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OFFICE OF THE GENERAL COUNSEL  
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GENERAL COUNSEL  
(850) 413-6199

# Public Service Commission

March 23, 2012

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RECEIVED FPSC  
MAR 23 AM 9:26  
COMMISSION  
CLERK

RE: Docket No. 120043-TP ; Rule 25-4.160, F.A.C.

Dear Mr. Plante:

Enclosed are the following materials concerning the above-referenced proposed rule:

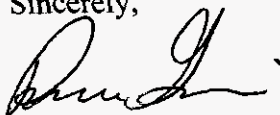
1. A copy of the proposed rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. Statement of Estimated Regulatory Costs for the rule.

DOCUMENT NUMBER-DATE  
01728 MAR 23 2012  
FPSC-COMMISSION CLERK

Kenneth J. Plante  
Page 2  
Rule 25-4.160, F.A.C.

If there are any questions with respect to this rule, please do not hesitate to call me at 413-6224.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosanne Gervasi". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping tail.

Rosanne Gervasi  
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1 **25-4.160 Operation of Telecommunications Relay Service.**

2 (1) For intrastate toll calls received from the relay service, each local exchange and  
3 interexchange telecommunications company billing relay calls shall discount relay service  
4 calls by 50 percent off of the otherwise applicable rate for a voice nonrelay call except that  
5 where either the calling or called party indicates that either party is both deaf or hard of  
6 hearing and visually impaired, the call shall be discounted 60 percent off of the otherwise  
7 applicable rate for a voice nonrelay call. The above discounts apply only to time-sensitive  
8 elements of a charge for the call and shall not apply to per call charges such as a credit card  
9 surcharge. In the case of a tariff which includes either a discount based on number of minutes  
10 or the purchase of minutes in blocks, the discount shall be calculated by discounting the  
11 minutes of relay use before the tariffed rate is applied.

12 (2) When a local exchange telecommunications company passes a call to the Florida relay  
13 service provider, it shall also forward the calling party's originating telephone number if the  
14 calling party's central office has that capability.

15 (3) To fund the telecommunications access system established under Part II of Chapter 427,  
16 F.S., all local exchange telecommunications companies shall impose a monthly surcharge on  
17 all local exchange telecommunications company subscribers, excluding federal, ~~and state, and~~  
18 county agencies, on an individual access line basis, except that such surcharge shall not be  
19 imposed upon more than 25 basic telecommunications access lines per account bill rendered.

20 (a) A local exchange telecommunications company shall consider an account bill rendered in a  
21 manner consistent with its billing practices for other telecommunications services.

22 (b) Except as otherwise provided by law, the surcharge billed by the local exchange  
23 telecommunications companies is not subject to any sales, use, franchise, income, municipal  
24 utility, gross receipts, or any other tax, fee, or assessment, nor shall it be considered revenue of  
25 the local exchange telecommunications companies for any purpose.

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

1 (c) All local exchange telecommunications companies shall include the surcharge as a part of  
2 the local service charge that appears on the customer's bill except that the surcharge may be  
3 itemized if a company monthly itemizes all local service charges. However, the local  
4 exchange telecommunications company shall itemize the surcharge on the initial bill to the  
5 subscriber and itemize it at least once annually. The local exchange telecommunications  
6 company may deduct and retain 1 percent of the total surcharge amount collected each month  
7 to recover the billing, collecting, remitting, and administrative costs attributed to the  
8 surcharge. All moneys received by the local exchange telecommunications company, less the  
9 authorized amount retained, shall be submitted so as to be received by the Administrator  
10 within fifteen days after the end of the previous month. Each local exchange  
11 telecommunications company shall follow the same procedures for collecting this surcharge as  
12 for collecting for other regulated telecommunications services.

13 (4) For purposes of this part, the term "local exchange telecommunications company" shall be  
14 defined in Section 427.703(7), F.S. The term shall include shared tenant service providers and  
15 competitive local exchange companies.

