

ORIGINAL

DOCKET NO. 030415-TP

CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

/X/ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

/X/ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

/X/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

/X/ (a) Are filed not more than 90 days after the notice;
or

/ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending;
or

/ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

/ (d) Are filed more than 90 days after the notice, but

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
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SEC I _____
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DOCUMENT # 030415-TP-001

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FPSC-COMMISSION CLERK

not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

 / (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

 / (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

 / (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

 / (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

 / (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

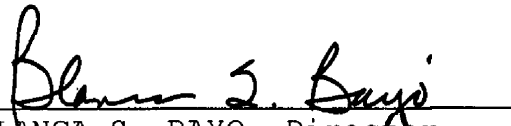
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-4.110

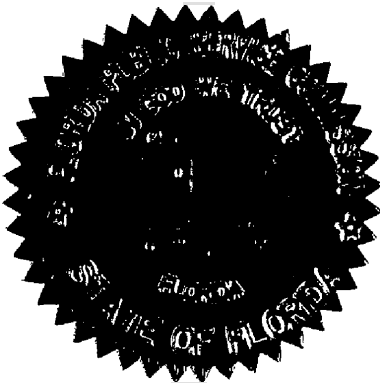
Under the provision of subparagraph 120.54(3)(e)6., F.S.,
the rules take effect 20 days from the date filed with the
Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



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

Number of Pages Certified



SMC

1 25-4.110 Customer Billing for Local Exchange Telecommunications
2 Companies.

3 (1) Each company shall issue bills monthly or may offer
4 customers a choice of billing intervals that includes a monthly
5 billing interval.

6 (2) ~~Each Six months after the effective date of this rule,~~
7 ~~each~~ billing party shall set forth on the bill all charges, fees,
8 and taxes which are due and payable.

9 (a) There shall be a heading for each originating party which
10 is billing to that customer account for that billing period. The
11 heading shall clearly and conspicuously indicate the originating
12 party's name. If the originating party is a certificated
13 telecommunications company, the certificated name must be shown.
14 If the originating party has more than one certificated name, the
15 name appearing in the heading must be the name used to market the
16 service.

17 (b) The toll-free customer service number for the service
18 provider or its customer service agent must be conspicuously
19 displayed in the heading, immediately below the heading, or
20 immediately following the list of charges for the service provider.
21 For purposes of this subparagraph, the service provider is defined
22 as the company which provided the service to the end user. If the
23 service provider has a customer service agent, the toll-free number
24 must be that of the customer service agent and must be displayed
25 with the service provider's heading or with the customer service

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1 agent's heading, if any. For purposes of this subparagraph, a
2 customer service agent is a person or entity that acts for any
3 originating party pursuant to the terms of a written agreement.
4 The scope of such agency shall be limited to the terms of such
5 written agreement.

6 (c) Each charge shall be described under the applicable
7 originating party heading.

8 (d) 1. Taxes, fees, and surcharges related to an originating
9 party heading shall be shown immediately below the charges
10 described under that heading. The terminology for Federal
11 Regulated Service Taxes, Fees, and Surcharges must be consistent
12 with all FCC required terminology.

13 2. The billing party shall either:

14 a. Identify Florida taxes and fees applicable to charges on
15 the customer's bill ~~as (including but not limited to) "Florida~~
16 ~~gross receipts tax," "Franchise fees," "Municipal utility tax," and~~
17 ~~"Sales tax,"~~ and identify the assessment base and rate for each
18 percentage based tax, fee, and surcharge, or

19 b. (i) Provide a plain language explanation of any line item
20 and applicable tax, fee, and surcharge to any customer who contacts
21 the billing party or customer service agent with a billing question
22 and expresses difficulty in understanding the bill after discussion
23 with a service representative.

