

Commissioners
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DIVISION OF APPEALS
DAVID E. SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

July 13, 1998

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

Re: Docket No. 960312-TP - Proposed Amendments to Rules 25-4.002, F.A.C., Application and Scope; 25-24.600, F.A.C., Application and Scope; 25-24.610, F.A.C., Terms and Definitions; Rules Incorporated; 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services; 25-24.630, F.A.C., Rate and Billing Requirements; and 25-24.800, F.A.C., Scope

Dear Mr. Webb:

Enclosed are an original and two copies of the following materials concerning the above referenced proposed rule:

1. A copy of the rules.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rules.
4. A federal standards statement.
5. A statement of estimated regulatory costs.

If there are any questions with respect to these rules, please do not hesitate to call on me.

Sincerely,

Diana W. Caldwell
Diana W. Caldwell
Associate General Counsel

ADM600.MRD
Enclosures

cc: Division of Records & Reporting

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 APP _____
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60312

1 25-4.002 Application and Scope.

2 (1) These rules and regulations are intended to define
3 reasonable service standards which will promote the furnishing of
4 adequate and satisfactory local and long distance service to the
5 public, and to establish the rights and responsibilities of both
6 the utility and the customer. The rules contained in Parts I--~~XIX~~
7 of this Chapter apply to ~~any local exchange companies Company as~~
8 ~~defined in Section 25-4.003(26)~~. The rules contained in Part X of
9 Chapter 25-24 apply to any Interexchange Company ~~as defined in~~
10 ~~Section 25-4.003(16)~~. The rules in Part XI of Chapter 25-24 apply
11 to any pay telephone service company ~~as defined in Section~~
12 ~~25-4.003(36)~~. The rules in Part XII of Chapter 25-24 apply to all
13 Shared Tenant Service Companies ~~as defined in Section 25-~~
14 ~~24.560(10)~~. The rules in Part XIII of Chapter 25-24 apply to all
15 Operator Service Provider Companies and call aggregators ~~as defined~~
16 ~~in Section 25-24.610(1)(f)~~. The rules contained in Part XIV of
17 Chapter 25-24 apply to all Alternative Access Vendor Service
18 Providers ~~as defined in Section 25-24.710(2)~~. The rules contained
19 in Part XV apply to all alternative local exchange
20 telecommunications companies.

21 (2) In addition to the rules contained in this part, any
22 local exchange company that provides operator services in a call
23 aggregator context shall also comply with the rules contained in
24 Part XIII of Chapter 25-24, F.A.C.

25 ~~(3) In any case where compliance with any of these rules~~

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~~struck through~~ type are deletions from existing law.

1 ~~introduces unusual hardship, or if unreasonable difficulty is~~
2 ~~involved in immediate compliance with any particular rule, written~~
3 ~~application may be made to the Commission for modification of the~~
4 ~~rule or for temporary exemption from its requirements.~~

5 ~~(3) The adoption of these rules shall in no way preclude the~~
6 ~~Commission, upon complaint, upon its own motion or upon the~~
7 ~~application of any utility, upon due notice and opportunity for~~
8 ~~hearing, from altering or amending them, in whole or in part, or~~
9 ~~from requiring any other or additional service, equipment,~~
10 ~~facility, or standard, or from making such modifications with~~
11 ~~respect to the application as may be found necessary to meet~~
12 ~~exceptional conditions.~~

13 ~~(4) Except as provided in Parts X and XI of Chapter 25-24,~~
14 ~~the adoption of these rules shall not in any way relieve any~~
15 ~~utility from any of its duties under the laws of this State.~~

16 Specific Authority: 350.127, F.S.

17 Law Implemented: 364.01, 364.337, F.S.

18 History: Revised 12-1-68, formerly 25-4.02, Amended 2-23-87, 1-8-
19 95, _____.

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CODING: Words underlined are additions; words in
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1 25-24.600 Application and Scope.

2 (1) This Part applies to:

3 (a) Every company, ~~other than a local exchange~~
4 ~~telecommunications company,~~ that provides operator services as
5 defined in Section 364.02, Florida Statutes (1995),

6 (b) Every company that bills and collects in its own name for
7 operator services provided by other entities, and

8 (c) Call aggregators as defined in this Part.

9 (2) In addition to the rules contained in this Part, every
10 company providing operator services shall also comply with the
11 rules contained in Part X of Chapter 25-24, F.A.C.

12 (3) Each company subject to this Part may petition for exemption
13 from applicable portions of Chapter 364, Florida Statutes, or for
14 application of different requirements than those prescribed for
15 telecommunications companies in Chapter 364, Florida Statutes,
16 under the authority of Section 364.337, Florida Statutes (1995).

17 Specific Authority: 350.127(2), 364.3376(8), F. S.

18 Law Implemented: 364.01, 364.3376, F.S.

19 History: New 9-6-93, amended 9-10-97, _____.

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21 25-24.610 Terms and Definitions; Rules Incorporated.

