

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-4.020,
F.A.C., Location and Preservation of Records,
and Rule 25-4.0201, F.A.C., Audit Access to
Records.

DOCKET NO. 120050-TP
ORDER NO. PSC-12-0209-NOR-TP
ISSUED: April 19, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that pursuant to Section 120.54, Florida Statutes, the Florida Public Service Commission has initiated rulemaking to amend Rule 25-4.020, Florida Administrative Code (F.A.C.), relating to the location and preservation of records, and Rule 25-4.0201, F.A.C., relating to audit access to records.

The attached Notice of Proposed Rule will appear in the April 27, 2012, edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments on the rules must be received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than May 18, 2012.

DOCUMENT NUMBER: DATE

02410 APR 19 2012

FPSC-COMMISSION CLERK

By ORDER of the Florida Public Service Commission this 19th day of April, 2012.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

RG

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE:

25-4.020 Location and Preservation of Records.

25-4.0201 Audit Access to Records

PURPOSE AND EFFECT: Rule 25-4.020 would be amended to eliminate requirements for preservation of records for telecommunications companies. In addition, there would no longer be a waiver from the requirement for telecommunications companies to reimburse the Commission for travel when the records are located within 50 miles of the Florida state line. Rule 25-4.0201 would be amended to no longer require Commission access to a telecommunications company's affiliate company records. Also the word utility is changed to company.

Docket No.: 120050-TP

SUMMARY: Rule 25-4.020 currently requires telecommunications companies to preserve their records for the period of time specified in Form PSC/ECR/17-T (5/93), and to keep their records at their offices within the State unless otherwise authorized by the Commission. The rule amendment would eliminate these requirements. The rule amendment would also eliminate the waiver of the reimbursement requirement for reasonable travel expenses incurred during a Commission review of out-of-state records that are located within 50 miles of the Florida state line. Rule 25-4.0201 currently requires Commission access to telecommunications company and affiliate company records. The rule amendment would no longer require Commission access to affiliate company records.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: A SERC has been prepared by the agency. Based on the SERC, the agency has determined that these rule amendments will not have an adverse impact on small businesses, will not likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after implementation of the rules, and will not require legislative ratification pursuant to s. 120.541(3), F.S. 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: 350.127(2), 364.016, 364.183 FS

LAW IMPLEMENTED: 364.016, 364.183, 364.183(1) 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 RULES IS:

25-4.020 Location and Preservation of Records.

~~(1) All records that a company is required to keep, by reason of these or other rules prescribed by the Commission, shall be kept at the office or offices of the company within the State unless otherwise authorized by the Commission.~~

Paragraph (2) renumbered to Paragraph (1).

Subparagraph (1)(a) (renumbered) – no change.

(b) The reimbursement requirement in subsection ~~(1)~~ shall be waived:

~~1. For any company that makes its out-of-state records available at the company's office located in Florida or at another mutually agreed upon location in Florida within 10 working days from the Commission's initial request. If 10 working days is not reasonable because of the complexity and nature of the issues involved or the volume and type of material requested, the Commission may establish a different time frame for the company to bring records into the state. For individual data requests made during an audit, the response time frame established in Rule 25-4.0201, F.A.C., shall control; or,~~

~~2. For a company whose records are located within 50 miles of the Florida state line.~~

~~(3) All records shall be preserved for the period of time specified in Form PSC/ECR/17-T (5/93), entitled "Schedule of Records and Periods of Retention" which is incorporated by reference into this rule, and may be obtained from~~

~~the Director, Division of Economic Regulation, Florida Public Service Commission.~~

~~(a) However, all source documents retained as required by subsection 25-4.020(3), F.A.C., shall be maintained in their original form for a minimum of three years, or for any lesser period of time specified for that type of record in Form PSC/ECR/17-T, after the date the document was created or received by the company. This paragraph does not require the company to create paper copies of documents where the company would not otherwise do so in the ordinary course of its business. The Commission may waive the requirement that documents be retained in their original form upon a showing by a company that it employs a storage and retrieval system that consistently produces clear, readable copies that are substantially equivalent to the originals, and clearly reproduces handwritten notations on documents.~~

~~(b) The company shall maintain written procedures governing the conversion of source documents to a storage and retrieval system, which procedures ensure the authenticity of documents and the completeness of records. Records maintained in the storage and retrieval system must be easy to search and easy to read.~~

~~Paragraph (4) renumbered to Paragraph (2).~~

~~Rulemaking Authority 350.127(2), 364.016, 364.17, 364.18, 364.183, 364.185 FS. Law Implemented 364.016, 364.17, 364.18, 364.183, 364.185 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.20, Amended 6-23-93, 11-13-95, 1-25-09, _____.~~

25-4.0201 Audit Access to Records.

This rule addresses the reasonable access to company utility ~~and affiliate~~ records provided by Section 364.183(1), F.S., for the purposes of management and financial audits.

Paragraph (1) – no change.

(2) Reasonable access means that company responses to audit requests for access to records shall be fully provided within the time frame established by the auditor. In establishing a due date, the auditor shall consider the location of the records, the volume of information requested, the number of pending requests, the amount of independent analysis required, and reasonable time for the company utility to review its response for possible claims of confidentiality or privilege.

(3) In those instances where the company utility disagrees with the auditor's assessment of a reasonable response time to the request, the company utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the company utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the Prehearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision.

(4) The company utility ~~and its affiliates~~ shall have the opportunity to safeguard ~~its their~~ records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to company utility ~~or affiliate~~ records.

Paragraphs (5)-(7) – no change.

~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.183(1) FS. History—New 3-1-95, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Mailhot

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 37, No. 43, October 28, 2011; Vol. 38, No. 14, April 6, 2012