

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications. | DOCKET NO. 080641-TP
ORDER NO. PSC-09-0144-FOF-TP
ISSUED: March 9, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF ADOPTION OF RULES

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted without changes the amendments to Rules 25-4.002, 25-4.023, 25-4.071, 25-4.074, 25-4.107, and 25-4.109 and the repeal of Rules 25-4.046, 25-4.067, 25-4.108, Florida Administrative Code, relating to telecommunications regulation.

The rules were filed with the Department of State on March 6, 2009 and will be effective on March 26, 2009. A copy of the rules as filed with the Department is attached to this Notice.

This docket is shall remain open to address the comments filed pertaining to Rules 25-4.0185, 25-4.066, 25-4.070, 25-4.073, 25-4.083, and 25-4.110, Florida Administrative Code.

By ORDER of the Florida Public Service Commission this 9th day of March, 2009.



ANN COLE
Commission Clerk

(S E A L)

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

25-4.002 Application and Scope.

(1) These rules are intended to define reasonable service standards that 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 company and the customer. The rules contained in Parts I-XI of this chapter apply to local exchange companies. ~~The rules contained in Part II and Part V apply only to residential service.~~ The rules contained in Part X of Chapter 25-24, F.A.C., apply to any Interexchange Company. The rules in Part XI of Chapter 25-24, F.A.C., apply to any pay telephone service company. The rules in Part XII of Chapter 25-24, F.A.C., apply to all Shared Tenant Service Companies. The rules in Part XIII of Chapter 25-24, F.A.C., apply to all Operator Service Provider Companies and call aggregators. The rules contained in Part XIV of Chapter 25-24, F.A.C., apply to all Alternative Access Vendor Service Providers. The rules contained in Part XV of Chapter 25-24, F.A.C., apply to all competitive 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.

Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.335, 364.337, 364.3375, 364.3376 FS. History—Revised 12-1-68, Formerly 25-4.02, Amended 2-23-87, 1-8-95, 2-1-99, 4-3-05.

25-4.023 Report of Interruptions.

~~(4) The Commission shall be informed of any major interruptions to service which are the result of a tropical system named by the National Hurricane Center that affect 1,000 or more subscribers for a period of 30 minutes or more as soon as it comes to the attention of the utility.~~

On a daily basis, The Company shall provide the time, the location, the number of subscribers affected, and the expected estimated duration of the outage and when the interruption is restored.

~~(2) In addition, a copy of all Florida service interruption reports made to the Federal Communications Commission in accordance with the provisions of Part 63 of Chapter 1 of Title 47; Code of Federal Regulations; Notification of Common Carriers of Service Disruptions (Effective April 12, 1996) shall be immediately forwarded to the Commission's Division of Competitive Markets and Enforcement, Bureau of Service Quality.~~

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.17, 364.183 FS. History— Revised 12-1-68, Amended 3-31-76, Formerly 25-4.23, Amended 10-1-96, 4-3-05.

25-4.046 Incremental Cost Data Submitted by Local Exchange Companies.

~~(1) Incremental cost yields the appropriate price floor for pricing of individual services. This rule sets forth requirements for incremental cost data submitted by local exchange companies (LECs) to the Commission.~~

~~(2) For each service for which an incremental cost study has been performed by or for a LEC and the LEC submits incremental cost data based on the study the LEC shall provide:~~

~~(a) An executive summary that includes, at a minimum:~~

~~1. An overview of the incremental cost study(ies) performed, a description of all cost models used, and a summary of the cost study results;~~

~~2. A discussion which demonstrates that the cost study methodology employed comports with accepted economic theory regarding incremental cost;~~

~~3. A discussion demonstrating the reasonableness of the assumptions made regarding the conditions projected to be in effect during the study's planning horizon; and~~

~~4. A discussion demonstrating the manner in which the service will be provisioned during~~

the planning horizon.