22 (1) For purposes of this Part, the following definitions apply:

23 (a) "Call aggregator" is any person or entity ~~other than a~~
24 ~~certificated telecommunications company~~ that provides
25 telecommunications service to the transient public, ~~in the ordinary~~

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1 ~~course of its operations, provides telecommunications service to~~
2 ~~any end user.~~ Subject to the definition above, "call aggregator"
3 includes but is not limited to the following:

4 1. Hotel as defined in Section 509.242 (1) (a), Florida Statutes
5 (1995),

6 2. Motel as defined in Section 509.242 (1) (b), Florida Statutes
7 (1995),

8 3. Resort condominium as defined in Section 509.242 (1) (c),
9 Florida Statutes (1995),

10 4. Transient apartment as defined in Section 509.242 (1) (e),
11 Florida Statutes (1995),

12 5. Roominghouse as defined in Section 509.242 (1) (f), Florida
13 Statutes (1995),

14 6. Resort dwelling as defined in Section 509.242 (1) (g),
15 Florida Statutes (1995),

16 7. Schools required to comply with any portion of Chapters 228
17 and 246, Florida Statutes (1995), or Section 229.808, Florida
18 Statutes (1995),

19 8. Nursing home licensed under Section 400.062, Florida
20 Statutes (1995),

21 9. Assisted living facility licensed under Section 400.407,
22 Florida Statutes (1995),

23 10. Hospital licensed under Section 395.003, Florida Statutes
24 (1995),

25 11. Timeshare plan as defined in Section 721.05(31), Florida

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~~struck-through~~ type are deletions from existing law.

1 Statutes (1995),

2 12. Continuing care facility certificated under Section 651.023,
3 Florida Statutes (1995), and

4 13. Homes, communities, or facilities funded or insured by the
5 United States Department of Housing and Urban Development (HUD)
6 unde: 12 U.S.C.S. § 1701q (Law. Co-op. 1994) that sets forth the
7 National Housing Act program designed to aid the elderly.

8 (b) "Conversation time" is the time during which two-way
9 communication is possible between the calling and called party

10 (c) "End user" means a person who initiates or is billed for a
11 telephone call.

12 (d) "Person-to-person" is a service whereby the person
13 originating the call specifies to the operator service providers
14 operator a particular person to be reached.

15 ~~(e)-(d)~~ "Surcharge" means an amount billed to an end user by a
16 call aggregator that is in excess of the rate information that may
17 be obtained pursuant to Section 364.3376(5), Florida Statutes
18 (1995). "Surcharge" includes any charge billed by a call aggregator
19 that is associated with a call billed by another entity.

20 (2) In addition to the above, the following rules are
21 incorporated herein by reference:

Section	Title	Portions Applicable
24 25-4.003	Definitions	All
25 25-4.019	Records and Reports	All

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in General

25-4.020 Location and Preservation (2) and (3)
of Records

Specific Authority: 350.127(2), 364.3376(8), P.S.

Law Implemented: 364.01, 364.016, 364.3376, P.S.

History: New 9-6-93, Amended 9-10-97, _____.

25-24.620 Service Requirements for Companies Providing
Operator Services.

(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 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 including 10XXX, 10XXXX, 101XXXX, 950-~~XXXX~~, 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

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1 of local exchange telecommunications services at no charge;

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

6 (d) Route all end user dialed 1 + and 0+ toll calls to the
7 preselected carrier unless the end user dials the appropriate
8 access code for his carrier of choice, such as 950, 800, 877, 888,
9 10XXXX, 101XXX, or 10XXX; and

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

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

17 Specific Authority: 350.127(2), F.S.

18 Law Implemented: 364.01, 364.3376, F.S.

19 History: New 9/6/93, Amended 1/16/96, 9/10/97, _____.

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21 25-24.630 Rate and Billing Requirements.

22 (1) Services charged and billed to any end user by an An
23 operator services provider for an intrastate call shall not exceed
24 a rate of \$.30 per minute plus the applicable charges for the
25 following types of telephone calls:

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 (a) A person-to-person call -- a charge of \$3.25; charge and
2 ~~bill end users no more than the Commission approved rate for~~
3 ~~intrastate calls;~~

4 (b) A call that is not a person-to-person call -- a charge of
5 \$1.75.

6 (2) For 0- calls from pay telephone stations completed by the
7 provider of local exchange telecommunications services, a set use
8 fee of \$.25 shall apply and shall be remitted to the pay telephone
9 service provider.

