

NOTICE OF PROPOSED RULE DEVELOPMENT

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 990994-TP - Proposed Amendments to Rule 25-4.110, F.A.C., Customer Billing for Local Exchange Telecommunication Companies

RULE TITLE:	RULE NO.:
Definitions	25-4.003
Customer Billing for Local Exchange Telecommunication Companies	25-4.110
Refusal or Discontinuance of Service by Company	25-4.113
Refunds	25-4.114
Information Services	25-4.119

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 DEPARTMENT OF STATE
 TALLAHASSEE, FLORIDA

PURPOSE AND EFFECT: The purpose of the proposed rule is to require companies to follow prescribed procedures when providing information services. The proposed amendments prescribe billing information to be included on a customer's bill to inform the customer of the services received and the charges associated with the services. The proposed amendments provide for refund procedures when a company overcharges a customer and guidelines for Lifeline service disconnection. The purpose of these changes is to give the customer control over what may be charged on the customer's bill. The effect of the propose amendments is to generate clear bills that customers understand, provide the customer with control over the charges on the customer's bill, and to provide the customer with adequate information to make informed choices about the services he chooses.

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- APP _____
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FPSC-RECORDS/REPORTING

SUBJECT AREA TO BE ADDRESSED: The proposed amendments address information contained in customer bills, options to block certain billing, and sales disclosure requirements.

SPECIFIC AUTHORITY: 350.127(2), 364.604(5), 427.708(8) FS.

LAW IMPLEMENTED: 364.03, 364.04, 364.05, 364.055, 364.07, 364.08, 364.113, 364.14, 364.15, 364.17, 364.19, 364.337, 364.602, 364.603, 364.604, 427.704 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., September 28, 1999

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

Comments to the proposed amendments are requested and should be submitted in writing and received by the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 by September 13, 1999.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least 48 hours 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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ray Kennedy, Division of Communications, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-4.003 Definitions.

For the purpose of Chapter 25-4, the definitions to the following terms apply:

(1) - (3) No Change.

(4) "Billing Party." Any telecommunications company that bills an end user consumer on its own behalf or on behalf of an originating party.

~~(45)~~ (4) - (17) renumbered as (5) - (18).

(19) "Information Service." Telephone calls made to 900 or 976 type services, but does not include Internet services.

~~(1920)~~ (18) - (37) renumbered as (20) - (39).

(40) "Originating Party." Any person, firm, corporation, or other entity, including a telecommunications company or a billing clearinghouse, that provides any telecommunications service or information service to a customer or bills a customer through a billing party, except the term "originating party" does not include any entity specifically exempted from the definition of "telecommunications company" as provided in s. 364.02(12).

~~(3841)~~ (38) - (56) renumbered as (41) - (59).

Specific Authority 350.127(2) FS.

Law Implemented 364.01, 364.02, 364.32, 364.335, 364.337, 364.3375, 364.3376 FS.

History--Revised 12-01-68, Amended 03-31-76, formerly 25-4.03, Amended 02-23-87, 03-04-92, 12-21-93, 03-10-96, 07-20-98, 12-28-98, 02-01-99,_____.

25-4.110 Customer Billing for Local Exchange Telecommunications Companies.

(1) Each company shall issue bills monthly.

(2) Each billing party shall set forth on the bill all charges, fees, and taxes which are due and payable.

(a) There shall be a heading for each originating party which is billing to that customer account, for that billing period. The heading shall provide the originating party's name and toll-free customer service number. If the originating party is a certificated telecommunications company, the certificated name must be shown. Any originating party not appearing on the previous bill for that customer account must be denoted in conspicuous bold face type.

(b) Each charge shall be described under the applicable originating party heading.

(c) 1. Taxes, fees, and surcharges must be shown immediately below the following distinct subheadings under each originating party heading:

a. Taxes and Fees for Florida Regulated Service;

b. Taxes, Fees, and Surcharges for Federal Regulated Service;

and

c. Taxes, Fees, and Surcharges for Nonregulated Service.

2. Taxes and Fees for Florida Regulated Services must use the following standard terminology:

a. County Franchise Fees;

b. Municipal Franchise Fees;

c. County Local Option Sales Tax;

d. County Utility Tax;

e. Municipal Utility Tax;

f. Florida Gross Receipts Tax; and

g. Florida Sales Tax.