24 (ii) If the customer requests or continues to express
25 difficulty in understanding the explanation of the authority,

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1 assessment base or rate of any tax, fee or surcharge, the billing
2 party shall provide an explanation of the state, federal, or local
3 authority for each tax, fee, and surcharge; the line items which
4 comprise the assessment base for each percentage based tax, fee,
5 and surcharge; or the rate of each state, federal, or local tax,
6 fee, and surcharge consistent with the customer's concern. The
7 billing party or customer service agent shall provide this
8 information to the customer in writing upon the customer's request.

9 (e) If each recurring charge due and payable is not itemized,
10 each bill shall contain the following statement:

11 "Further written itemization of local billing available upon
12 request."

13 (3) Each LEC shall provide an itemized bill for local
14 service:

15 (a) With the first bill rendered after local exchange service
16 to a customer is initiated or changed; and

17 (b) To every customer at least once each twelve months.

18 (4) The annual itemized bill shall be accompanied by a bill
19 stuffer which explains the itemization and advises the customer to
20 verify the items and charges on the itemized bill. This bill
21 stuffer shall be submitted to the Commission's Division of
22 Competitive Markets and Enforcement Telecommunications for prior
23 approval. The itemized bill provided to residential customers and
24 to business customers with less than ten access lines per service
25 location shall be in easily understood language. The itemized bill

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1 provided to business customers with ten or more access lines per
2 service location may be stated in service order code, provided that
3 it contains a statement that, upon request, an easily understood
4 translation is available in written form without charge. An
5 itemized bill shall include, but not be limited to the following
6 information, separately stated:

- 7 (a) Number and types of access lines;
- 8 (b) Charges for access to the system, by type of line;
- 9 (c) Touch tone service charges;
- 10 (d) Charges for custom calling features, separated by
11 feature;
- 12 (e) Unlisted number charges;
- 13 (f) Local directory assistance charges;
- 14 (g) Other tariff charges;
- 15 (h) Other nontariffed, regulated charges contained in the
16 bill;

17 (5) All bills rendered by a local exchange company shall
18 clearly state the following items:

19 (a) Any discount or penalty. The originating party is
20 responsible for informing the billing party of all such penalties
21 or discounts to appear on the bill, in a form usable by the billing
22 party;

23 (b) Past due balance;

24 (c) Items for which nonpayment will result in disconnection
25 of the customer's basic local service, including a statement of the

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1 | consequences of nonpayment;

2 | (d) Long-distance monthly or minimum charges, if included in

3 | the bill;

4 | (e) Long-distance usage charges, if included in the bill;

5 | (f) Usage-based local charges, if included in the bill;

6 | (g) Telecommunications Access System Surcharge, per Rule 25-

7 | 4.160(3);

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

9 | (i) Delinquent date.

10 | (6) Each company shall make appropriate adjustments or

11 | refunds where the subscriber's service is interrupted by other than

12 | the subscriber's negligent or willful act, and remains out of order

13 | in excess of 24 hours after the subscriber notifies the company of

14 | the interruption. The refund to the subscriber shall be the pro

15 | rata part of the month's charge for the period of days and that

16 | portion of the service and facilities rendered useless or

17 | inoperative; except that the refund shall not be applicable for the

18 | time that the company stands ready to repair the service and the

19 | subscriber does not provide access to the company for such

20 | restoration work. The refund may be accomplished by a credit on a

21 | subsequent bill for telephone service.

22 | (7)(a) Bills shall not be considered delinquent prior to

23 | the expiration of 15 days from the date of mailing or delivery by

24 | the company. However, the company may demand immediate payment

25 | under the following circumstances:

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1 1. Where service is terminated or abandoned;

2 2. Where toll service is two times greater than the
3 subscriber's average usage as reflected on the monthly bills for
4 the three months prior to the current bill, or, in the case of a
5 new customer who has been receiving service for less than four
6 months, where the toll service is twice the estimated monthly toll
7 service; or

8 3. Where the company has reason to believe that a business
9 subscriber is about to go out of business or that bankruptcy is
10 imminent for that subscriber.

11 (b) The demand for immediate payment shall be accompanied by
12 a bill which itemizes the charges for which payment is demanded,
13 or, if the demand is made orally, an itemized bill shall be mailed
14 or delivered to the customer within three days after the demand is
15 made.

