

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 24, 2012

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

VIA HAND DELIVERY

RE: Docket No. 120241-TP; Rules 25-4.004, 25-4.005, 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C.

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rules:

1. A copy of the proposed rules.
2. A copy of Form PSC/TEL 162 (xx/xx), entitled "Application Form for Authority to Provide Telecommunications Company Service Within the State of Florida," which is incorporated into Rule 25-4.004, F.A.C.
3. A copy of the F.A.R. notices.
4. A statement of facts and circumstances justifying the proposed rules.
5. A federal standards statement.
6. Statement of Estimated Regulatory Costs for the rules.

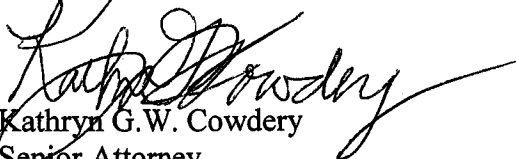
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Mr. Kenneth J. Plante
October 24, 2012
Page 2

If there are any questions with respect to these rules, please do not hesitate to call me at 413-6216.

Sincerely,


Kathryn G.W. Cowdery
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1 25-4.004 Certificates of ~~Public Convenience and Necessity~~ or Authority; Application.
2 (1) No person shall provide telecommunications services to the public without either a
3 certificate of necessity issued prior to July 1, 2011, or a certificate of authority issued after
4 July 1, 2011. Services may not be provided, nor may deposits or payment for services be
5 collected, until the effective date of a certificate. However, marketing and development
6 activities may begin prior to the effective date of the certificate at the applicant's risk that the
7 certificate may not be granted. Prior to certification, the applicant must advise the public in
8 any customer contacts or advertisements that certification has not and may not be granted.
9 (2) Each applicant for a certificate of authority shall submit an application on Form PSC/TEL
10 162 (X/XX), entitled "Application Form for Authority to Provide Telecommunications
11 Company Service Within the State of Florida," which is incorporated into this rule by
12 reference and which is available at [http://www.flrules.org/Gateway/reference.asp?No_Ref_](http://www.flrules.org/Gateway/reference.asp?No_Ref_XXXXX)
13 XXXXX, from the Commission's website at www.floridapsc.com/utilities/telecomm/, or by
14 contacting the Commission's Office of Telecommunications. A non-refundable application
15 fee of \$500.00 must accompany the filing of each application.
16 (3) An application for certificate of authority shall be filed with the Office of Commission
17 Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
18 Florida 32399-0850.
19 (4) Each holder of a certificate of necessity or authority shall file with the Commission's
20 Office of Commission Clerk updated information for the following items within ten days after
21 a change occurs:
22 (a) The street address of the certificate holder including number, street name, city, state and
23 zip code, and the mailing address if it differs from the street address.
24 (b) Name, title, and phone number of the individual responsible for contact with the
25 Commission.

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1 ~~Except as provided in Chapter 364, F.S., no person shall begin the construction or operation of~~
2 ~~any telephone line, plant or system or an extension thereof or acquire ownership or control~~
3 ~~thereof, either directly or indirectly, without first obtaining from the Florida Public Service~~
4 ~~Commission a certificate that the present or future public convenience and necessity require or~~
5 ~~will require such construction, operation or acquisition.~~

6 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.127(1), 364.33, 364.335, FS.*

7 *History—Revised 12-1-68, Formerly 25-4.04, Amended*

8 **25-4.005 Transfer of Certificate of Public Convenience and Necessity or Authority As to**
9 **All or Portion of Service Area.**

10 (1) Except as provided in section 364.33, F.S., a certificate holder and the person seeking to
11 obtain the certificate by transfer from the holder shall submit a joint application on
12 Commission Form PSC/TEL 162 (X/XX), entitled “Application Form for Authority to
13 Provide Telecommunications Company Service Within the State of Florida,” incorporated by
14 reference into Rule 25-4.004, F.A.C. The application shall be filed with the Office of
15 Commission Clerk. A nonrefundable application fee of \$500.00 must accompany the filing of
16 each application to cover processing costs. The Commission’s acceptance of the application
17 fee does not imply that the application for transfer of a certificate will be granted.

18 (2) The company transferring the certificate shall pay to the Commission all regulatory
19 assessment fees owed pursuant to sections 350.113 and 364.336, F.S., and Rule 25-4.0161,
20 Florida Administrative Code.

