

Section 1 - Bureau of Records and Hearing Services Completes

Docket No. 040436-TP Date Docketed: 05/11/2004 Title: Proposed amendment of Rule 25-4.1601, F.A.C.,
Regulatory Assessment Fees; Certificated or
Registered Telecommunications Companies.
Company: Rule 25-4.0161, F.A.C.

Official Filing Date: _____ Expiration: _____
Last Day to Suspend: _____
Referred to: _____
("C") indicates OPR

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
X	X			X				

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module A11(a)

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff

Staff Counsel

OCRs

	Current CASR revision level	Due Dates	
		Previous	Current
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Recommended assignments for hearing and/or deciding this case:

Full Commission _____ Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with CCA: _____

Initials: OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: 1466804
Date: _____

Section 1 - Bureau of Records and Hear Services Completes

Docket No. 040436-TP Date Docketed: 05/11/2004 Title: Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Company: Rule 25-4.0161, F.A.C.

Official Filing Date: _____ Expiration: _____
Last Day to Suspend: _____
Referred to: _____
("C)" indicates OPR)

Table with columns: CCA, CMP, ECR, FLL, (GCL), MMS, PIF, RCA, SCR. Values: X, X, X, , X, , , , .

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A11(a)

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Staff Assignments

Table with columns: OPR Staff, Staff Counsel, OCRs (CCA), (ECR), (CMP). Rows list staff names like C Moore, M Sharma, C Hewitt, D Mailhot.

0 Current CASR revision level

Due Dates Previous Current

Table with 3 columns: Item number, Description, Previous Due Date, Current Due Date. Items include Rule Development Workshop, SERC Due, Staff Recommendation, etc.

Recommended assignments for hearing and/or deciding this case:

Full Commission [X] Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with CCA: 05/21/2004

Initials: OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Table for Hearing Officer(s) with columns: Commissioners (ALL, BZ, DS, JB, BD, DV), Hrg Exam, Staff.

- Prehearing Officer

Table for Prehearing Officer with columns: Commissioners (BZ, DS, JB, BD, DV), ADM.

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case. Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: [Signature]
Date: 05/21/2004

N

Section 1 - Bureau of Records Complet

Docket No. 040436-TP Date Docketed: 05/11/2004 Title: Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.
 Company: Rule 25-4.0161, F.A.C.

Official Filing Date: _____ Expiration: _____

Last Day to Suspend: _____

Referred to: _____

("O") indicates OPR

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
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Section 2 - OPR Completes and returns to CCA in 10 workdays.

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 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff C Moore

Staff Counsel C Moore

OCRs (CCA) M Sharma
 (ECR) C Hewitt
 (CMP) D Mailhot

	Current CASR revision level	Due Dates	
		Previous	Current
0			
1.	Rule Development Workshop, If Requested	NONE	06/08/2004
2.	SERC Due	NONE	06/14/2004
3.	Staff Recommendation	NONE	06/17/2004
4.	File Notice of Proposed Rulemaking	NONE	06/29/2004
5.	Agenda	NONE	06/29/2004
6.	FAW Notice Published	NONE	07/09/2004
7.	Request for Hearing/Comments Due	NONE	07/30/2004
8.	File Rule for Adoption or Revise CASR	NONE	08/09/2004
9.	Rule Effective	NONE	08/29/2004
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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____

Date filed with CCA: 05/21/2004

Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BBI
 Date: 05/21/2004

N

Section 1 - Bureau of Records Complet

Docket No. 040436-TP Date Docketed: 05/11/2004 Title: Proposed amendment of Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees; Telecommunications
Companies.
Company: Rule 25-4.0161, F.A.C.

Official Filing Date: _____
Last Day to Suspend: _____
Referred to: _____
("C") indicates OPR)

Expiration: _____

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
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Section 2 - OPR Completes and returns to CCA in 10 workdays.

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Program Module A11(a)

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FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff

C Moore

1 Current CASR revision level

Due Dates
Previous Current

1. SERC Due	SAME	06/14/2004
2. Staff Recommendation	06/17/2004	07/08/2004
3. Agenda	06/29/2004	07/20/2004
4. File Notice of Proposed Rulemaking	06/29/2004	07/27/2004
5. FAW Notice Published	07/09/2004	08/06/2004
6. Request for Hearing/Comments Due	07/30/2004	08/27/2004
7. File Rule for Adoption or Revise CASR	08/09/2004	09/17/2004
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Staff Counsel

C Moore

OCRs (CCA)
(ECR)
(CMP)

M Sharma
C Hewitt
D Mailhot

Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with CCA: 06/18/2004

Initials: OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: 1313/ [Signature]
Date: Pending 6/21/04

Section 1 - Bureau of Records Complete

Docket No. 040436-TP Date Docketed: 05/11/2004 Title: Proposed amendment of Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees; Telecommunications
Companies.
Company: Rule 25-4.0161, F.A.C.