3. The terminology for Federal Regulated Service Taxes, Fees, and Surcharges must be consistent with FCC terminology. If the FCC has not developed standard terminology, then the following terms must be used:

a. Federal Long Distance Access Fee;

b. Federal Universal Service Fee;

c. Federal Number Portability Fee;

d. Federal Excise Tax

~~(d) Each bill shall show the delinquent date, set forth a clear listing of all charges due and payable, and contain the following statement:~~

"Written itemization of local billing available upon request."

4. Taxes, Fees, and Surcharges for Nonregulated Service must use the following standard terminology:

a. Florida Sales Tax

b. Federal Excise Tax

~~(a) (a) - (8.) renumbered as (3) - (4) (h).~~

(i) State, federal, or local authority for each tax, fee, and surcharge; and

(j) The line items which comprise the assessment base for each percentage based tax, fee, and surcharge.

~~(e) (5) Each Any bill rendered by a local exchange company shall+~~

~~1. Separately state the following items:~~

~~a. (a) Any discount or penalty, if applicable;~~

~~b. (b) Past due balance;~~

~~e.~~ (c) Unregulated charges, identified as unregulated;
~~d.~~ (d) Long-distance monthly or minimum charges, if included in the bill;

~~e.~~ (e) ~~Franchise fee, if applicable, and~~ Long-distance usage charges, if included in the bill;

~~f.~~ (f) ~~Taxes, as applicable on purchases of local and long distance service, and~~ Usage-based local charges, if included in the bill;

(g) Telecommunications Access System Surcharge, per Rule 25-4.160(3);

(h) "911" fee per Section 365.171(13), Florida Statutes;

(i) Assessment base and rate for each percentage based tax, fee, and surcharge;

(j) Delinquent date; and

(k) A statement that free blocking of Information Services is available upon request.

~~2.~~ (1) ~~Contain a~~ A statement that "your local service may not be disconnected if you pay _____." The amount that must be paid to avoid nonpayment of regulated charges may result in discontinuance of service and that the customer may contact the business office (at a stated number) to determine the amount of regulated charges in the bill must be calculated in accordance with Rule 25-4.113.

~~(2)~~ (6) (2) - (9) renumbered as (6) - (13).

~~(10)~~ (14) ~~After January 1, 1999, or six months after the effective date of this rule, whichever is later, a~~ All bills produced shall clearly and conspicuously display the following

information for each service billed in regard to each company claiming to be the customer's presubscribed provider for local, local toll, or toll service:

(a) - (c) No Change.

~~(11) This section applies to LECs that provide transmission services or bill and collect on behalf of Pay Per Call providers. Pay Per Call services are defined as switched telecommunications services between locations within the State of Florida which permit communications between an end use customer and an information provider's program at a per call charge to the end user/customer. Pay Per Call services include 976 services provided by the LECs and 900 services provided by interexchange carriers.~~

~~(a) Charges for Pay Per Call service (900 or 976) shall be segregated from charges for regular long distance or local charges by appearing separately under a heading that reads as follows: "Pay Per Call (900 or 976) nonregulated charges." The following information shall be clearly and conspicuously disclosed on each section of the bill containing Pay Per Call service (900 or 976) charges:~~

~~1. Nonpayment of Pay Per Call service (900 or 976) charges will not result in disconnection of local service;~~

~~2. End users/customers can obtain free blocking of Pay Per Call service (900 or 976) from the LEC;~~

~~3. The local or toll free number the end user/customer can call to dispute charges;~~

~~4. The name of the IXC providing 900 service; and~~

~~5. The Pay Per Call service (900 or 976) program name.~~

~~_____ (b) Pay Per Call Service (900 and 976) Billing. LECs and IXC~~
~~who have a tariff or contractual relationship with a Pay Per Call~~
~~(900 or 976) provider shall not provide Pay Per Call transmission~~
~~service or billing services, unless the provider does each of the~~
~~following:~~

~~_____ 1. Provides a preamble to the program which states the per~~
~~minute and total minimum charges for the Pay Per Call service (900~~
~~and 976); child's parental notification requirement is announced on~~
~~preambles for all programs where there is a potential for minors to~~
~~be attracted to the program; child's parental notification~~
~~requirement in any preamble to a program targeted to children must~~
~~be in language easily understandable to children; and programs that~~
~~do not exceed \$3.00 in total charges may omit the preamble, except~~
~~as provided in Section (11) (b)3.;~~

~~_____ 2. Provides an 18 second billing grace period in which the end~~
~~user/customer can disconnect the call without incurring a charge;~~
~~from the time the call is answered at the Pay Per Call provider's~~
~~premises, the preamble message must be no longer than 15 seconds.~~
~~The program may allow an end user/customer to affirmatively bypass~~
~~a preamble;~~