21 ~~(1) Request for approval by the Commission of transfer of any certificate of public~~
22 ~~convenience and necessity (or portion thereof) shall be made by joint petition of the certificate~~
23 ~~holder and transferee after reasonable notice has been given to all subscribers affected by the~~
24 ~~proposed transfer. Requests for approval shall be accompanied by an affidavit that notice of~~
25 ~~intention to file the petition has been given:~~

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1 ~~(a) By mail or personal delivery to the governing bodies of the counties and municipalities~~
2 ~~affected, to the public counsel, and to the Commission,~~

3 ~~(b) By a legal advertisement in a newspaper of general circulation in the area affected and~~
4 ~~published on two (2) separate occasions at least two (2) weeks prior to the filing of the joint~~
5 ~~petition on the proposed transfer, and~~

6 ~~(c) By written notice subject to Commission approval, issued to each subscriber in the area to~~
7 ~~be transferred concurrent with the filing of the petition.~~

8 ~~(2) Upon approving a transfer of certificate, or portion thereof, the Commission will cancel~~
9 ~~same and reissue in the name of the transferee or amend the description of the service area or~~
10 ~~both.~~

11 ~~(3) Such joint petitions shall include detailed descriptions of the affected boundaries; the~~
12 ~~number of subscribers, if any, in each petitioned area; changes in rates; service being provided~~
13 ~~by either petitioner in areas to be transferred; pending applications for service held by either~~
14 ~~petitioner; changes in calling scope; customers to be transferred; deposits and deposit interest;~~
15 ~~any financial exchange or consideration for the proposed change, and a list by name and~~
16 ~~telephone number of all customers who will be exempt from the proposed change.~~

17 ~~(4) Any subscriber or group of subscribers of a telephone company may petition the~~
18 ~~Commission for transfer from the service area of such telephone company to that of another~~
19 ~~telephone company serving contiguous territory.~~

20 ~~(5) If a customer survey is conducted by a telephone company among customers affected by~~
21 ~~the proposed transfer, return postage shall be paid by the company serving the affected~~
22 ~~customer and survey ballots shall be returnable to the Public Service Commission, Attention:~~
23 ~~Division of Regulatory Analysis, for tabulation.~~

24 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 364.335, 364.336 FS.*
25 *History—New 12-1-68, Amended 5-4-81, Formerly 25-4.05, Amended 9-16-99, _____.*

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1 ~~25-24.565 Certificate of Public Convenience and Necessity Required.~~

2 ~~(1) No person shall provide shared tenant service without first obtaining a certificate of public~~
3 ~~convenience and necessity from the Commission. Services may not be provided, nor may~~
4 ~~deposits or payment for services be collected, until the effective date of a certificate, if~~
5 ~~granted. However, acquisition of equipment and facilities, as well as advertising and other~~
6 ~~promotional activities, may begin prior to the effective date of the certificate at the applicant's~~
7 ~~risk that it may not be granted. In any customer contracts for advertisements prior to~~
8 ~~certification, the applicant must advise the customer that certification has not and may never~~
9 ~~be granted.~~

10 ~~(2) On or after January 1, 1996, STS providers with certificates granted prior to January 1,~~
11 ~~1996, are authorized to provide shared tenant service statewide to tenants as defined in~~
12 ~~subsection 25-24.560(10), F.A.C.~~

13 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339 FS.~~

14 ~~History New 1-28-91, Amended 7-29-97~~

15 ~~25-24.567 Application for Certificate.~~

16 ~~(1) An applicant desiring to provide shared tenant service shall submit an application on~~
17 ~~Commission Form PSC/TEL 37 (5/08), which is incorporated into this rule by reference. Form~~
18 ~~PSC/TEL 37 (5/08), entitled "Application Form for Authority to Provide Shared Tenant~~
19 ~~Service Within the State of Florida," may be obtained from the Commission's website at~~
20 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission's Division of~~
21 ~~Regulatory Analysis. A non-refundable application fee of \$250.00 must accompany the filing~~
22 ~~of all applications.~~

23 ~~(2) An original and one copy of the application shall be filed with the Office of Commission~~
24 ~~Clerk.~~

25 ~~(3) A certificate will be granted if the Commission determines that such approval is in the~~

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1 public interest.