Official Filing Date: _____
Last Day to Suspend: _____
Referred to: _____
("C") indicates OPR)

Expiration: _____

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
X	X	X		X				

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A11(a)

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FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff C Moore

2 Current CASR revision level

Due Dates
Previous Current

Staff Counsel C Moore

OCRs (CCA) M Sharma
(ECR) C Hewitt
(CMP) D Mailhot

1.	*Rule Development Workshop, If Requested	SAME	06/08/2004
2.	File Notice of Workshop	SAME	07/20/2004
3.	Workshop	SAME	08/18/2004
4.	Revised CASR Due	SAME	09/10/2004
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Recommended assignments for hearing and/or deciding this case:

Full Commission Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with CCA: 07/16/2004

Initials: OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

CSRA

- Hearing Officer(s)

Commissioners						Hrg	Staff
ALL	BZ	DS	JB	BD	DV	Exam	
X							

- Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

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Approved: BB/HW/rt

Date: 07/16/2004

DOCUMENT NO. DATE

Case Scheduling/Rescheduling Advice

Last Revised 07/13/2004 at 10:21

Page 1 of 1

Printed on 07/13/2004 at 10:25

To: Commissioner Deason Deputy Executive Director/EXA Economic Regulation Director
 Commissioner Jaber General Counsel Director External Affairs Director
 Commissioner Bradley Auditing & Safety Director Court Reporter
 Commissioner Davidson Comm. Clerk & ADM Services Staff Contact - Chris Moore
 Executive Director Competitive Markets/Enforcement
 Public Information Officer Consumer Affairs Director

From: Office of Chairman Braulio Baez

Docket Number: 040436-TP

Docket Title: Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

1. Schedule Information

Event	Former Date	New Date	Location	Time
Commissioner Workshop		08/18/2004	Tallahassee, Room 148	9:30 AM - 5:00 PM

2. Hearing/Prehearing Assignment Information

Former Assignments

Hearing Officers

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		

Current Assignments

Commissioners						Hearing Exam.	Staff
ALL	BZ	DS	JB	BD	DV		
X							

Prehearing Officer

Commissioners						
BZ	DS	JB	BD	DV	ADM	

Commissioners						
BZ	DS	JB	BD	DV	ADM	
	X					

Reason for Revision: A. New Assignment 1. Unavailability 2. Good Cause 3. Recused 4. Disqualified 5. See Remarks

Remarks: Commissioner Workshop - Costs of Regulating Telecommunications Companies

Section 1 - Bureau of Records Complete

Docket No. 040436-TP Date Docketed: 05/11/2004 Title: Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Company: Rule 25-4.0161, F.A.C.

Official Filing Date: _____

Expiration: _____

Last Day to Suspend: _____

Referred to:

("O") indicates OPR

CCA	CMP	ECR	FLL	(GCL)	MMS	PIF	RCA	SCR
X	X	X		X				

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module All(a)

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FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff	C Moore	3	Current CASR revision level	Due Dates	
				Previous	Current
		1.	Staff Recommendation	NONE	09/23/2004
		2.	Agenda	NONE	10/05/2004
		3.	FAW Notice Filed	NONE	10/12/2004
		4.	Order Noticing Proposed Rulemaking	NONE	10/14/2004
		5.	Comments/Hearing Request Due	NONE	11/12/2004
		6.	Notice to JAPC	NONE	11/17/2004
		7.	File Rule For Adoption	NONE	11/24/2004
Staff Counsel	C Moore	8.			
		9.			
		10.			
OCRs (CCA)	M Sharma	11.			
(ECR)	C Hewitt	12.			
(CMP)	D Mailhot	13.			
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Recommended assignments for hearing and/or deciding this case:

Full Commission Commission Panel
Hearing Staff

Date filed with CCA: 09/14/2004

Initials OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	JB	BD	DV		
X							

Prehearing Officer

Commissioners					ADM
BZ	DS	JB	BD	DV	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: *BB/ [Signature]*

Date: 09/14/2004

Matilda Sanders

From: Mary Diskerud
Sent: Thursday, May 13, 2004 9:19 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

4

Date and Time: 5/13/2004 9:18:00 AM
Docket Number: 040436-TP
Filename / Path: Notice25-4-0161.ctm.doc

copied to GCorders

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ITC (64)
MCI "
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Messer "
MCI, et al.
Swidler.

DOCUMENT NO
141668-04

040436

Kay Flynn

From: Kay Flynn
Sent: Thursday, July 08, 2004 4:43 PM
To: Dale Mailhot
Cc: Beth Salak; Chuck Hill; Chris Moore; Mary Bane; Marcia Sharma; Rose Thompson; Blanca Bayo
Subject: RE:

Thanks.

Based on this information, we'll pull the placeholder for Docket 040436 from the 7/20 agenda now, and expect to receive a "request for change" from Chris Friday morning.

Kay

-----Original Message-----

From: Dale Mailhot
Sent: Thursday, July 08, 2004 4:37 PM
To: Kay Flynn
Cc: Beth Salak; Chuck Hill; Chris Moore; Mary Bane; Marcia Sharma
Subject:

We do not plan to file the recommendation in Docket No. 040436-TP tomorrow. Chris will provide you with an official deferral form.