10 (3) An operator services provider shall have current rate
11 information readily available and provide this information orally
12 to end users ~~end users~~ upon request prior to connection.†

13 (4) ~~(c)~~ An operator services provider shall require that its
14 certificated name ~~or the name of its certificated billing agent~~
15 appear on any telecommunications company's bill for regulated
16 charges.†

17 (5) ~~(d)~~ An operator services provider shall require all calls
18 are to be individually identified on each bill from a
19 telecommunications company on to an end user's ~~end user~~ bill,
20 including the date and start time of the call, call duration,
21 origin and destination (by city or exchange name and telephone
22 number), and type of call.† ~~and~~

23 (6) ~~(e)~~ An operator services provider shall provide a toll-free
24 number for customer inquiries on the bill and maintain procedures
25 adequate to allow the company to promptly receive and respond to

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1 | such inquiries, ~~and~~

2 | ~~(7)(f)~~ An operator services provider shall charge only for
3 | conversation time as rounded according to company tariffs.

4 | ~~(8)(2)~~ An operator services provider shall not:

5 | (a) ~~B~~bill or charge for uncompleted calls in areas where
6 | answer supervision is available or knowingly bill or charge for
7 | uncompleted calls in areas where answer supervision is not
8 | available, ~~r~~

9 | (b) ~~B~~bill for any collect call that has not been affirmatively
10 | accepted by a person receiving the call regardless of whether the
11 | call was processed by a live or automated operator, ~~r~~

12 | (c) ~~B~~bill for calls in increments greater than one minute
13 | ~~except for coin calls that may be in increments no greater than~~
14 | ~~three minutes.~~ ~~r~~

15 | (d) ~~B~~bill or collect a surcharge levied by any entity, either
16 | directly or through its billing agent, except Commission-approved
17 | charges for pay telephone providers.

18 | Specific Authority: 350.127(2), F.S.

19 | Law Implemented: 364.01, 364.3376, F.S.

20 | History: New 9/6/93, _____.

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22 | 25-24.800 Scope

23 | (1) This part applies only to Alternative Local Exchange
24 | Companies. The provisions of Chapters 25-4, 25-9 or 25-14 shall
25 | not apply to Alternative Local Exchange Companies, unless

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~~struck through~~ type are deletions from existing law.

1 specifically provided by this part.

2 In addition to the rules contained in this part, any
3 Alternative Local Exchange Company which provides operator services
4 in a call aggregator context shall also comply with the rules
5 contained in Part XIII of Chapter 25-24, F.A.C.

6 Specific Authority: 350.127(2), P.S.

7 Law Implemented: 364.01, 364.337, P.S.

8 History: New 12/27/95, _____.

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~~struck through~~ type are deletions from existing law.

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 960312-TP

RULE TITLE:

RULE NO.:

Application and Scope

25-4.002

PURPOSE AND EFFECT: The purpose of the proposed amendments is to provide rate caps as required by statute and consolidate the rules. The effect is to regulate all providers of operator services under the same set of rules and rate caps.

SUMMARY: The proposed amendments remove the exemption for local exchange telecommunications companies providing operator services and extend the provision of the OSP rules to govern every company that provides operator services. The proposed amendments include specific rate caps expressed in dollars and cents that operator service providers must not exceed for various types of calls. Other technical and conforming changes are made.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Costs are associated with rulemaking necessary to change the rate caps. One company identified profit losses associated with the rate cap based upon its current tariffs.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127, FS.

LAW IMPLEMENTED: 364.01, 364.337, FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., September 10, 1998

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.002 Application and Scope.

(1) These rules and regulations are intended to define reasonable service standards which will promote the furnishing of adequate and satisfactory local and long distance service to the public, and to establish the rights and responsibilities of both the utility and the customer. The rules contained in Parts I--~~XI~~ of this Chapter apply to any local exchange companies ~~Company as defined in Section 25-4.003(26)~~. The rules contained in Part X of Chapter 25-24 apply to any Interexchange Company ~~as defined in Section 25-4.003(18)~~. The rules in Part XI of Chapter 25-24 apply to any pay telephone service company ~~as defined in Section 25-4.003(36)~~. The rules in Part XII of Chapter 25-24 apply to all

~~Shared Tenant Service Companies as defined in Section 25-24.560(10). The rules in Part XIII of Chapter 25-24 apply to all Operator Service Provider Companies and call aggregators as defined in Section 25-24.610(1)(f). The rules contained in Part XIV of Chapter 25-24 apply to all Alternative Access Vendor Service Providers as defined in Section 25-24.710(2). The rules contained in Part XV apply to all alternative local exchange telecommunications companies.~~

(2) In addition to the rules contained in this part, any local exchange company that provides operator services in a call aggregator context shall also comply with the rules contained in Part XIII of Chapter 25-24, F.A.C.

~~(2) In any case where compliance with any of these rules introduces unusual hardship, or if unreasonable difficulty is involved in immediate compliance with any particular rule, written application may be made to the Commission for modification of the rule or for temporary exemption from its requirements.~~

~~(3) The adoption of these rules shall in no way preclude the Commission, upon complaint, upon its own motion or upon the application of any utility, upon due notice and opportunity for hearing, from altering or amending them, in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, or from making such modifications with respect to the application as may be found necessary to meet exceptional conditions.~~

~~(4) Except as provided in Parts X and XI of Chapter 25-24, the adoption of these rules shall not in any way relieve any utility from any of its duties under the laws of this State.~~

Specific Authority: 350.127, F.S.