~~_____ 3. Provides on each program promotion targeted at children~~
~~(defined as younger than 18 years of age) clear and conspicuous~~
~~notification, in language understandable to children, of the~~
~~requirement to obtain parental permission before placing or~~
~~continuing with the call. The parental consent notification shall~~
~~appear prominently in all advertising and promotional materials,~~
~~and in the program preamble. Children's programs shall not have~~

~~rates in excess of \$5.00 per call and shall not include the enticement of a gift or premium;~~

~~4. Promotes its services without the use of an autodialer or broadcasting of tones that dial a Pay Per Call (900 and 976) number;~~

~~5. Prominently discloses the additional cost per minute or per call for any other telephone number that an end user/customer is referred to either directly or indirectly;~~

~~6. In all advertising and promotional materials, displays charges immediately above, below, or next to the Pay Per Call number, in type size that can be seen as clearly and conspicuously at a glance as the Pay Per Call number. Broadcast television advertising charges, in Arabic numerals, must be shown on the screen for the same duration as the Pay Per Call number is shown, each time the Pay Per Call number is shown. Oral representations shall be equally as clear;~~

~~7. Provides on Pay Per Call services that involve sales of products or merchandise clear preamble notification of the price that will be incurred if the end user/customer stays on the line, and a local or toll free number for consumer complaints; and~~

~~8. Meets internal standards established by the LEC or IXC as defined in the applicable tariffs or contractual agreement between the LEC and the IXC; or between the LEC/IXC and the Pay Per Call (900 or 976) provider which when violated, would result in the termination of a transmission or billing arrangement.~~

~~(c) Pay Per Call (900 and 976) Blocking. Each LEC shall provide blocking where technically feasible of Pay Per Call service~~

~~(900 and 976), at the request of the end user/customer at no charge. Each LEC or IXC must implement a bill adjustment tracking system to aid its efforts in adjusting and sustaining Pay Per Call charges. The LEC or IXC will adjust the first bill containing Pay Per Call charges upon the end user's/ customer's stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will be made if necessary to reflect calls billed in the following month which were placed prior to the Pay Per Call service inquiry. At the time the charge is removed, the end user/customer may agree to free blocking of Pay Per Call service (900 and 976).~~

~~(d) Dispute resolution for Pay Per Call service (900 and 976). Charges for Pay Per Call service (900 and 976) shall be automatically adjusted upon complaint that:~~

~~1. The end user/customer did not receive a price advertisement, the price of the call was misrepresented to the consumer, or the price advertisement received by the consumer was false, misleading, or deceptive;~~

~~2. The end user/customer was misled, deceived, or confused by the Pay Per Call (900 or 976) advertisement;~~

~~3. The Pay Per Call (900 or 976) program was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the end user/customer was disconnected or cut off from the service;~~

~~4. The Pay Per Call (900 and/or 976) service provided out of date information; or~~

~~5. The end user/customer terminated the call during the~~

~~preamble described in 25 4.110(11)(b)2., but was charged for the Pay Per Call service (900 or 976).~~

~~(e) If the end user/customer refuses to pay a disputed Pay Per Call service (900 or 976) charge which is subsequently determined by the LEC to be valid, the LEC or IXC may implement Pay Per Call (900 and 976) blocking on that line.~~

~~(f) Credit and Collection. LECs and IXCs billing Pay Per Call (900 and 976) charges to an end user/customer in Florida shall not:~~

~~1. Collect or attempt to collect Pay Per Call service (900 or 976) charges which are being disputed or which have been removed from an end user's/customer's bill; or~~

~~2. Report the end user/customer to a credit bureau or collection agency solely for non payment of Pay Per Call (900 or 976) charges.~~

~~(g) LECs and IXCs billing Pay Per Call service (900 and 976) charges to end users/customers in Florida shall implement safeguards to prevent the disconnection of phone service for non payment of Pay Per Call (900 or 976) charges.~~

~~(12) (15) The customer must be notified via letter or on the customer's first bill and annually thereafter that a PC Freeze is available. Existing customers must be notified by January 1, 1999, or six months after the effective date of this rule, whichever is later, and annually thereafter that a PC Freeze is available.~~

~~(13) (16) By January 1, 1999, or six months after the effective date of this rule, whichever is later, tThe customer must be given notice on the first or second page of the customer's next bill in conspicuous bold face type when the customer's provider of~~

local, local toll, or toll service has changed.