DOCUMENT NO

Matilda Sanders

From: Mary Diskerud
Sent: Monday, July 26, 2004 3:58 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

3

Date and Time: 7/26/2004 3:56:00 PM
Docket Number: 040436-TP/Undocketed
Filename / Path: 040436-TPnotice.ctm.doc

Copied to gcorders. Distribution is Telephone (TL), (TI), (TC), (TS), (TX), (TA)

1,476
mailed 7.27.04

Kay Flynn

040436-TP

From: Chris Moore
Sent: Wednesday, August 11, 2004 12:10 PM
To: Cayce Hinton; JoAnn Chase; Katrina Tew; Larry Harris; Manuel Arisso; Kay Flynn
Cc: Betty Ashby
Subject: Agenda for 8/18 Workshop



25-4-0161AGE
A3.ctm.doc (29

Here is the agenda for next Wednesday's workshop on telecommunications company regulatory assessment fees and evaluation of methods for reducing and/or recovering costs of regulation.

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040436-TP - PROPOSED AMENDMENT OF RULE NO. 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

and

UNDOCKETED EVALUATION OF METHODS FOR REDUCING AND/OR
RECOVERING COSTS OF REGULATING TELECOMMUNICATIONS COMPANIES

COMMISSION WORKSHOP

ROOM 148, BETTY EASLEY CONFERENCE CENTER

AUGUST 18, 2004; 9:30 A.M.

AGENDA

1. Staff Introductory Remarks
2. Company Presentations
 - A. Changes to Commission Rules to Reduce Cost of Regulation
 - B. Changes to Commission Procedures to Reduce Cost of Regulation
 - C. Steps Telecommunications Companies Can Take to Reduce the Cost of Regulation
3. Discussion on Recovery of Costs of Regulation
 - A. Change in Regulatory Assessment Fee Rate
 - B. Additional Methods of Cost Recovery
 - C. Needed Statutory Changes?
4. Closing Remarks

State of Florida



Public Service Commission

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

DATE: August 26, 2004

TO: Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

FROM: Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

RE: DOCKET NO. 040436-TP & UNDOCKETED, WORKSHOP HELD 08/18/04.

RE: PROPOSED AMENDMENT OF Rule 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

EVALUATION OF METHODS FOR REDUCING AND/OR RECOVERING COSTS OF REGULATING TELECOMMUNICATIONS COMPANIES.

DOCUMENT NO. 09315-04, 08-25-04

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

Acknowledged BY:

Mar _____

JF/rlm

PSC/CCA028-C (Rev10/01)

Kimberley Pena**To:** Chris Moore**Subject:** RE: Docket No. 040436TP--Proposed Rule Amendment Increasing Regulatory assessment Fees; Rule No. 25-4.0161, F.A.C.**Done per this e-mail.****From:** Chris Moore**Sent:** Wednesday, September 29, 2004 9:38 AM**To:** Kimberley Pena**Subject:** FW: Docket No. 040436TP--Proposed Rule Amendment Increasing Regulatory assessment Fees; Rule No. 25-4.0161, F.A.C.

Kim, can you please add this person to the mailing list for the above docket? Thanks.

From: Gene Adams [mailto:gene@Penningtonlawfirm.com]**Sent:** Thursday, August 19, 2004 4:01 PM**To:** Chris Moore**Subject:** Docket No. 040436TP--Proposed Rule Amendment Increasing Regulatory assessment Fees; Rule No. 25-4.0161, F.A.C.

Chris—Please add me to the list of those receiving notices and mailings on this rulemaking docket. You can use my email for the notices. It was great seeing you and I look forward to working with you. Thank you. Call or email if questions. I have also listed my cell number for your use. Thanks again. Gene.

Cell 850-933-6222.

Howard E. (Gene) Adams
 Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.

Attorneys at Law

215 South Monroe Street, 2nd Floor (32301)

P.O. Box 10095

Tallahassee, Florida 32302-2095

Phone: 850/222-3533

Fax: 850/222-2126

gene@penningtonlaw.com

<http://www.penningtonlaw.com>

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*Done
 09/29/04
 KMP*

9/29/2004

CCA Official Filing
10/8/2004 3:18 PM*****

Matilda Sanders1

Matilda Sanders

0982-NOR

From: Mary Diskerud
Sent: Friday, October 08, 2004 3:18 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

5

Date and Time: 10/8/2004 3:18:00 PM
Docket Number: 040436-TP
Filename / Path: 040436 Rulemaking.ctm.doc

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10/11/04 ✓

State of Florida



Public Service Commission

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

DATE: October 13, 2004

TO: Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

FROM: Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

RE: DOCKET NO. 040436-TP, AGENDA HELD 10-05-04.

RE: PROPOSED AMENDMENT OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

DOCUMENT NO.: 10999-04, 10/12/04

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

Acknowledged BY:

A handwritten signature in blue ink, appearing to be "JF".