Law Implemented: 364.01, 364.337, F.S.

History: Revised 12-1-68, formerly 25-4.02, Amended 2-23-87, 1-8-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: June 30, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 23, Number 39, September 26, 1997

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 960312-TP

RULE TITLE:	RULE NO.:
Application and Scope	25-24.600
Terms and Definitions; Rules Incorporated	25-24.610
Service Requirements for Companies Providing Operator Services	25-4.620
Rate and Billing Requirements	25-24.630
Scope	25-24.800

PURPOSE AND EFFECT: The purpose of the proposed amendments is to provide rate caps as required by statute and consolidate the rules. The effect is to regulate all providers of operator services under the same set of rules and rate caps.

SUMMARY: The proposed amendments remove the exemption for local exchange telecommunications companies providing operator services and extend the provision of the OSP rules to govern every company that provides operator services. The proposed amendments include specific rate caps expressed in dollars and cents that operator service providers must not exceed for various types of calls. Other technical and conforming changes are made.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Costs are associated with rulemaking necessary to change the rate caps. One company identified profit losses associated with the rate cap based upon its current tariffs.

Any person who wishes to provide information regarding the

statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 364.3376(8), FS.

LAW IMPLEMENTED: 364.01, 364.016, 367.337, 364.3376, FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., September 10, 1998

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES ARE: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE PROPOSED RULES ARE:

25-24.600 Application and Scope.

(1) This Part applies to:

(a) Every company, ~~other than a local exchange telecommunications company,~~ that provides operator services as defined in Section 364.02, Florida Statutes (1995),

(b) Every company that bills and collects in its own name for operator services provided by other entities, and

(c) Call aggregators as defined in this Part.

(2) In addition to the rules contained in this Part, every company providing operator services shall also comply with the rules contained in Part X of Chapter 25-24, F.A.C.

(3) Each company subject to this Part may petition for exemption from applicable portions of Chapter 364, Florida Statutes, or for application of different requirements than those prescribed for telecommunications companies in Chapter 364, Florida Statutes, under the authority of Section 364.337, Florida Statutes (1995).

Specific Authority: 350.127(2), 364.3376(8), F.S.

Law Implemented: 364.01, 364.3376, F.S.

History: New 9-6-93, amended 9-10-97,_____.

25-24.610 Terms and Definitions; Rules Incorporated.

(1) For purposes of this Part, the following definitions apply:

(a) "Call aggregator" is any person or entity ~~other than a certificated telecommunications company~~ that provides telecommunications service to the transient public, in the ordinary course of its operations, provides telecommunications service to any end user. Subject to the definition above, "call aggregator" includes but is not limited to the following:

1. Hotel as defined in Section 509.242(1)(a), Florida Statutes (1995),

2. Motel as defined in Section 509.242(1)(b), Florida Statutes

(1995),

3. Resort condominium as defined in Section 509.242(1)(c), Florida Statutes (1995),

4. Transient apartment as defined in Section 509.242(1)(e), Florida Statutes (1995),

5. Roominghouse as defined in Section 509.242(1)(f), Florida Statutes (1995),

6. Resort dwelling as defined in Section 509.242(1)(g), Florida Statutes (1995),

7. Schools required to comply with any portion of Chapters 228 and 246, Florida Statutes (1995), or Section 229.808, Florida Statutes (1995),

8. Nursing home licensed under Section 400.062, Florida Statutes (1995),

9. Assisted living facility licensed under Section 400.407, Florida Statutes (1995),

10. Hospital licensed under Section 395.003, Florida Statutes (1995),

11. Timeshare plan as defined in Section 721.05(31), Florida Statutes (1995),

12. Continuing care facility certificated under Section 651.023, Florida Statutes (1995), and

13. Homes, communities, or facilities funded or insured by the United States Department of Housing and Urban Development (HUD) under 12 U.S.C.S. § 1701q (Law. Co-op. 1994) that sets forth the

National Housing Act program designed to aid the elderly.

(b) "Conversation time" is the time during which two-way communication is possible between the calling and called party.

(c) "End user" means a person who initiates or is billed for a telephone call.

(d) "Person-to-person" is a service whereby the person originating the call specifies to the operator service providers operator a particular person to be reached.

(e)(d) "Surcharge" means an amount billed to an end user by a call aggregator that is in excess of the rate information that may be obtained pursuant to Section 364.3376(5), Florida Statutes (1995). "Surcharge" includes any charge billed by a call aggregator that is associated with a call billed by another entity.

(2) In addition to the above, the following rules are incorporated herein by reference:

Section	Title	Portions Applicable
25-4.003	Definitions	All
25-4.019	Records and Reports in General	All
25-4.020	Location and Preservation of Records	(2) and (3)

Specific Authority: 350.127(2), 364.3376(8), F.S.