16 *Rulemaking Authority 350.127(2), 427.704(8) FS. Law Implemented 427.704(4), (5) FS.*

17 *History—New 9-16-92, Amended 4-8-98, \_\_\_\_\_.*

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

## Notice of Proposed Rule

**PUBLIC SERVICE COMMISSION**

RULE NO.: RULE TITLE:

25-4.160: Operation of Telecommunications Relay Service

PURPOSE AND EFFECT: Rule 25-4.160 would be amended to clarify that county agencies are excluded from paying the Telecommunications Access System Act (TASA) surcharge as set forth in the rule. Docket No. 120043-TP

SUMMARY: Rule 25-4.160 currently excludes federal and state agencies from paying the TASA surcharge as set forth in the rule. This rule amendment would clarify that county agencies are also excluded from paying the TASA surcharge. Moreover, the rule currently refers to persons who are hearing impaired. The rule amendment would change that reference to persons who are deaf or hard of hearing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 427.704(8), FSLAW IMPLEMENTED: 427.704(4),(5), FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6224, rgervasi@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

**25-4.160 Operation of Telecommunications Relay Service.**

(1) For intrastate toll calls received from the relay service, each local exchange and interexchange telecommunications company billing relay calls shall discount relay service calls by 50 percent off of the otherwise applicable rate for a voice nonrelay call except that where either the calling or called party indicates that either party is both deaf or hard of hearing and visually impaired, the call shall be discounted 60 percent off of the otherwise applicable rate for a voice nonrelay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge. In the case of a tariff which includes either a discount based on number of minutes or the purchase of minutes in blocks, the discount shall be calculated by discounting the minutes of relay use before the tariffed rate is applied.

(2) No change.

(3) To fund the telecommunications access system established under Part II of Chapter 427, F.S., all local exchange telecommunications companies shall impose a monthly surcharge on all local exchange telecommunications company subscribers, excluding federal, and state, and county agencies, on an individual access line basis, except that such surcharge shall not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.

(a) – (c) No change.

(4) No change.

*Rulemaking Authority 427.704(8) FS. Law Implemented 427.704(4),(5) FS. History--New 9-16-92, Amended 4-8-98,*

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Casey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 13, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 37, No. 40, October 7, 2011

STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE

It has come to the Commission's attention that some counties were paying the Telecommunications Access System Act (TASA) surcharge as set forth in Rule 25-4.160, F.A.C., and some were not. This rule amendment clarifies that county agencies are excluded from paying the TASA surcharge. The amended rule also refers to persons who are deaf or hard of hearing, as opposed to "hearing impaired." According to the National Association of the Deaf, this terminology is the overwhelming preference of people who are deaf or hard of hearing.

STATEMENT ON FEDERAL STANDARDS

The proposed rule is no more restrictive than the federal standards.



**Public Service Commission**  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

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**DATE:** February 10, 2012  
**TO:** Rosanne Gervasi, Senior Attorney, Office of the General Counsel  
**FROM:** William B. McNulty, Economic Analyst, Division of Economic Regulation  
**RE:** Statement of Estimated Regulatory Costs for Proposed Rule Amendment to Rule 25-4.160, F.A.C., Operation of Telecommunications Relay Service

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Summary of Rule

Rule 25-4.160, Florida Administrative Code (F.A.C.), Operation of Telecommunications Relay Service establishes the discounts which apply to intrastate toll calls received from the telecommunications relay service (TRS) and requires local exchange telecommunications companies to fund the discounts by imposing monthly surcharges on local exchange telecommunications company subscribers. Section (3) of the rule states "all local exchange telecommunications companies shall impose a monthly surcharge on all local exchange telecommunications company subscribers, excluding federal and state agencies, on an individual access line basis, except that such surcharge shall not be imposed on more than 25 basic telecommunications access lines per account bill rendered."

The draft rule would specifically add county agencies to the list of entities exempt from the section of the rule which requires the imposition of the monthly TRS surcharge.

Economic Analysis Showing Whether the Rule Is Likely to Have an Adverse Impact on Either Economic Growth or Business Competitiveness In Excess of \$1 Million Within 5 Years.