JF/rIm

Matilda Sanders

1175 - FOF

From: Wanda Terrell
Sent: Monday, November 29, 2004 3:02 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

13

Date and Time: 11/29/2004 2:57:00 PM
Docket Number: 040436-TP
Filename / Path: i:\4.0161 Order Adopt.ctm.doc

Notice of Adoption of Rule has been copied to GCOrders. Order must be issued within 48 hours.
Number of Pages: 13
Attorney: Chris Moore

1507

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. | DOCKET NO. 040436-TP
| ORDER NO. PSC-04-1175-FOF-TP
| ISSUED: November 30, 2004

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF ADOPTION OF RULE

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted without change the amendments to Rule 25-4.0161, Florida Administrative Code, relating to regulatory assessment fees for telecommunications companies. The rule as amended was filed with the Department of State on November 17, 2004, and will be effective December 7, 2004; however, the new regulatory assessment fee rate is not applicable to revenues received by the company until January 1, 2005. A copy of the rule as filed with the Department is attached to this Notice.

A notice of rule development to amend Rule 25-4.0161, Florida Administrative Code, was issued in May 2004. Our staff conducted a rule development workshop on June 8, 2004, and on August 18, 2004, a workshop for Commissioners was held. Representatives of BellSouth, Verizon, Sprint, AT&T, GT Com, Alltel Communications, TDS Telecom, Florida Competitive Carriers Association, and the Florida Telecommunications Industry Association (FTIA) participated in or attended one or both of the workshops.

We voted to propose rule amendments at our agenda conference on October 5, 2004. A Notice of Rulemaking was published in the October 15, 2004, edition of the Florida Administrative Weekly. No requests for hearing or comments were filed following publication of the Notice of Rulemaking.

I. REGULATORY ASSESSMENT FEE RATE

Sections 350.113 and 364.336, Florida Statutes, require regulated companies under the Commission's jurisdiction to pay fees to the Commission based upon their gross operating revenues. Section 350.113(3) further requires that such regulatory assessment fees (RAF) shall, to the extent practicable, be related to the cost of regulation. The maximum rate authorized by

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

statute for telecommunications companies is .25 percent of the companies' gross operating revenues derived from intrastate business. § 364.336, Fla. Stat. (2003). Rule 25-4.0161, Florida Administrative Code, currently sets the RAF rate at .15 percent of the companies' gross operating revenues derived from intrastate business.

Based upon the most recent projection of costs for Fiscal Year 2005-2006, RAFs collected from the telecommunications industry at the current rate are expected to be at least \$3.1 million less than the cost of regulating the industry. A number of diverse factors have converged to create the current deficit and the need for us to consider increasing the RAF rate. Those factors are both external and internal. External factors include changes in state and federal law, resulting structural changes to the industry, a Florida Supreme Court decision excluding directory advertising revenues from RAFs, a decline in telephone company intrastate revenues subject to the fee, and changes in the overall state budget process. Internally, the way we allocate employees' work time has been changed to more accurately reflect work time spent on the different industries. The following discussion details these factors, describes efforts to control costs, and provides the calculation of costs and the required RAF rate.

A. Industry and Workload Changes Due to Statutory Revisions

Due to the changes in Florida Statutes in 1995 and the federal law in 1996 that were made in order to open the local telecommunications market to competition, the structure of the telecommunications industry has changed. Our workload has also changed dramatically. Prior to 1995, the 14 local exchange companies were rate base regulated and were subject to earnings reviews and occasional rate cases. Based on the statutory changes, we eliminated all of our rules and regulations dealing with earnings regulation for the price-capped companies and no longer required earnings surveillance, depreciation studies, or other rate of return reports. However, with the new statutory requirements came new responsibilities related to facilitating the development of competition in the local exchange market.

As of the end of May 2004, there were 10 incumbent local exchange companies (ILECs) and 401 competitive local exchange companies (CLECs) certificated in Florida. In addition, there were 470 pay telephone service (PATs) providers, 42 alternative access vendors (AAVs) and 31 shared tenant service (STS) providers certificated as well as 686 interexchange companies (IXCs) registered in Florida.

While continuing traditional retail regulatory responsibilities such as tariff reviews, consumer complaints, and quality of service, we have been charged with wholesale responsibilities as well. On the wholesale side, we are responsible for interconnection agreements: petitions requesting arbitrations; adoption of agreements; and complaints about rates, terms, and conditions in current agreements. As market participants become more sophisticated and proficient, issues are becoming more complex, technical and specific, and thus more time consuming. We also deal with the complex issues involved with setting unbundled network rates, collocation terms and conditions, and barriers to competition. Numbering issues also arise as area code relief and number portability are needed due to increased demand for telephone numbers and to enhance competition.