Law Implemented: 364.01, 364.016, 364.3376, F.S.

History: New 9-6-93, Amended 9-10-97, _____.

25-24.620 Service Requirements for Companies Providing Operator Services.

(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 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 including 10XXX, 10XXXX, 101XXXX, 950-XXXX, 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, 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.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.01, 364.3376, F.S.

History: New 9/6/93, Amended 1/16/96, 9/10/97, _____.

25-24.630 Rate and Billing Requirements.

(1) Services charged and billed to any end user by an An operator services provider for an intrastate call shall not exceed a rate of \$.30 per minute plus the applicable charges for the following types of telephone calls:

(a) A person-to-person call -- a charge of \$3.25; charge and bill end users no more than the Commission approved rate for intrastate calls;

(b) A call that is not a person-to-person call -- a charge of \$1.75.

(2) For 0- calls from pay telephone stations completed by the provider of local exchange telecommunications services, a set use fee of \$.25 shall apply and shall be remitted to the pay telephone

service provider.

(3) An operator services provider shall have current rate information readily available and provide this information orally to end users ~~end users~~ upon request prior to connection.†

(4) (e) An operator services provider shall require that its certificated name ~~or the name of its certificated billing agent~~ appear on any telecommunications company's bill for regulated charges.†

(5) (d) An operator services provider shall require all calls ~~are~~ to be individually identified on each bill from a telecommunications company ~~on~~ ~~to~~ an end user's ~~end user~~ bill, including the date and start time of the call, call duration, origin and destination (by city or exchange name and telephone number), and type of call.† ~~end~~

(6) (e) An operator services provider shall provide a toll-free number for customer inquiries on the bill and maintain procedures adequate to allow the company to promptly receive and respond to such inquiries.† ~~end~~

(7) (f) An operator services provider shall charge only for conversation time as rounded according to company tariff.

(8) (2) An operator services provider shall not:

(a) ~~Bill~~ or charge for uncompleted calls in areas where answer supervision is available or knowingly bill or charge for uncompleted calls in areas where answer supervision is not available.†

(b) Bill for any collect call that has not been affirmatively accepted by a person receiving the call regardless of whether the call was processed by a live or automated operator.†

(c) Bill for calls in increments greater than one minute except for coin calls that may be in increments no greater than three minutes.†

(d) Bill or collect a surcharge levied by any entity, either directly or through its billing agent, except Commission-approved charges for pay telephone providers.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.01, 364.3376, F.S.

History: New 9/6/93,_____.

25-24.800 Scope

(1) This part applies only to Alternative Local Exchange Companies. The provisions of Chapters 25-4, 25-9 or 25-14 shall not apply to Alternative Local Exchange Companies, unless specifically provided by this part.

In addition to the rules contained in this part, any Alternative Local Exchange Company which provides operator services in a call aggregator context shall also comply with the rules contained in Part XIII of Chapter 25-24, F.A.C.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.01, 364.337, F.S.

History: New 12/27/95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THESE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: June 30, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 23, Number 39, September 26, 1997

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

Rules 25-4.002, 25-4.600, 25-
24.610, 25-24.620, 25-24.630,
25-24.800
Docket No. 960312-TP

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

The Florida Telecommunications Act of 1995 amended Section 364.3376, Florida Statute, relating to operator services. Subsection (3) requires the Commission to establish maximum rates and charges for all providers of services. The provisions of the Section also allow for all operator service providers to be regulated under the same rules, except for certification.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

MEMORANDUM

June 4, 1998

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KD LJA DWA*

SUBJECT: PROPOSED AMENDMENTS TO RULE 25-4.002, F.A.C., APPLICATION AND SCOPE; RULE 25-24.600, F.A.C., APPLICATION AND SCOPE; RULE 25-24.610, F.A.C., TERMS AND DEFINITIONS; RULE INCORPORATED; RULE 25-24.620, F.A.C., SERVICE REQUIREMENTS FOR COMPANIES PROVIDING OPERATOR SERVICES; RULE 25-24.630, F.A.C., RATE AND BILLING REQUIREMENTS; AND RULE 25-24.800, F.A.C., SCOPE. - DOCKET NO. 960312-TP

SUMMARY OF THE RULE

Amendments have been proposed to six rules. Rule 25-4.002, F.A.C., Application and Scope, states which parts of the Chapters on telecommunications companies apply to which types of telecommunications providers, as those providers are defined in the Commission's rules. The proposed amendments remove references which are no longer accurate due to changes in the Florida Statutes and Commission rules. The proposed amendments add statements clarifying that Part XV of Chapter 25-4, F.A.C., applies to all alternative local exchange companies (ALECs) and that Part XIII of Chapter 25-24, F.A.C., applies to any local exchange company (LEC) that provides operator services in a call aggregator context. The proposed amendments also remove unneeded language.