~~(b) A list of all factors and their values used in the study including, but not limited to, utilization factors, annual charge factors, expense factors and supporting structures factors. At Commission staff's request, supporting work papers showing the derivation of all factors used in the study shall be provided on 5 days' notice.~~

~~(c) Where identifiable, the amount of any group specific costs shall be identified but not added into the results for an individual service. Group specific costs are those costs related to the provision of a group of services but not causally attributable to any specific service;~~

~~(d) The amount and types of costs that are causally apportioned (as opposed to directly assigned) to individual services shall be identified and the LEC shall describe and provide support for the method of apportionment used; and~~

~~(e) For new services which may have a significant revenue impact or where a rate restructure of an existing service is being proposed that may have either significant customer or revenue impact, a narrative or flowchart indicating the sequence of analyses performed leading to the cost results shall be provided. At Commission staff's request, all relevant work papers supporting the cost study shall be provided on 5 days' notice.~~

~~(3) For each service for which a LEC submits incremental cost data not based on an incremental cost study performed by or for that LEC, the LEC shall provide a discussion demonstrating the reasonableness of using the surrogate cost data as the price floor for its service.~~

Specific Authority 350.127(2) FS.

Law Implemented 364.3381 FS.

History—New 5-24-95, Repealed _____.

25-4.067 Extension of Facilities - Contributions in Aid of Construction.

~~(1) Each telecommunications company shall make reasonable extensions to its lines and service and shall include in its tariffs filed with the Commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to serve applicants for service within its certificated area.~~

~~(2) This line extension policy shall have uniform application and shall provide the proportion of construction expense to be borne by the utility in serving the immediate applicant shall be not less than five times the annual exchange revenue of the applicants.~~

~~(3) If the cost which the servicing utility must bear under subsection (2) above (or has provided in its tariff) equals or exceeds the estimated cost of the proposed extension, the utility shall construct it without cost to the subscribers initially served. If the estimated cost of the proposed extension exceeds the amount which the utility is required to bear, the excess cost may be distributed equitably among all subscribers initially served by the extension. However, no portion of construction shall be assessed to the applicant for the provision of new plant where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is to be used to serve subscribers in general except in those instances where the applicant requests that facilities be constructed by other than the normal serving method.~~

~~The company's tariffs shall provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of five years or such lesser period as the subscriber and company may mutually agree upon.~~

~~(4) Line extension tariffs shall also contain provisions designed to require that all subscribers served by a line extension during the first five years after it is constructed shall pay their pro rata share of the costs assignable to them.~~

~~(5) No company shall be required to extend facilities for new service unless the right of way necessary for the construction of line extension is provided by the applicant or group of applicants. Where pole attachments may be made in lieu of new construction costs, the company may charge the subscriber the expense or rental charges for such attachments, provided that the applicant may elect to pay excess construction costs as though the service were provided without the use of attachments.~~

~~(6) Except as provided in filed tariffs, the ownership of all facilities constructed as herein provided shall be vested in the telecommunications company and no portion of the expense assessed against the applicant shall be refundable by the company.~~

~~(7) Nothing in this rule shall be construed as prohibiting any utility from establishing an extension policy more favorable to customers as long as no undue discrimination is practiced between customers under the same or substantially the same circumstances and conditions.~~

~~(8) In the event that a company and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review.~~

Specific Authority 350.127(2), 364.10 FS. Law Implemented 364.025, 364.03, 364.07, 364.08, 364.15 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.67, Amended 3-10-96,
Repealed.

25-4.071 Adequacy of Service.

~~(1) Each telecommunications company shall provide switching equipment, trunking, and associated facilities within its operating territory for the handling of local and toll traffic, designed and engineered on the basis of realistic forecasts of growth so that during the average busy season busy hour at least 97 percent of all calls offered to any trunk group (toll connecting, inter office, extended area service) shall not encounter an all-trunk busy condition.~~

(12) Telephone calls to valid numbers ~~shall~~ should encounter a ring-back tone, line busy signal, or non-working number intercept facility (~~operator or recording~~) after completion of dialing. ~~The call completion standards established for such calls by category of call is as follows:~~

- ~~(a) Intra-office Calls—95 percent,~~
- ~~(b) Inter-office Calls—95 percent,~~
- ~~(c) Extended Area Calls—95 percent, and~~
- ~~(d) Intra-LATA DDD Calls—95 percent.~~

~~(3) All telephone calls to invalid telephone numbers shall encounter an operator or suitable recorded intercept facility, preferably a recording other than the non-working number recording used for valid number calls.~~

~~(4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C.~~

(25) A line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks, or equipment where the quantity is controlled by the customer is in use.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.17, 364.18, 364.183, 364.19, 364.386 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.71, Amended 6-24-90, 3-10-96.

25-4.074 Intercept Service.