As the work of the Commission has evolved to reflect an emerging competitive telecommunications environment, the workload has not diminished. To the contrary, consumer complaints for this industry have increased from an annual total of 12,592 on June 30, 2000, to 20,233 as of June 30, 2004. While parties are always encouraged to negotiate issues and resolve them without our intervention, complex issues are still litigated before us, and many are appealed to the courts. During the foreseeable future, workload appears to be heavy for the telecommunications industry due in part to issues surrounding the Triennial Review Order (TRO), the Federal Communications Commission's (FCC) unbundling rules, and pending court challenges. Moreover, workload associated with arbitrations and complaints is greater now than in the past several years and we believe this workload may increase as agreements expire and TRO issues arise. In addition, we do not know what role the states will play in the final rules that will be promulgated by the FCC. Traditionally, there has been a significant role for the states during implementation of FCC rules.

Over the next several years, we envision the continued evolution of the telecommunications market and the exertion of continued pressures on wireline carriers from other technologies such as wireless, voice-over-internet (VOIP), and cable. We will still have responsibility for areas such as arbitrations, area code/numbering relief, consumer education, resolving customer complaints, setting wholesale rates and terms, and preventing anticompetitive pricing. However, we anticipate that in the future (3-5 years), we could experience a reduction in telecommunications workload. State law establishing a timetable for intrastate access charge reductions also includes triggers for certain reductions in regulatory requirements relating to tariffs and service quality. Consistent with the foregoing discussion, we direct our staff to conduct an annual assessment of the relationship between RAF revenues and regulatory costs associated with the telecommunication industries. In addition, staff will meet with industry representatives in two years and evaluate whether an adjustment is necessary.

B. Factors Affecting RAF Collections and Regulatory Costs Assigned to Telecommunications

During the 5-year period from Fiscal Year 2000-2001 through 2005-2006, telecommunications RAF revenue is expected to decline by over \$2.5 million. This decline has two primary causes. First, in February 2002, the Florida Supreme Court ruled that directory advertising revenue billed and collected by the local exchange companies (LECs), but booked by the companies' directory affiliates, could not be imputed to the LECs for RAF purposes. Verizon Florida, Inc. v. Jacobs, 810 So. 2d 906 (Fla. 2002). This decision resulted in a loss of \$1.5 million in annual RAF revenues--revenues that prior to that decision allowed this Commission to cover the cost of continuing regulatory functions and workload associated with the transition to a competitive market. Second, the revenues of the companies have declined due to changes in the telecommunications industry, including a loss of business to other providers such as cellular companies that do not currently pay RAFs. Annual RAF revenues have declined by over \$1.0 million due to this decline in the companies' revenues.

In addition, in recent years, legislation resulting in liquidation of our trust fund reserves and loss of interest earned on the trust fund balance have made it more difficult, if not impossible, for us to absorb fluctuations in RAF collections. In the past, we were able to delay increases in the RAF because of the trust fund reserve.

Finally, we changed our cost allocations beginning July 1, 2003, to more accurately reflect the amount of time being spent by Commission employees in the regulation of each industry. The change in recording of employee work time was partially in response to a finding by the Auditor General:

Finding No. 3: Improvements in accounting for employee work time would promote a more equitable distribution of regulatory costs to the industries or sub-industries.

(Auditor General Report No. 2004-031: Public Service Commission Regulatory Assessment Fee and Other Matters - Operational Audit August 2003.) The report noted that the Division of Consumer Affairs was significantly under-allocating its time to telecommunications. Since then, changes have been made to time reporting by Consumer Affairs to more accurately capture time worked. As a result of more accurate allocation of time worked, the total amount of time and Commission costs being allocated to telecommunications increased from 39.9 percent in Fiscal Year 2002-2003 to a projected 43.11 percent for Fiscal Year 2005-2006. This resulted in an additional \$.8 million in costs being allocated to the telecommunications industry.

C. Internal Efforts to Control Costs

During the 7-year period from Fiscal Year 1998-1999 through 2005-2006, the Commission's expenses will have actually *decreased* by 1.3 percent. In comparison, inflation has been 14.6 percent over this same time frame. In Fiscal Year 1994-1995, the number of Commission employees per million Florida residents was 28.5. For projected Fiscal Year 2005-2006, this figure declines to 18.8. The number of Commission employees also compares favorably to other states. We are the eleventh lowest in terms of employees per access line and twelfth lowest in terms of employees per million residents.

Eighty percent of our operating budget consists of salaries and benefits. Another 13 percent is directly related to employees and represents costs such as rent, telephone, and computer expenses. Additional amounts over which we have little or no control include insurance and human resources management outsourcing costs.

Over the past several years we have streamlined our processes, eliminated inefficiencies, and, as a result, reduced the number of staff. From Fiscal Year 2000-2001 through Fiscal Year 2004-2005, we have reduced staffing by 37.5 Full-Time Equivalent positions (FTEs) which is more than a nine percent reduction in staff. For Fiscal Year 2004-2005, we reduced our staff by 18 FTEs with the aim of reducing costs, improving efficiency and achieving fiscal balance. To further reduce costs this fiscal year, we are holding positions vacant in areas where workload has been or will be reduced. At our September 13, 2004, Internal Affairs meeting, we approved a Fiscal Year 2005-2006 budget request proposing a further reduction of 20.5 FTEs for a total decrease of 58 positions or 14.5 percent since Fiscal Year 2000-2001.