16 (c) If the company cannot present an itemized bill, it may
17 present a summarized bill which includes the customer's name and
18 address and the total amount due. However, a customer may refuse
19 to make payment until an itemized bill is presented. The company
20 shall inform the customer that he may refuse payment until an
21 itemized bill is presented.

22 (8) Each telephone company shall include a bill insert
23 advising each subscriber of the directory closing date and of the
24 subscriber's opportunity to correct any error or make changes as
25 the subscriber deems necessary in advance of the closing date. It

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1 shall also state that at no additional charge and upon the request
2 of any residential subscriber, the exchange company shall list an
3 additional first name or initial under the same address, telephone
4 number, and surname of the subscriber. The notice shall be
5 included in the billing cycle closest to 60 days preceding the
6 directory closing date.

7 (9) Annually, each telephone company shall include a bill
8 insert advising each residential subscriber of the option to have
9 the subscriber's name placed on the "No Sales Solicitation" list
10 maintained by the Department of Agriculture and Consumer Services,
11 Division of Consumer Services, and the 800 number to contact to
12 receive more information.

13 (10) Where any undercharge in billing of a customer is the
14 result of a company mistake, the company may not backbill in excess
15 of 12 months. Nor may the company recover in a ratemaking
16 proceeding, any lost revenue which inures to the company's
17 detriment on account of this provision.

18 (11) Local Communications Services Tax ~~Franchise fees and~~
19 ~~municipal telecommunications taxes.~~

20 (a) The Local Communications Services Tax is comprised of the
21 discretionary communications services tax levied by the governing
22 authority of each municipality and county authorized by Chapter
23 202, Florida Statutes.

24 (b~~a~~) When a municipality or county levies charges ~~a company~~
25 ~~any franchise fee, or municipal telecommunications~~ the Local

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1 Communications Services Tax authorized by Chapter 202 Section
2 ~~166.231~~, Florida Statutes, the local exchange company may collect
3 that tax fee only from its subscribers receiving service within
4 that municipality or county. ~~When a county charges a company any~~
5 ~~franchise fee, the company may collect that fee only from its~~
6 ~~subscribers receiving service within that county.~~

7 (cb) A local exchange company may not incorporate any portion
8 of the Local Communications Services Tax ~~franchise fee or municipal~~
9 ~~telecommunications tax~~ into its other rates for service.

10 (c) ~~This subsection shall not be construed as granting a~~
11 ~~municipality or county the authority to charge a franchise fee or~~
12 ~~municipal telecommunications tax. This subsection only specifies~~
13 ~~the method of collection of a franchise fee, if a municipality or~~
14 ~~county, having authority to do so, charges a franchise fee or~~
15 ~~municipal telecommunications tax.~~

16 (12) State Communications Services Tax.

17 (a) The State Communications Services Tax is comprised of
18 ~~When a company elects to add the Gross Receipts Tax imposed by~~
19 Chapter 203, Florida Statutes, the communications services sales
20 tax imposed by Chapter 202, Florida Statutes, and any local option
21 sales tax. ~~onto the customer's bill as a separately stated~~
22 ~~component of that bill, the company must first remove from the~~
23 ~~tariffed rates any embedded provisions for the Gross Receipts Tax.~~

24 (b) A local exchange company may not incorporate any portion
25 of the State Communications Services Tax into its other rates for

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1 service. ~~If the tariffed rates in effect have a provision for~~
2 ~~gross receipts tax, the rates must be reduced by an amount equal to~~
3 ~~the gross receipts tax liability imposed by Chapter 203, Florida~~
4 ~~Statutes, thereby rendering the customer's bill unaffected by the~~
5 ~~election to add the Gross Receipts Tax as a separately stated tax.~~

6 ~~(c) This subsection shall not be construed as a mandate to~~
7 ~~elect to separately state the Gross Receipts Tax. This subsection~~
8 ~~only specifies the method of applying such an election.~~

