

DOCKET NO. 040167-TP

ORIGINAL

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

DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA  
2004 AUG 20 PM 3:58  
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I do hereby certify:

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

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

(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;

(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

CMP   (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

CTR   (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

OPC   (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

MMS   
RCA   
SCR   
SEC   
OTH

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// (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.

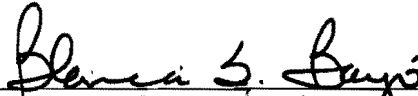
Rule Nos.

25-4.082

25-4.083

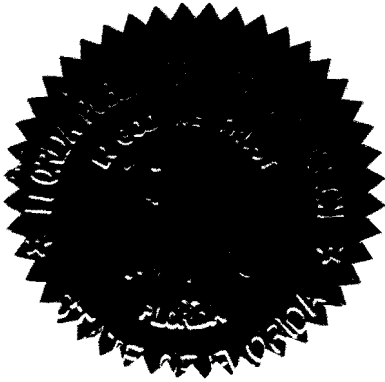
Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)



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

\_\_\_\_\_  
Number of Pages Certified



SMC

1        **25-4.082 Number Portability.**

2            (1) The serving local provider shall facilitate porting of the subscriber's telephone  
3 number upon request from the acquiring company.

4            (2) A working number (e.g., a telephone number that is fully functional to the  
5 customer) shall be ported regardless of whether a balance is owed.

6            (3) A local provider shall not disconnect a subscriber's working number, regardless of  
7 whether a balance is owed, after receiving a local service request from another local provider.

8 Specific Authority: 350.127, F.S.

9 Law Implemented: 364.01, 364.16, 364.337, F.S.

10 History: New XX-XX-XX.

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1        25-4.083 Preferred Carrier Freeze.

2        (1) A PC Freeze shall not be imposed or removed on a subscriber's account without  
3 the subscriber's authorization and shall not be required as a condition for obtaining service.

4        (2) A PC Freeze shall be implemented or removed at no charge to the subscriber.

5        (3) The subscriber's authorization shall be obtained for each service for which a PC  
6 Freeze is requested. Procedures implemented by local exchange providers must clearly  
7 distinguish among telecommunications services (e.g., local, local toll, and toll) subject to a  
8 PC Freeze.

9        (4) All notification material regarding PC Freezes must include:

10       (a) An explanation of what a PC Freeze is and what services are subject to a freeze;

11       (b) A description of the specific procedures necessary to lift a PC Freeze and an  
12 explanation that the subscriber will be unable to make a change in provider selection unless  
13 the subscriber authorizes lifting of the PC Freeze; and

14       (c) An explanation that there are no charges for implementing or removing a PC  
15 Freeze.

16       (5) A local provider shall not solicit, market, or induce subscribers to request a PC  
17 Freeze. A local provider is not prohibited, however, from informing an existing or potential  
18 new subscriber who expresses concerns about slamming about the availability of a PC  
19 Freeze.

20       (6) A local exchange provider shall not implement a PC Freeze unless the  
21 subscriber's request to impose a freeze has first been confirmed in accordance with one of  
22 the following procedures:

23       (a) The local exchange provider has obtained the subscriber's written or electronically  
24 signed authorization in a form that meets the requirements of subsection (7);

25       (b) The local exchange provider has obtained the subscriber's electronic

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

1 authorization, placed from the telephone number(s) on which the PC Freeze is to be imposed.  
2 The electronic authorization should confirm appropriate verification data (e.g., the  
3 subscriber's date of birth or the last four digits of the subscriber's social security number)  
4 and the information required in subsection (7)(a) through (d). Telecommunications providers  
5 electing to confirm PC Freeze orders electronically shall establish one or more toll-free  
6 telephone numbers exclusively for that purpose. Calls to the number(s) will connect a  
7 subscriber to a voice response unit, or similar mechanism that records the required  
8 information regarding the PC Freeze request, including automatically recording the  
9 originating automatic numbering identification; or

10 (c) An independent third party has obtained the subscriber's oral authorization to  
11 submit the PC Freeze and confirmed the appropriate verification data (e.g., the subscriber's  
12 date of birth or the last four digits of the subscriber's social security number) and the  
13 information required in subsection (7)(a) through (d). The independent third party must not  
14 be owned, managed, or directly controlled by the provider or the provider's marketing agent;  
15 must not have any financial incentive to confirm PC Freeze requests for the provider or the  
16 provider's marketing agent; and must operate in a location physically separate from the  
17 provider or the provider's marketing agent. The content of the verification must include  
18 clear and conspicuous confirmation that the subscriber has authorized a PC Freeze.