Specific Authority 350.127, 364.604(5) FS.

Law Implemented 364.17, 350.113, 364.03, 364.04, 364.05, 364.19, 364.602, 364.604 FS.

History--New 12-01-68, Amended 03-31-76, 12-31-78, 01-17-79, 07-28-81, 09-08-81, 05-03-82, 11-21-82, 04-13-86, 10-30-86, 11-28-89, 03-31-91, 11-11-91, 03-10-96, 07-20-97, 12/28/98, _____.

25-4.113 Refusal or Discontinuance of Service by Company.

(1) (a) - (e) No Change.

(f) For nonpayment of bills for telephone service, including the telecommunications access system surcharge referred to in Rule 25-4.160(3), provided that suspension or termination of service shall not be made without 5 working days' written notice to the customer, except in extreme cases. The written notice shall be separate and apart from the regular monthly bill for service. A company shall not, however, refuse or discontinue service for nonpayment of a dishonored check service charge imposed by the company, nor discontinue a customer's Lifeline service if the charges, taxes, and fees applicable to dial tone, local usage, dual tone multifrequency dialing, emergency services such as "911," and relay service are paid. No company shall discontinue service to any customer for the initial nonpayment of the current bill on a day the company's business office is closed or on a day preceding a day the business office is closed.

(g) - (5) No Change.

Specific Authority 350.127, 427.704(8), FS.

Law Implemented 364.03, 364.19, 427.704 F.S.

History--New 08/01/55, Amended 12/01/68, 03/31/76, 10/25/84,
10/30/86, 01/01/91, 09/17/92, 01/11/93, 01/25/95,_____.

25-4.114 Refunds.

(1) - (8) No Change.

(9) Where any overcharge in billing is the result of a company mistake, the company shall refund any such overcharges in accordance with 25-4.114(4) and 25-4.114(5).

Specific Authority 350.127(2), 364.604(5) FS.

Law Implemented 364.05(4), 364.055(2), 364.07, 364.08, 364.19,
364.604 FS.

History--New 08/17/83,_____.

25-4.119 Information Services.

(1) This section applies to LECs that provide transmission services to any originating party that provides Information Services, provide Information Services and serve as the billing party on its own behalf, or serve as the billing party on behalf of any originating party that provides Information Services. Billing requirements for Information Services are provided in 25-4.110(1)(c).

(2) LECs who have a tariff or contractual relationship with an originating party or its agent shall not provide transmission services or billing services, unless the originating party does each of the following:

(a) Provides a preamble to the Information Service which states the per minute and total minimum charges; child's parental notification requirement is announced on preambles for all Information Services where there is a potential for minors to be

attracted to the service; child's parental notification requirement in any preamble to an Information Service targeted to children must be in language easily understandable to children; and Information Services that do not exceed \$3.00 in total charges may omit the preamble, except as provided in Section (2)(c);

(b) Provides an 18-second billing grace period in which the customer can disconnect the Information Service without incurring a charge; from the time the Information Service is initiated at the originating party's premises, the preamble message must be no longer than 15 seconds. The Information Service may allow a customer to affirmatively bypass a preamble;

(c) Provides on each Information Service promotion targeted at children (defined as younger than 18 years of age) clear and conspicuous notification, in language understandable to children, of the requirement to obtain parental permission before placing or continuing with the call. The parental consent notification shall appear prominently in all advertising and promotional materials, and in the Information Service preamble. Children's Information Services shall not have rates in excess of \$5.00 per call and shall not include the enticement of a gift or premium;

(d) Promotes its Information Services without the use of an auto-dialer or broadcasting of tones that dial an Information Services number;

(e) Prominently discloses the additional cost per minute or per call for any other telephone number that a customer is referred to either directly or indirectly;

(f) In all advertising and promotional materials, displays

charges immediately above, below, or next to the Information Service number, in type size that can be seen as clearly and conspicuously at a glance as the Information Service number. Broadcast television advertising charges, in Arabic numerals, must be shown on the screen for the same duration as the Information Service number is shown, each time the Information Service number is shown. Oral representations shall be equally as clear;

(g) Provides on Information Services that involve sales of products or merchandise clear preamble notification of the price that will be incurred if the customer stays on the line;

(h) Meets internal standards established by the LEC as defined in the applicable tariffs or contractual agreement between the LEC and the originating party or its agent, which when violated, would result in the termination of a transmission or billing arrangement;

(i) Obtains customer authorization, to provide and charge for Information Services, through the use of an independent third party verifier. The originating party must:

1. Utilize an independent third party verifier that is in a physically separate building from the originating party;

2. Not pay commissions, bonus incentives, or any compensation to the third party verifier for the number of sales made;

3. Require third party verifiers to state at the beginning of a call to a prospective customer that they are the third-party verifier, state the name of the originating party and Information Service for which the verification is being conducted, and state that the purpose of the call is to verify the authorization of services and charges;

4. Require third party verifiers to record the conversation between the verifier and the customer and retain the recording for a minimum of one year from the date the recording was made; and

5. Require the third party verifier to identify that the person they are speaking with is authorized to make decisions on behalf of the account and to obtain identification information such as the last four digits of the social security number, date of birth, or mother's maiden name.

(j) Maintain or use an agent that maintains a toll-free customer service number for accepting complaints regarding unauthorized Information Services charges. The toll-free number may be separate from its other customer service numbers, and must be answered 24 hours a day, seven days a week. The originating party or its agent must notify new customers of the toll-free customer service number in the information package provided to new customers or on their first bill. The number shall provide a live operator or shall record end user complaints made to the customer service number to answer incoming calls. A combination of live operators and recorders may be used. If a recorder is used, the originating party or its agent shall attempt to contact each complainant no later than the next business day following the date of recording and for three subsequent days unless the customer is reached. If the customer is not reached, the originating party or its agent shall send a letter to the customer's billing address informing the customer as to the best time the customer should call or provide an address to which correspondence should be sent. A minimum of 95 percent of all call attempts shall be transferred by the system to

a live attendant or recording device prepared to give immediate assistance within 60 seconds after the last digit of the telephone number listed as the customer service number for unauthorized charges complaints was dialed; provided that if the call is completed within 15 seconds to an interactive, menu-driven, voice response unit, the 60-second answer time shall be measured from the point at which the customer selects a menu option to be connected to a live attendant. Station busies will not be counted as completed calls. The term "answer" as used in this subsection means more than an acknowledgment that the customer is waiting on the line. It shall mean the originating party or its agent is ready to render assistance or accept the information necessary to process the call.

(3) Customers shall not be liable for any charges for Information Services that the customer did not order or that were not provided to the customer. Each subscriber shall have the option to be billed only for regulated telecommunications products and services. Each LEC shall provide blocking of Information Services at the request of the customer at no charge. The telephone numbers of subscribers electing this option shall be made available by the LEC to the LEC's billing and collection contract customers. Each LEC must implement a bill adjustment tracking system to aid its efforts in adjusting and sustaining Information Services charges.

(4) The LEC shall automatically adjust charges for Information Services upon complaint that:

(a) The customer claims no knowledge of the charges or what the charges were for;

(b) The customer did not receive a price advertisement, the price of the Information Service was misrepresented to the customer, or the price advertisement received by the customer was false, misleading, or deceptive;

(c) The customer was misled, deceived, or confused by the Information Services advertisement;

(d) The customer claims the Information Service was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the customer was disconnected or cut off from the Information Service;

(e) The Information Service provided out-of-date information;
or

(f) The customer terminated the Information Service during the preamble described in 25-4.119(2)(b), but was charged for the Information Service.

(5) If the customer refuses to pay a disputed Information Service charge which is subsequently verified by the LEC to be valid, the LEC may implement Information Services blocking for that line.

(6) LECs and originating parties or its agents billing Information Service charges to a customer in Florida shall not:

(a) Collect or attempt to collect Information Service charges which are being disputed or which have been removed from a customer's bill; or

(b) Report the customer to a credit bureau or collection agency solely for non-payment of Information Service charges.

(7) LECs billing Information Services charges to customers in

Florida shall implement safeguards to prevent the disconnection of phone service for non-payment of Information Service charges.

(8) The originating party is responsible for resolving the customer's complaint by determining the validity of the charges. The originating party must notify the customer and the LEC with its findings within 45 days from the date the customer originally filed the complaint. The LEC can not require payment from the customer if the originating party is not able to produce evidence that an Information Service charge is valid. Acceptable evidence is a taped recording of an independent third party verification of the customer, or other authorized person representing the customer's account, authorizing the Information Service. For the purposes of this section, the term "other authorized person" shall mean a person 18 years of age or older within the same household as the account holder.

(9) The LEC shall ensure that originating parties' Information Service that results in charges based on the duration of a call, shall be billed in units of time or if not time, units that can be easily understood by the customer for the purpose of validating the charges billed for the service.

Specific Authority 350.127 FS.

Law Implemented _____.

History--New _____.