In future years, Commission staff will continue to identify and propose revisions to regulatory functions and staffing consistent with our statutory responsibilities in all industries. In addition, cross-training of staff will continue to be an important tool for us to be able to meet

peak workload demands and will be key in transitioning staff away from functions being eliminated. Beyond staffing, Commission management plans continued cost control efforts in all expense categories and continued evaluation and elimination of any nonessential items such as continuing to reduce office space expense.

D. Calculation of Telecommunication Regulatory Costs that must be Funded

The RAF rate for telecommunications companies was last changed effective January 1, 1991, when it was increased from .125 percent to .15 percent of gross intrastate operating revenues. The .15 percent rate was calculated based on projected telecommunications RAF revenues and Commission expenses. Using a similar method to calculate the rate here results in a RAF rate of .21 percent. Commission staff has projected that the amount of telecommunications revenue that is subject to RAF will decrease during the next fiscal year. The cost of regulating the telecommunications industry is based on our proposed Fiscal Year 2005-2006 budget. The projected amount of total Commission expenses to attribute to telecommunications companies is calculated by multiplying the projected total expenses by the percentage of Commission time spent on telecommunications issues. The 43.11 percent of Commission time spent on telecommunications is based on the actual results from the Time Direct system for the period April 2004 through June 2004.

Projected total Commission expenses	\$26,198,784
Telecommunications percentage	x <u>43.11 percent</u>
Telecommunications cost	\$11,294,295

E. Change to RAF Rate

Based on projections of revenues and expenses for Fiscal Year 2005-2006, our staff has calculated that a RAF rate of .21 percent is necessary for telecommunications companies to cover the cost of regulating the industry. Staff recommended, however, that the RAF rate only be increased to .20 percent. We believe that through continued cost cutting efforts and the pursuit of alternative revenue sources discussed below, the remaining deficit for telecommunications that exists at the .20 percent RAF rate can be eliminated.

Changing the rate to .20 percent is projected to increase the amount collected from telecommunications companies from \$8.8 million to \$11.7 million. Of the \$11.7 million, we must pay 7.3 percent (\$854,000) to the General Revenue Fund as a statutorily required service charge. §§ 215.20 and 350.113(2), Fla. Stat. (2003).

In conclusion, a number of factors both external and internal have converged, resulting in a budget deficit that is expected to continue unless some action is taken. Despite significant efforts--past, present and future--to streamline, to become more efficient and to cut costs, the deficit remains. We therefore amend Rule 25-4.0161, F.A.C., to increase the regulatory assessment fee rate paid by telecommunications companies to .20 percent of gross operating

revenues derived from intrastate business. The effective date of the increased rate will be January 1, 2005.

II. ADDITIONAL MECHANISMS FOR RECOVERY OF REGULATORY COSTS

At our August 18, 2004, workshop, industry representatives observed that the current funding mechanism may no longer be appropriate for recovering the regulatory costs associated with the telecommunications industry. Collection of RAFs based on company revenues dates back to a time when regulatory efforts focused on monopoly providers and most proceedings involved only one company. In a telecommunications industry that has been opened up to competition, Commission workload is no longer driven by a single company seeking rate relief, but rather by multi-company dockets addressing competitive issues. Our staff will work with industry representatives to study the cost causing factors in regulating the telecommunications industry and determine whether alternative funding mechanisms that are more related to cost causation can be developed. Based on this study, we can determine whether it is appropriate to restructure the method of cost recovery to reflect the competitive dynamics of the industry. Staff will also explore with the companies the creation of incentives for companies to resolve their disputes by mediation.

We have considered several possible areas to implement fees and charges for Commission services as well as increasing existing minimum RAF payments and certification fees as a way to collect regulatory revenues without increasing the RAF rate itself. With statutory changes, we could increase the minimum RAF paid by small telecommunications companies to more closely reflect the cost of regulatory activity required by those companies. The current statutory minimum is \$50 for all telecommunications providers. If the minimum is increased to \$100 for pay telephone providers, alternative access vendors (AAVs), and shared tenant service providers (STS), and to \$1,000 for interexchange companies (IXCs) and competitive local exchange companies (CLECs), our staff estimates that the change could result in an increase in revenues of \$850,000, excluding any adjustments for repression. If as a result of the increase in the minimum payment, companies cancel their certificates or do not obtain certificates, the increase in RAF revenue could be much less than \$850,000. Some companies seek a certificate but never actually do business in Florida and an increased minimum may discourage them from doing so in the future, thus reducing the work associated with issuing certificates and in turn, our costs. In addition, a statutory change to increase the certification fee maximum from the current \$250 to \$500, based on the cost of processing a request for certification, could result in an additional \$5,000 to \$10,000 in annual revenue. Again, the increased fee could deter some companies from applying for a certificate in Florida.