Subparagraph 120.541(2)(a)1, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Similarly, Section 120.541(2)(a)2 requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on business competitiveness in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Since the intent of the rule is to eliminate the TRS surcharge to county agencies, economic growth, private job sector employment, private sector investment, and business competitiveness are not expected to be adversely impacted during the five year period following implementation.

### Economic Analysis Showing Whether the Rule Is Likely to Increase Regulatory Costs In Excess of \$1 Million Within 5 Years

Subparagraph 120.541.(2)(a)3, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to increase regulatory cost, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Since the intent of the rule is to eliminate the TRS surcharge to county agencies, regulatory costs should decrease. The regulatory costs imposed on counties by telecommunications companies will be decreased when the county agencies are no longer billed the TRS surcharge. Not all local exchange telecommunications companies have been imposing the surcharge on county agencies in recent years. Local exchange telecommunications companies which bill and collect the surcharge from county agencies and remit the surcharge revenue to the Administrator are likely to incur reduced regulatory costs if the draft rule is enacted since these administrative activities would be eliminated.

### Estimated Number of Entities Required to Comply and General Description of Individuals Affected

Subparagraph 120.541.(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals anticipated to be affected by the rule. The number of telecommunications companies which are required to comply with the rule as of November 22, 2011 included 10 incumbent local exchange companies (ILECs) and 301 competitive local exchange companies (CLECs).

On November 30, 2011, staff issued data requests to each of the ten ILECs and to ten CLECs. Responses were received from seven ILECs and six CLECs. In response to the data requests, the ILECs reported TRS surcharge collections from county agencies of \$6,498 in 2010. The CLECs reported TRS surcharge collections from county agencies of \$26 in 2010. The 2011-12 Florida Telecommunications Relay Service (FTRS) Budget includes total revenue of \$9,638,400. Based on the responses to staff's data request, it appears that the impact of the draft rule on TRS surcharge revenue is de minimus.

The draft rule's expected impact on hearing and/or visually impaired individuals in the state appears to be minimal or non-existent. The FTRS is fiscally sound, with a surplus of \$16,381,224 as of September 30, 2011. The elimination of the small amount of TRS revenue collected from county agencies under the current rule is not expected to have a significant impact on the viability of the fund to provide the relay services by FTRS to hearing and/or visually impaired individuals in the state.

### Rule Implementation and Enforcement costs and Impact on Revenues For The Agency and Other State and Local Government Entities

Subparagraph 120.541(2)(c), F.S., requires a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues. Since the draft rule would eliminate the TRS surcharge on county agencies served by regulated companies, there is not expected to be any cost to the Commission of implementing and enforcing the draft rule change. TRS surcharge revenues are not subject to Regulatory Assessment Fees (RAFs), so Commission



funding (revenues) would not be impacted by the draft rule change. Local government entities will only be advantaged by not having to pay the TRS surcharge.

#### Estimated Transactional Costs to Individual and Entities

Subparagraph 120.541(2)(d), F.S., requires a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. Under the draft rule, local exchange companies would not be required to bill and collect the TRS surcharge from county agencies and remit the same (less 1 percent) to the FTRS, local government agencies would not be required to pay the surcharge to the companies, and the Commission would not be required to monitor the related billing, collecting, and remitting activities of the telecommunications companies related to the surcharge. Thus, transactional costs to individuals and entities would decrease rather than increase under the draft rule.

#### Impact On Small Businesses, Small Cities, Or Small Counties

Subparagraph 120.541.(2)(e), F.S., requires an analysis of the impact of the proposed changes on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The draft rule is expected to have no impact on small businesses. The elimination of the TRS surcharge on counties will reduce expenses to counties rather than impose additional expenses. Several of the larger telecommunication companies do not currently bill and collect the TRS surcharge from county agencies. The overall impact to counties is expected to be de minimus.

#### Additional Information Deemed Useful By The Agency

None.

cc: Braulio Baez  
Beth Salak  
Dale Mailhot  
Marshall Willis