The language in Rule 25-24.600, F.A.C., Application and Scope, that presently exempts LECs from the rule would be stricken. The language that exempts certificated telecommunications companies from the definition of "call aggregator" would be stricken from Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. Also, language to clarify the definition of "call aggregator" would be added to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. A definition of "person-to-person" would be added to Rule 25-24.610, F.A.C. Another form of

access to interexchange carriers, 10XXXX, is proposed for addition to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services.

Rule 25-24.630, F.A.C., Rate and Billing Requirements, presently states that an operator services provider shall charge end users no more than the Commission-approved rate for intrastate calls and does not list specific types of calls. The proposed amendment would remove this language and replace it with specific rate caps for per minute charges for intrastate calls, as well as specific rate caps for the operator charges that can be applied to person-to-person and calls that are not person-to-person. Additionally, the proposed amendment requires an operator services provider to remit a \$0.25 set use fee to the pay telephone service provider for all 0- calls completed from a pay telephone station by the provider of local exchange telecommunications services.

Finally, ALECs that provide operator services in a call aggregator context would be required to comply with the rules contained in Part XIII of Chapter 25-24, F.A.C., according to the proposed amendment to Rule 25-24.800, F.A.C., Scope.

ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES IMPACTED

Each company that provides operator services as defined in Section 364.02, F.S., (1995) is required to comply. There are currently approximately 87 interexchange carriers identified as operator service providers in the Master Commission Directory. There are approximately 178 certificated ALECs, though it is not known how many provide operator services. Of the ten LECs, BellSouth, GTE Florida Incorporated, Sprint-Florida, Inc., and Vista-United provide their own operator services. It is the understanding of RRR staff that the remainder obtain operator services through contracts with other providers.

DIRECT COSTS TO THE AGENCY AND OTHER STATE OR LOCAL GOVERNMENT ENTITIES

Specific rate caps will be clearly defined in the rules, and all operator service providers will be subject to the same rate caps. Such standardization should be beneficial for Commission staff

who deal with certification, tariffs, and customer complaints. If operator service providers wish to raise rates above the caps, a rulemaking proceeding would have to take place. Such a proceeding generally takes about nine months and would consume staff resources. Otherwise, the rule is not expected to result in any direct costs to this agency. No direct costs to other state or local government entities are foreseen.

ESTIMATED TRANSACTIONAL COSTS
TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Proposed Amendment to Rule 25-4.002, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.600, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated

No provider identified costs for this proposed rule amendment, although AT&T and LDDS WorldCom stated the proposed definition of "call aggregator" was unnecessarily broad and would increase regulatory costs by an unquantified amount. Subsequent to receiving the companies' responses to staff's data request, the proposed definition of "call aggregator" was revised to clarify that it applies to ". . . any person or entity that provides telecommunications service to the transient public (emphasis supplied)." This narrowing of the definition should alleviate the concerns expressed by AT&T and LDDS WorldCom.

AT&T was also concerned that potential new costs the proposed rule amendments might impose upon call aggregators such as hotels and motels would not be identified, as staff did not send such entities a data request. It is staff's view that the proposed rule amendments do not impose new requirements upon these entities, as the vast majority do not provide their own operator services but obtain them under contract from a certificated operator services provider. Entities such as hotels and motels are regulated under Rule 25-24.640, F.A.C., which is not being amended by these proposed rules. Furthermore, hotel and motel call aggregators are well aware of the Commission's

rules because they have been subject to a random inspection and enforcement program conducted by the Commission staff since approximately 1992.

Proposed Amendment to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services

Sprint-Florida, Inc. (Sprint-Florida) was the only company that stated it would incur costs to comply with some of the provisions contained in the proposed amendments to Rule 24-24.620, F.A.C. Sprint-Florida currently provides front-branding on manual Toll Assist calls but not back branding as the proposed rule amendment would require. An estimated 1.5 seconds of work time per call would be added to each call that required manual branding. The annual cost to brand toll assist calls on the back end with the Sprint-Florida name would be approximately \$105,000. Branding for other companies on a call-by-call basis would increase Sprint-Florida's cost by an unquantified amount. However, Sprint-Florida stated that it does not plan to manually brand calls as the company does not believe it would be an efficient or cost effective method of handling calls.

Instead, Sprint-Florida plans to provide automated front and back branding for all Toll Assist calls (including manual). To accomplish this branding, software and possibly hardware changes would be required in the four Nortel TOPS switches in the company's network. The estimated total non-recurring cost of these additions would be approximately \$750,000. No recurring costs were provided. No other provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.630, F.A.C., Rate and Billing Requirements

AT&T was the only respondent that stated it would be required to decrease rates below its present rates as a result of the proposed rule amendment. According to the proposed rule, the maximum charge permitted for an intrastate call is \$0.30 per minute plus other applicable charges. The maximum applicable charges are \$3.25 for a person-to-person call and \$1.75 for a call that is not a person-to-person call. On April 30, 1998, AT&T filed a general services tariff listing operator service charges of \$6.50 for a person-to-person interLATA call. Charges for other than person-to-person calls were as high as \$2.25.