9 ~~(d) All services sold to another telecommunications vendor,~~
10 ~~provided that the applicable rules of the Department of Revenue are~~
11 ~~satisfied, must be reduced by an amount equal to the gross receipts~~
12 ~~tax liability imposed by Chapter 203, Florida Statutes, unless~~
13 ~~those services have been adjusted by some other Commission action.~~

14 ~~(e) When a nonrate base regulated telecommunications company~~
15 ~~exercises the option of adding the gross receipts tax as a~~
16 ~~separately stated component on the customer's bill then that~~
17 ~~company must file a tariff indicating such.~~

18 (13) Each LEC shall apply partial payment of an end
19 user/customer bill first towards satisfying any unpaid regulated
20 charges. The remaining portion of the payment, if any, shall be
21 applied to nonregulated charges.

22 (14) All bills produced shall clearly and conspicuously
23 display the following information for each service billed in regard
24 to each company claiming to be the customer's presubscribed
25 provider for local, local toll, or toll service:

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1 (a) The name of the certificated company;

2 (b) Type of service provided, i.e., local, local toll, or
3 toll; and

4 (c) A toll-free customer service number.

5 (15) This section applies to LECs that provide transmission
6 services or bill and collect on behalf of Pay Per Call providers.
7 Pay Per Call services are defined as switched telecommunications
8 services between locations within the State of Florida which permit
9 communications between an end use customer and an information
10 provider's program at a per call charge to the end user/customer.
11 Pay Per Call services include 976 services provided by the LECs and
12 900 services provided by interexchange carriers.

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

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

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

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

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

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

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

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

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

23 3. Provides on each program promotion targeted at children
24 (defined as younger than 18 years of age) clear and conspicuous
25 notification, in language understandable to children, of the

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1 requirement to obtain parental permission before placing or
2 continuing with the call. The parental consent notification shall
3 appear prominently in all advertising and promotional materials,
4 and in the program preamble. Children's programs shall not have
5 rates in excess of \$5.00 per call and shall not include the
6 enticement of a gift or premium;

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

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

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

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

25 8. Meets internal standards established by the LEC or IXC as

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1 | defined in the applicable tariffs or contractual agreement between
2 | the LEC and the IXC; or between the LEC/IXC and the Pay Per Call
3 | (900 or 976) provider which when violated, would result in the
4 | termination of a transmission or billing arrangement.

5 | (c) Pay Per Call (900 and 976) Blocking. Each LEC shall
6 | provide blocking where technically feasible of Pay Per Call service
7 | (900 and 976), at the request of the end user/customer at no
8 | charge. Each LEC or IXC must implement a bill adjustment tracking
9 | system to aid its efforts in adjusting and sustaining Pay Per Call
10 | charges. The LEC or IXC will adjust the first bill containing Pay
11 | Per Call charges upon the end user's/customer's stated lack of
12 | knowledge that Pay Per Call service (900 and 976) has a charge. A
13 | second adjustment will be made if necessary to reflect calls billed
14 | in the following month which were placed prior to the Pay Per Call
15 | service inquiry. At the time the charge is removed, the end
16 | user/customer may agree to free blocking of Pay Per Call service
17 | (900 and 976).

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

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

25 | 2. The end user/customer was misled, deceived, or confused

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1 | by the Pay Per Call (900 or 976) advertisement;

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

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

8 | 5. The end user/customer terminated the call during the
9 | preamble described in 25-4.110(11)(b)2., but was charged for the
10 | Pay Per Call service (900 or 976).

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

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

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

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

24 | (g) LECs and IXCs billing Pay Per Call service (900 and 976)
25 | charges to end users/customers in Florida shall implement

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1 safeguards to prevent the disconnection of phone service for
2 non-payment of Pay Per Call (900 or 976) charges.

3 (16) Companies that bill for local service must provide
4 notification with the customer's first bill or via letter, and
5 annually thereafter that a PC Freeze is available. Existing
6 customers must be notified annually that a PC Freeze is available.