Any additional revenues that may result from the proposed statutory changes will take time to implement. If the proposed statutory changes are enacted, implementing rule changes will be required. Further, a monitoring period of approximately one year will be necessary to determine the level of repression and the resulting impact on Commission revenues.

We will pursue an amendment to section 364.335, Florida Statutes, to increase the application fee to an amount not to exceed \$500 which will more accurately reflect the cost we

incur to process applications. We will also pursue an amendment to section 363.336, Florida Statutes, to authorize us to, by rule, assess a minimum regulatory assessment fee in an amount up to \$1,000 with the authority to set different minimum fees depending on the type of service provided by the telecommunications company.

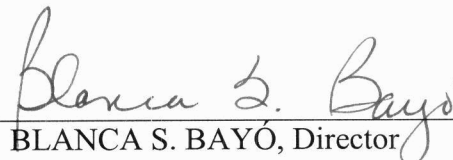
Legislation authorizing us to adopt a rule imposing filing fees, however, requires further study to determine whether and on what basis to set different fees, and to evaluate the potential impact on development of a competitive market. As in the case of increasing certificate application fees, imposing fees for filing such matters as disputed interconnection agreements could influence the filing parties' decision making process. While charging a filing fee may well reduce the number of petitions that are of questionable merit, input from all parties and careful consideration by this Commission will be needed prior to pursuing fees of this nature.

III. EXTENSIONS OF TIME TO FILE RETURNS

Rule 25-4.0161, F.A.C., governing extensions of time to file a regulatory assessment fee return, is also amended to codify the standards that are used to determine whether an extension should be granted. Rather than requiring companies to include a statement of good cause for an extension, we are amending subsection (7)(a) to provide that an extension of 30 days will be granted if the company has applied for the extension within the time required (two weeks before the date the return is due) and the company does not have any unpaid regulatory assessment fees, penalties or interest due from a prior year. The form to be used to request an extension of time is amended accordingly.

This docket is closed upon issuance of this notice.

By ORDER of the Florida Public Service Commission this 30th day of November, 2004.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

CTM

Commissioner Charles M. Davidson dissents, with comment, from the majority decision:

I respectfully dissent from the decision of the majority to adopt this amendment to Rule 25-4.0161, Florida Administrative Code, which increases the regulatory assessment fee rate to .20 percent of gross operating revenues derived from intrastate business. As we continue to transition from the monopoly provision of telecommunications services to a more competitive environment, I believe this decision stands in direct contrast to the Legislature's clear mandates to this Commission to ". . . protect consumers and provide for the development of fair and effective competition. . . ." Section 364.01(3), Florida Statutes. Ultimately, this amendment does neither. Instead, this amendment results in an administrative tax increase on the companies, which most assuredly will **not** ". . . encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure." *Id.* Furthermore, to the extent allowed by the market, this increase will be passed on to consumers in some form, which is counterintuitive in an era when competitive market forces would, if otherwise left alone, force prices downward.

The majority urges that changes in federal and state law, as well as reallocation of employee work time, necessitate this amendment. In particular, much emphasis is placed upon the complexity of issues raised by market players in this transitional market and the increased number of customer complaints over the past four years. I do not find this rationale persuasive. While it is true that certain Commission proceedings (e.g., arbitrations of wholesale interconnection agreements) have arisen from the advent of competition, there are many proceedings that are no longer conducted at the Commission due to the changes in state policy aimed at promoting competition in the telecommunications industry, as well as the fact that the industry has taken full advantage of the benefits of private arbitration to resolve many issues that would otherwise be addressed by the Commission. Thus, generally speaking, RAFs should be declining – and the agency should be focused on decreasing, rather than increasing, our administrative taxation.

The majority also argues that while workload is increasing, our RAF revenues have been declining, due largely to two factors: (1) the Florida Supreme Court's decision in Verizon Florida, Inc. v. Jacobs; and (2) the telecommunications companies' loss of revenues to non-regulated providers, such as cellular companies. This argument fails on both points. First, the Supreme Court relied upon the plain-meaning of Section 364.336, Florida Statutes, in concluding that this Commission has no right to require a company to impute revenues from an unregulated affiliate, and as aptly pointed out in the dissent to the Commission's own Order, any prior authority to do so was negated upon Verizon's election of price cap regulation in January 1996.¹ Thus, under any reasonable interpretation of the statute, the Commission should have immediately ceased imputing the directory revenues upon Verizon's election of price regulation. It should have known not to rely on those revenues and should have adjusted its budget accordingly.

¹ See Verizon Florida, Inc. v. Jacobs, 810 So. 2d 906, 908-909 (Fla. 2002), and Order No. PSC-01-0097-DS-TL, issued in Docket No. 001556-TL, on January 11, 2001, at Dissent, pages 11-13.

As for the declining revenue of the companies, this is, if anything, only an indication that competition is working, particularly in unregulated sectors of the market. Gone are the days of rate of return regulation of telecommunications monopolies. As such, the notion of increasing the applicable administrative tax to support the function of this regulatory body truly ought to be anathema.