AT&T stated that reducing its rates to the proposed rate cap would have an annual impact of \$5.992 million. It is unknown whether AT&T is basing this calculation upon projected losses from the rates tariffed in the April 30, 1998, filing or rates in effect since June 12, 1997. Prior to June 12, 1997, AT&T's per minute rates were below the proposed cap. Fewer customers may use AT&T's operator services or customers may make fewer calls due to AT&T's rate increases. Therefore, AT&T's losses might be less than the \$5.992 million projected because if call volume is reduced as a result of the higher rates, then AT&T's revenues would not exceed the rate cap revenues by as much as projected.

AT&T also believes it will incur annual losses of \$84,000 because it will be required to reduce its tariffed billing increment for an operator station or person-to-person, semi-paid interLATA 0+ coin call. According to AT&T's tariffs effective June 12, 1997, the first billing increment for this type of call is three minutes. However, the current operator service Rule 25-24.630(2)(c) clearly states that operator service providers shall not "bill for calls in increments greater than one minute." This rule has been in effect since September 6, 1993. Also, AT&T's most recent tariff filing (effective May 1, 1998) lists the billing increment for operator station or person-to-person, sent-paid, interLATA 0+ coin calls as three minutes for the first minute and three minute increments for the duration of the call. These billing increments appear to be in direct conflict with both the existing and proposed rule.

AT&T also stated "walkaway" fraud would increase by \$56,000 if it had to reduce its billing increment to one minute. AT&T describes "walkaway" fraud as the loss incurred when a customer fails to deposit additional coins when requested by the operator but continues to incur talk time. In staff's view, AT&T controls the talk time in this situation and could choose to disconnect the customer earlier if the customer fails to deposit coins.

Prior to June 12, 1997, AT&T's tariffed rates were lower per minute than the one specified in the rule. Order 20489 issued December 21, 1985, capped operator service rates at AT&T's time-of-day rate plus applicable operator charges. The table below provides a brief history of the rates for 0+ InterLATA Calls and Surcharges and the rates provided in the proposed rule.

0+ InterLATA Rate Cap and Surcharges¹

AT&T rates in effect when Order 20489 issued 12/21/88	AT&T rates effective 3/16/96	AT&T rates effective 6/12/97	AT&T rates effective 5/1/98	Proposed Amendment to Rule 25-24.630
Per minute \$.30 Search gas Person-to-Person \$2.50 Not Person-to-Person \$1.00	Per minute \$.28 Surcharges Person-to-Person \$3.25 Not Person-to-Person \$1.75	Per minute \$.28 Surcharges Person-to-Person \$4.90 Not Person-to-Person \$2.25	Per minute \$.26 Surcharges Person-to-Person \$6.50 Not Person-to-Person \$2.25	Per minute <= \$.30 Surcharges Person-to-Person \$3.25 Not Person-to-Person <= \$1.75

BellSouth identified non-recurring costs of \$75,000 to assign specific rates to operator served traffic originating from call aggregator locations. Changing its rates to market levels within the rate cap can be achieved for a one-time cost of approximately \$1,000.

Neither Sprint-Florida, Inc. nor GTE Florida expected to incur additional costs to comply with the proposed amendments to Rule 24-24.630, F.A.C.

Rate and billing requirements currently in effect for operator service providers at Rule 25-24.630(1)(b) require rate information to be provided to end users, upon request, prior to connection. DXCs providing operator services are already required to comply with this provision, and proposed amendments to Rule 25-4.002, Application and Scope, extend this requirement to LECs and ALECs providing operator services in a call aggregator context. MCI and T-Netix, Inc. stated there would be costs associated with configuring their systems to provide rates to the called party prior to the party accepting the call. However, both companies agreed that the Federal Communications Commission has mandated this requirement, so the costs were not unique to Florida and would be incurred regardless of this Commission's proposed rules.

MCI and AT&T were both concerned that placing specific rates in a rule would increase their costs. MCI did not quantify its costs. AT&T stated it would have additional regulatory costs of

¹ Per minute daytime rate, highest mileage band.

\$150,000 annually, plus (unquantified) lost revenues if it has to go to rulemaking each time it wants to increase rates above the cap.

Under the proposed rule, a company would have to petition for a rulemaking proceeding to increase its rates over the rate cap. A company could not increase its rates until the rulemaking proceeding was completed (typically about nine months) and, therefore, would lose revenues it might otherwise have earned.