7 (17) The customer must be given notice on the first or second
8 page of the customer's next bill in conspicuous bold face type when
9 the customer's presubscribed provider of local, local toll, or toll
10 service has changed.

11 (18) If a customer notifies a billing party that they did not
12 order an item appearing on their bill or that they were not
13 provided a service appearing on their bill, the billing party shall
14 promptly provide the customer a credit for the item and remove the
15 item from the customer's bill, with the exception of the following:

16 (a) Charges that originate from:

- 17 1. Billing party or its affiliates;
- 18 2. A governmental agency;
- 19 3. A customer's presubscribed intraLATA or interLATA
20 interexchange carrier; and

21 (b) Charges associated with the following types of calls:

- 22 1. Collect calls;
- 23 2. Third party calls;
- 24 3. Customer dialed calls for; and
- 25 4. Calls using a 10-10-xxx calling pattern.

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1 (19) (a) Upon ~~Within one year of the effective date of this~~
2 ~~rule and upon~~ request from any customer, a billing party must
3 restrict charges in its bills to only:

4 1. Those charges that originate from the following:

5 a. Billing party or its affiliates;

6 b. A governmental agency;-

7 c. A customer's presubscribed intraLATA or interLATA
8 interexchange carrier; and

9 2. Those charges associated with the following types of
10 calls:

11 a. Collect calls;

12 b. Third party calls;

13 c. Customer dialed calls; and

14 d. Calls using a 10-10-xxx calling pattern.

15 (b) Customers must be notified of this right by billing
16 parties annually and at each time a customer notifies a billing
17 party that the customer's bill contained charges for products or
18 services that the customer did not order or that were not provided
19 to the customer.

20 (c) Small local exchange telecommunications companies as
21 defined in Section 364.052(1), F.S., are exempted from this
22 subsection.

23 (20) Nothing prohibits originating parties from billing
24 customers directly, even if a charge has been blocked from a
25 billing party's bill at the request of a customer.

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1 Specific Authority: 350.127, 364.604(5), F.S.
2 Law Implemented: 364.17, 350.113, 364.03, 364.04, 364.05, 364.052,
3 364.19, 364.602, 364.604, F.S.
4 History: New 12-01-68, Amended 03-31-76, 12-31-78, 01-17-79, 07-
5 28-81, 09-08-81, 05-03-82, 11-21-82, 04-13-86, 10-30-86, 11-28-89,
6 03-31-91, 11-11-91, 03-10-96, 07-20-97, 12-28-98, 07-05-00, mm-dd-
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SUMMARY OF RULE

The amended rule will require that the gross receipts tax, State sales tax, and the local option tax be combined into a State Communications Services Tax; that the municipal telecommunications taxes and fees be combined into the Local Communications Services Tax; and that local exchange telecommunications companies list separately on a customer's bill the State Communications Services Tax and Local Communications Services Tax in accordance with Chapter 202, Florida Statutes. The rule amendment also remove implementation deadlines appearing in the rules that are no longer relevant.

FILED
OCT 2 11 05
STATE
SECRETARY
TALLAHASSEE, FLORIDA

SUMMARY OF HEARINGS ON THE RULE

No hearing was requested and none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

On October 1, 2001, Chapter 202, Florida Statutes, became effective. Chapter 202 simplified the complex structure of taxes imposed on telecommunications services by state, county, and municipal governing authorities. The chapter combined the gross receipts tax, State sales tax, and local option tax into a State Communications Services Tax. Chapter 202 also combined municipal telecommunications taxes and fees into a Local Communications Services Tax. The chapter requires the State Communications

Services Tax and Local Communications Services Tax to be listed separately on a customer's bill.

Pursuant to section 364.604, Florida Statutes, each billing party must clearly identify the specific charges, taxes, and fees associated with each telecommunications or information service. The proposed amendment of Rule 25-4.110, Customer Billing for Local Exchange Telecommunications Companies, would make this rule consistent with Chapter 202 and remove implementation deadlines appearing in the rules that are no longer relevant.