideration on your comment on Rule 25-4.083(6)(c), along with comments made by another entity on proposed Rule 25-4.082, to the Commission's July 20, 2004, agenda conference. As proposed Rules 25-24.490 and 25-24.845 directly reference proposed Rules 25-4.082 and 25-4.083, the Commission will be considering all of these rules at the July 20, 2004, agenda conference, and all the rules will be filed together once the Commission considers whether any changes to the rules should be made. I anticipate that the notice of hearing on Rules 25-4.082, 25-4.083, 25-24.490, and 25-24.845 will appear in the July 2, 2004, Florida Administrative Weekly.

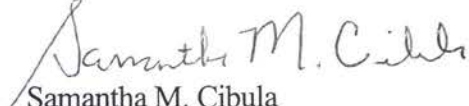
Mr. John Rosner

Page 2

June 14, 2004

I hope this response addresses your concerns. You can reach me at (850)413-6202, if you would like to discuss this matter further.

Sincerely,


Samantha M. Cibula
Senior Attorney