19 (7) A local exchange provider shall accept a subscriber's written and signed  
20 authorization to impose a PC Freeze on a preferred provider selection. A written  
21 authorization shall be printed in a readable type of sufficient size to be clearly legible and  
22 must contain clear and unambiguous language that confirms:

23 (a) The subscriber's billing name and address and the telephone number(s) to be  
24 covered by the PC Freeze;

25 (b) The specific service, (e.g., local, local toll, and toll), separately stated, on which a

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1 PC Freeze will be imposed.

2 (c) That the subscriber understands that to make a change in provider selection, the  
3 subscriber must lift the PC Freeze; and

4 (d) That there will be no charge to the subscriber for a PC Freeze.

5 (8) All local exchange providers shall, at a minimum, offer subscribers the following  
6 procedures for lifting a PC Freeze:

7 (a) Acceptance of a subscriber's written or electronically signed authorization; and

8 (b) Acceptance of a subscriber's oral authorization along with a mechanism that  
9 allows the submitting provider to conduct a three-way conference call between the provider  
10 administering the PC Freeze and the subscriber. The provider administering the PC Freeze  
11 shall confirm appropriate verification data (e.g., the subscriber's date of birth or the last four  
12 digits of the subscriber's social security number) and the subscriber's intent to lift a specific  
13 PC Freeze.

14 (9) Information obtained under (6) and (8)(a) shall be retained by the provider for a  
15 period of one year.

16 (10) A PC Freeze shall not prohibit a local provider from changing wholesale services  
17 when serving the same end user.

18 (11) Local providers shall make available an indicator on the customer service record  
19 that identifies whether the subscriber currently has a PC Freeze in place.

20 (12) Local providers shall make available the ability for the subscriber's new local  
21 provider to initiate a local PC Freeze using the local service request.

22 Specific Authority: 350.127, 364.01, 364.603, F.S.

23 Law Implemented: 364.01, 364.603, F.S.

24 History: New XX-XX-XX.

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### SUMMARY OF RULE

Rule 25-4.082 would require a local provider to facilitate the porting of a subscriber's telephone number and require that a working number should be ported regardless of whether a balance is owed. Rule 25-4.083 clarifies that a preferred carrier freeze should not be imposed on or removed from a subscriber's account without the subscriber's authorization and sets forth the information the company must receive from the subscriber to place a preferred carrier freeze on the subscriber's account.

### SUMMARY OF HEARINGS ON THE RULE

The Commission held a hearing on July 20, 2004, to consider comments on the rules submitted by US LEC of Florida, Inc., XO Florida, Inc., and the Joint Administrative Procedures Committee. Based on these comments, the Commission changed Rule 25-4.082 to provide an example of a working telephone number and Rule 25-4.083 to remove the words "appropriately qualified" from the first sentence of subsection (6)(c) of the rule. The Notice of Change appeared in the July 30, 2004, Florida Administrative Weekly.

### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Since January 1, 2003, the Commission has received approximately 200 complaints from Florida citizens and regulated telecommunications companies relating to freezes on local, local toll, or toll service, as well as complaints regarding the inability of customers to move to another carrier while retaining the same telephone number (local or toll-free number portability). Most complaints involve freezes on local telephone service. At the present time, Commission staff is actively investigating three companies that may be placing unauthorized carrier freezes on customers' service, or delaying removal of carrier freezes to hinder a customer's ability to change service providers. The Commission believes that the number of complaints may likely increase.

During the past two years, Commission staff has discovered that several competitive local exchange telecommunications companies (CLECs) have placed local service freezes on customers' lines without the customers' knowledge as a routine course of business. Consequently, customers attempting to switch service providers were hindered from doing so. When Commission staff notified the companies about these problems, some claimed to be unaware of the freeze causing problems. Several companies voluntarily stopped implementing a local service freeze unless the customer specifically requested it. Other companies claimed that the ordering system(s) offered by the underlying carriers allow the CLEC the option of requesting the freeze, implying that the CLEC has the unilateral right to freeze a customer's local service. Several other companies have claimed that the Commission's rules do not preclude them from implementing local service freezes on their own initiative, regardless of the customers' wishes.

The adoption of Rules 25-4.082 and 25-4.083 would codify that a provider can only apply a service freeze upon request from the customer and that an existing provider should facilitate a customer's move to a new provider when the customer so chooses. The new rules

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will supplement and clarify existing rules, thereby eliminating confusion that some providers appear to be experiencing regarding preferred carrier freezes. The rules should also enhance a customer's opportunity to select a different carrier, while retaining the same telephone number.