~~(1) Intercept service shall be engineered to provide a 90 percent completion for changed numbers (with the exception of the 30-day period immediately following an inter-office transfer with directory) and for vacant or non-working numbers.~~

~~(2) Subscriber lines which are temporarily disconnected for nonpayment of bills shall be placed on intercept (preferably operator intercept).~~

~~(3) All private branch exchanges and In-Dial Paging Systems, whether provided by the company or customer and which are equipped for direct in-dialing and installed after the effective date of these rules, shall meet the service requirements outlined herein prior to the assignment of a number block by the telephone company.~~

~~(1)(4) With the exception of nN~~Numbers that are changed coincident with the issuance of a new directory, are not subject to the requirements of this rule. intercept service shall be provided by each telephone company in accordance with the following:

(2a) Intercept service shall be provided for non-working, non assigned, and changed numbers until assigned, re-assigned, or no longer listed in the directory.

(3) Subscriber lines which are temporarily disconnected for nonpayment of bills shall be placed on intercept.

(4) Intercept service shall be provided for calls to invalid numbers.

(5b) Any 7 digit number (or other number serving a public safety or other emergency agency) when replaced by the universal emergency number "911" shall be intercepted by either a telecommunications company assistance or a public safety agency operator or special recorded announcement for at least one year or until the next directory issue. Also, intercept service or alternative routing to a default number shall be provided for the universal emergency telephone number "911" shall be provided in central offices where the number is inoperable. The intercept service may be automated with a message indicating the "911" emergency number is inoperable in that area and to consult the directory for the appropriate emergency number or if a directory is not available to dial operator for assistance.

Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.03, 364.051 FS. History—New 12-1-68, Amended 3-31-76, Formerly 25-4.74, Amended 3-10-96.

25-4.107 Information to Residential Customers; Installment Plan.

~~(1) Each company shall provide such information and assistance as is reasonable to assist any customer or applicant in obtaining telephone service adequate to his communications needs. At the time of initial contact, each local exchange telecommunications company shall advise the person applying for or inquiring about residential or single line business service of the rate for the least expensive one party basic local exchange telephone service available to him unless he requests specific equipment or services. At the time of initial contact, e~~Each company shall inform all persons applying for residential service of the availability of the company's installment plan for the payment of service connection charges. ~~The information will be provided at the time of initial contact and shall include, but not be limited to, information on rate amounts and installment time periods and procedures.~~ Each company shall permit residential customers to pay service connection charges in equal monthly installments over a period of at least 3 months. A company may charge a monthly service fee of \$1.00 to applicants who elect to pay the service connection charge in installments.

(2) Upon customer request, the person shall also be given an 800 number to call to receive information on the "No Sales Solicitation" list offered through the Department of Agriculture and Consumer Services, Division of Consumer Services.

(3) In any discussion of enhanced or optional services, each service shall be identified specifically, and the price of each service shall be given. ~~Such person shall also be informed of the availability of and rates for local measured service, if offered in his exchange. Local exchange telecommunications companies shall submit copies of the information provided to customer service representatives to the Division of Competitive Competitive Markets and Enforcement for prior approval.~~

~~(2) At the earliest time practicable, the company shall provide to that customer the billing cycle and approximate date he may expect to receive his monthly billing.~~

(4) This rule shall apply to residential service only.

Specific Authority 350.127(2), 364.14(2) FS. Law Implemented 364.025, 364.0252, 364.03, 364.04, 364.051, 364.15, 350.127 FS. History—New 7-5-79, Amended 11-30-86, 11-28-89, 3-31-91, 10-30-91.

25-4.108 Initiation of Service.

~~Any applicant for telephone service may be required to make application in writing in accordance with standard practices and forms prescribed by the utility, provided that the policy adopted by the utility for the initiation of service shall have uniform application and shall be set forth in its filed tariff. Such application shall be considered as notice to the utility that the applicant desires service and upon compliance by the applicant with such other provisions governing utility service as may be in effect, the utility shall undertake to initiate service without unreasonable delay. Each company shall permit residential customers to pay service connection charges in equal monthly installments over a period of at least 3 months. A company may charge a monthly service fee of \$1.00 to applicants who elect to pay the service connection charge in installments.~~

Specific Authority 350.127(2), 364.14(2) FS. Law Implemented 364.025, 364.03, 364.04, 364.051, 364.08, 364.15 FS. History—New 12-1-68, Amended 10-30-91, Repealed _____.

25-4.109 Residential Customer Deposits.