If rates were not capped via rule, a company could simply file a tariff to increase its rates. Such tariffs are effective within 24 hours of filing. If the Commission staff's review of the tariff determined that the rates were excessive, a recommendation that the company modify or withdraw its tariff would be filed. However, in the interim, the company could continue to charge its tariffed rates. AT&T and MCI favor having their rates tariffed rather than specified in a rule. WorldCom suggests that rather than the rule containing specific rates, it should state that operator service providers may charge no more than AT&T's tariffed rates in effect as of April 30, 1998.

A rulemaking proceeding would be costly for both regulated entities and the Commission. However, simply allowing companies to file tariffs listing their rates would not accomplish the objective of Section 364.3376(3), F.S., which requires the Commission to establish maximum rates and charges for all intrastate operator services providers.

Proposed Amendment to Rule 25-24.800, F.A.C., Scope

No provider identified costs associated with this proposed rule amendment.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

Though some operator service providers may qualify as a small business, it is not known how many. None of the providers responding to staff's data request met the statutory requirement for a small business. Some operator service providers who contract with small businesses such as motels, will be able to raise their rates under the proposed rules. They may pass some of their increased earnings to these small businesses through higher commission payments and/or more beneficial contract arrangements. The proposed rules are not expected to have a negative or disproportionate impact on small businesses, small cities, or small counties.

REASONABLE ALTERNATIVE METHODS

AT&T, MCI and WorldCom submitted alternatives in response to staff's data request. For the proposed amendment to Rule 25-24.600, F.A.C., AT&T recommends exempting operator services provided to customers who are presubscribed to the operator service providers' long distance or local exchange service. AT&T believes that customers using calling cards and customers placing calls from or charging calls to a presubscribed line are not the "captive customers" the rule is seeking to protect. Adopting this measure would result in savings to AT&T of \$6.13 million annually. The proposed amendment does not intend to regulate the rates an operator services provider charges its presubscribed customers.

AT&T recommends expanding the one-minute billing increment to three minutes for coin calls placed from pay telephones (proposed amendment to Rule 24-24.630(8)(c), F.A.C.). AT&T states this would result in savings of \$140,000 annually (\$84,000 direct revenue impact, plus \$56,000 fraud) while still accomplishing the purpose of the proposed rule amendments. As stated in the discussion of the proposed amendment to Rule 25-24.630, F.A.C., AT&T's three-minute billing increment is in direct conflict with both the existing and proposed rule. It is unclear how AT&T's proposal, which violates an existing rule, would accomplish the objective of Section 364.3376(3), F.S., which requires the Commission to establish maximum rates and charges for all intrastate operator services providers. AT&T has the ability to reduce its fraud losses since it controls the talk time for these types of calls. AT&T does not have to permit additional talk time if a customer fails to deposit additional coins.

MCI suggests retaining the tariff process as the means for operator service providers to set maximum rates instead of delineating specific maximum rates as in the proposed amendments to Rule 25-24.630, F.A.C., Rate and Billing Requirements. MCI states its opportunity cost would be very great (unquantified) if it must petition to amend the Commission rules each time it wishes to increase its rates beyond the caps specified in the proposed rule amendments.

Presumably, MCI believes it should be allowed to file tariffs containing its rates which would be effective within 24 hours. Should the Commission staff believe the tariffed rates are excessive, it would have to file its objections in a recommendation to the Commissioners. This procedure may not be in the best interest of consumers as it places the burden on staff to "catch" excessive rates

contained in tariff filings and would allow companies to continue charging excessive rates until any action taken by the Commission became final. Such a process could become quite lengthy as it might require a hearing. If excessive rates were determined to have been charged, the problem is compounded because the Commission would then have to determine a method of refunding amounts overcharged. Identifying customers who have placed calls from call aggregator locations can be difficult, time-consuming, and costly to the company. Therefore, customers who paid excessive rates may not receive a direct refund or would not receive the refund in a timely manner.

WorldCom suggests adopting a rate cap using the current AT&T rates filed on April 30, 1998. WorldCom believes this would reduce its regulatory cost by an unquantified but significant amount. However, adopting a rate cap which caps the rates at AT&T's tariffed rate as of a specific date does not appear to reduce costs, because a rulemaking proceeding would still be required to increase the cap. On March 13, 1996, the Commission decided that AT&T was no longer the dominant carrier, consequently, there is no rationale for linking the operator service rates to AT&T rates.

For proposed Rule 25-24.610(1)(a), F.A.C., WorldCom suggested leaving the phrase "other than a certificated telecommunications company" in the definition of "call aggregator" or replacing "provides telecommunications service to any end user" with "makes telephones available to the transient public." The proposed rule amendment is intended to protect the transient public or those who do not have a pre-existing relationship with the operator services provider they must use (i.e. a guest at a motel who does not know how to dial around to a preferred carrier). Subsequent to receiving the companies' responses to staff's data request, the proposed definition of "call aggregator" was revised to clarify that it applies to ". . . any person or entity that provides telecommunications service to the transient public (emphasis supplied)." This revision would appear to alleviate WorldCom's concerns while preserving the intent of the proposed rule amendment.

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