The implications of a RAF rate increase on the companies in this transitional market and on the consumers of this state cannot be ignored. Meaningful cost-saving measures, reallocations of workload², and other viable alternatives should be seriously and thoroughly considered before we increase the tax burden on the consumers and businesses of Florida. Increases in administrative taxes should be a last resort – only to be employed when we are certain that we cannot cut costs and/or increase efficiencies any further. Continuous application of cost-saving measures is a fundamental component of our fiduciary obligations to the consumers of this state. While I applaud the agency's efforts heretofore to reduce regulatory expense in the telecommunications sector, the majority's adoption of a 33% increase in the telecommunications RAF rate suggests that further reduction is in order.

Thus, for all the foregoing reasons, I dissent from this decision.

² The Commission is the beneficiary of a professional staff that is well paid. The agency's workflow ebbs and flows. Other agencies do not have the luxury of readily increasing the fees paid by those subject to their jurisdictions. When the overall agency workload increases, the typical response is to increase individual workloads. One option that should not be overlooked is a reduction of staff permanently dedicated to telecom issues and a reallocation of work responsibilities amongst staff.

25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) As applicable and as provided in Sections 350.113, 364.02(13) and 364.336, Florida Statutes, each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of 0.0020 ~~0.0015~~ gross operating revenues derived from intrastate business. For the purpose of determining this fee, each telecommunications company shall deduct from gross operating revenues any amount paid to another telecommunications company for the use of any telecommunications network to provide service to its customers. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee of \$50 shall be imposed.

(2) Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year. The regulatory assessment fee and appropriate form shall be filed no later than July 30 for the preceding period of January 1 through June 30, and no later than January 30 of the following year for the period of July 1 through December 31. Telecommunication companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the subsequent year for the current calendar year operations.

(3) If the due date falls on a Saturday, Sunday, or legal holiday, the due date is extended to the next business day. If the fees are sent by registered mail, the date of the registration is the United States Postal Service's postmark date. If the fees are sent by certified

mail and the receipt is postmarked by a postal employee, the date on the receipt is the United States Postal Service's postmark date. The postmarked certified mail receipt is evidence that the fees were delivered. Regulatory assessment fees are considered paid on the date they are post marked by the United States Postal Service or received and logged in by the Commission's Division of the Commission Clerk and Administrative Services in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage, and postmarked no later than the due date.

(4) Commission Form PSC/CMP 25 (01/05), entitled "Local Exchange Company Regulatory Assessment Fee Return," Form PSC/CMP 26 (01/05), entitled "Pay Telephone Service Provider Regulatory Assessment Fee Return"; Form PSC/CMP 34 (01/05), entitled "Shared Tenant Service Provider Regulatory Assessment Fee Return"; Form PSC/CMP 153 (01/05), entitled "Interexchange Company Regulatory Assessment Fee Return"; and Form PSC/CMP 1 (01/05), entitled "Alternative Access Vendor Regulatory Assessment Fee Return"; and Form PSC/CMP 7 (01/05), entitled "Competitive Local Exchange Company Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services.

(5) Each telecommunications company shall have up to and including the due date in which to submit the applicable form and:

- (a) Remit the total amount of its fee, or
- (b) Remit an amount which the company estimates is its full fee.
- (6) Where the company remits less than its full fee, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less

than 90 percent of the total regulatory assessment fee, include interest as provided by paragraph (8)(b) of this rule.

(7) A company may request from the Division of the Commission Clerk and Administrative Services a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return form.

(a) The request for extension must be submitted on Form PSC/CCA 124 (01/05) written and will be granted if the company has applied for the extension within the time required in (b) below and the company does not have any unpaid regulatory assessment fees, penalties or interest due from a prior year -accompanied by a statement of good cause. Form PSC/CCA 124 (01/05), entitled "Regulatory Assessment Fee Extension Request" is incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services.

(b) The request for extension must be received by the Division of the Commission Clerk and Administrative Services at least two weeks before the due date.

(c) Where a telecommunications company receives an extension of its due date pursuant to this rule, the telecommunications company shall remit a charge in addition to the regulatory assessment fees, as set out in Section 350.113(5), Florida Statutes.

(d) The return forms may be obtained from the Commission's Division of the Commission Clerk and Administrative Services. The failure of a telecommunications company to receive a return form shall not excuse the company from its obligation to timely remit the regulatory assessment fees.

(8) The delinquency of any amount due to the Commission from the telecommunications company pursuant to the provisions of Section 350.113, Florida Statutes, and this rule, begins with the first calendar day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in Section 350.113, Florida Statutes, shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 364.336 FS.

History—New 5-18-83, Formerly 25-4.161, Amended 10-19-86, 1-1-91, 12-29-91, 1-8-95, 12-26-95, 7-7-96, 11-11-99, 12-7-04.

Marguerite Lockard

PSC-04-0982A-NOR-TP

From: Mary Diskerud
Sent: Wednesday, October 27, 2004 1:21 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Copied to gcorders

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Perb mailers.
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