(1) Deposit required; establishment of credit. Each local exchange company's (LEC) tariff shall contain their specific criteria for determining the amount of initial deposit. Each LEC may require an applicant for service to satisfactorily establish credit, but such establishment of

credit shall not relieve the customer from complying with the company's rules for prompt payment of bills. Credit will be deemed so established if:

(a) The applicant for service has been a customer of any LEC within the last two years and during the last twelve (12) consecutive months of service did not have more than one occasion in which a bill was paid after becoming delinquent and has never had service disconnected for non-payment.

(b) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requested. A satisfactory guarantor shall, at the minimum, be a customer of the company with a satisfactory payment record. A guarantor's liability shall be terminated when a residential customer whose payment of bills is secured by the guarantor meets the requirements of subsection (4) of this rule. Guarantors providing security for payment of residential customers' bills shall only be liable for bills contracted at the service address contained in the contract of guaranty.

(c) The applicant pays a cash deposit.

(d) The applicant for service furnishes an irrevocable letter of credit from a bank or a surety bond.

(2) Amount of deposit. The amount of the initial required deposit shall not exceed an amount equal to the charges for one month's local exchange service plus two months estimated toll service provided by or billed by the LEC. If, after ninety (90) days service, the actual deposit is found to be greater than an amount equal to one month's local service plus two months actual average toll service provided by or billed by the LEC, the company shall, upon demand of the subscriber to the Company, promptly refund the difference. These deposit rules apply to local exchange service and toll service provided by or billed by the LEC only and do not apply to

special arrangement agreements covering termination equipment installations for which the telephone company may require a reasonable deposit.

(3) New or additional deposits. A company may require upon reasonable written notice of not less than 15 days, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills. Provided, however, that the total amount of required deposit should not exceed twice the actual average monthly toll provided by or billed by the LEC plus one month's local service charge, for the 90-day period immediately prior to the date of notice. In the event the customer has had service less than 90 days, then the company shall base its new or additional deposit upon the actual average monthly billing available. ~~When the company has a good reason to believe payment by a nonresidential customer is in jeopardy and toll usage provided by or billed by the LEC is significantly above normal for that customer, the company may request a new or additional deposit. If the deposit requested is not paid within 48 hours, the company may discontinue service.~~

(4) Refund of deposit. After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the company shall refund the residential customer's deposits and shall, at its option, either refund or pay the higher rate of interest ~~specified below for nonresidential deposits~~, providing the customer has not, in the preceding 12 months:

- (a) Made more than one late payment of a bill (after the expiration of 15 days from the date of mailing or delivery by the company);
- (b) Paid with a check refused by a bank;
- (c) Been disconnected for nonpayment, or at any time; and
- (d) Used service in a fraudulent or unauthorized manner.

(5) Interest on deposit.

(a) Each telephone company which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. ~~The company shall pay an interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under subsection (4) when the utility elects not to refund such deposit after 23 months.~~

(b) The deposit interest shall be simple interest in all cases and settlement shall be made annually, either in cash or by credit on the current bill. This does not prohibit any company paying a higher rate of interest than required by this rule. No customer depositor shall be entitled to receive interest on their deposit until and unless a customer relationship and the deposit have been in existence for a continuous period of six months. Then he or she shall be entitled to receive interest from the day of the commencement of the customer relationship and the placement of deposit. Nothing in this rule shall prohibit a company from refunding at any time a deposit with an accrued interest.

(6) Record of deposits. Each company having on hand deposits from customers or hereafter receiving deposits from them shall keep records to show:

(a) The name of each customer making the deposit;

(b) The premises occupied by the customer when the deposit was made;

(c) The date and amount of deposit; and

(d) Each transaction concerning the deposit such as interest payment, interest credited or similar transactions.

(7) Receipt for deposit. A non-transferable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost. The deposit receipt shall contain notice that after ninety (90) days service, the subscriber is

entitled to refunds of any deposit over and above an amount equal to one month's local service plus two months' average toll service provided by or billed by the LEC.

(8) Refund of deposit when service is discontinued. Upon termination of service, the deposit and accrued interest may be credited against the final account of the LEC and the balance, if any, shall be returned promptly to the customer but in no event later than forty-five (45) days after service is discontinued.

(9) This rule shall apply to residential service only.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.07, 364.19 FS. History—New 12-1-68, Amended 4-1-69, 7-20-73, 3-31-76, 6-10-80, 9-16-80, 1-31-84, 10-13-88, 8-29-89, 4-25-94.