2 ~~(4) Any shared tenant service authority granted hereafter is subject to the following:~~

3 ~~(a) Shared tenant authority granted to all companies is on a statewide basis and is restricted to~~

4 ~~tenants as defined in subsection 25-24.560(10), F.A.C.~~

5 ~~(b) Each shared tenant service applicant shall:~~

6 1. ~~Advise all customers of its current rates and conditions for resold local exchange service~~

7 ~~and its quality of service standards.~~

8 2. ~~Inform each customer in advance of agreement to provide service, that the Florida Public~~

9 ~~Service Commission will not set rates or regulate the service quality standards.~~

10 ~~(c) A certificate to provide shared tenant service does not carry with it the authority to provide~~

11 ~~competitive local exchange telecommunication, alternative access vendor, interexchange or~~

12 ~~pay telephone service. A separate application must be made for such authority.~~

13 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345~~

14 ~~FS. History New 1-28-91, Amended 5-8-91, 11-20-91, 7-29-97, 1-5-06, 5-29-08~~

15 **~~25-24.568 Improper Use of a Certificate.~~**

16 ~~No certificate of public convenience and necessity authorizing shared tenant service may be~~

17 ~~assigned or transferred by the holder to another without prior Commission approval. No~~

18 ~~certificate shall be used as collateral for any purpose.~~

19 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345~~

20 ~~FS. History New 1-28-91, Amended 7-29-97~~

21 **~~25-24.569 Application for Approval of Sale, Assignment or Transfer of Certificate.~~**

22 ~~(1) A company desiring to obtain a certificate by sale, assignment or transfer from the holder~~

23 ~~thereof shall submit an application jointly with the certificate holder on Commission Form~~

24 ~~PSC/TEL 37 (5/08), which is incorporated into this rule by reference. Form PSC/TEL 37~~

25 ~~(5/08) is entitled "Application Form for Authority to Provide Shared Tenant Service Within~~

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1 the State of Florida.” The application form may be obtained from the Commission’s website at
2 www.floridapsc.com/utilities/telecomm/ or by contacting the Commission’s Division of
3 Regulatory Analysis. A nonrefundable application fee of \$250.00 must accompany each
4 application. The Commission’s acceptance of the application fee does not imply that the
5 application for sale, assignment or transfer of a certificate will be granted.

6 (2) An original and one copy of the application shall be filed with the Office of Commission
7 Clerk.

8 (3) An application for sale, assignment or transfer of a certificate will be granted if the
9 Commission determines that such approval is in the public interest.

10 (4) A certificate may be sold, assigned or transferred only as a whole.

11 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, 364.335, 364.337,*
12 *364.339, 364.345 FS. History New 1-28-91, Amended 11-20-91, 7-29-97, 1-5-06, 5-29-08.*

13 **~~25-24.572 Cancellation of a Certificate.~~**

14 (1) The Commission may cancel a company’s certificate for any of the following reasons:

15 (a) ~~Violation of the terms and conditions under which the authority was originally granted;~~

16 (b) ~~Violation of Commission rules or orders; or~~

17 (c) ~~Violation of Florida Statutes.~~

18 (2) ~~If a certificated company desires to cancel its certificate, it shall request cancellation from~~
19 ~~the Commission in writing. Cancellation of a certificate shall be ordered subject to the holder~~

20 ~~providing the following information:~~

21 (a) ~~Statement of intent and date to pay Regulatory Assessment Fee.~~

22 (b) ~~Statement of why the certificate is proposed to be cancelled.~~

23 (c) ~~Proof of individual customer notice regarding discontinuance of service.~~

24 (d) ~~Statement on treatment of customer deposits and final bills.~~

25 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285,*

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1 ~~364.339, 364.345 FS. History New 1-28-91, Amended 7-29-97.~~

2 **25-24.705 Scope and Waiver.**

3 ~~(1) This part applies to every person or company providing Alternative Access Vendor (AAV)~~
4 ~~service. Chapters 25-4, 25-9 and 25-14, F.A.C., shall apply to Alternative Access Vendor~~
5 ~~service only as provided in this part.~~

6 ~~(2) An AAV service provider may petition for a waiver of any provision of this part. The~~
7 ~~Commission may grant a waiver to the extent that it determines that a waiver is in the public~~
8 ~~interest. The Commission may grant the petition in whole or in part and may prescribe~~
9 ~~different requirements than are set forth in this part. In disposing of a petition, the Commission~~
10 ~~shall consider the factors enumerated in Section 364.337(4), Florida Statutes (1995).~~

11 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337(1), (2), (6) FS.~~

12 ~~History New 1-8-95~~

13 **25-24.710 Terms and Definitions.**

14 For purposes of this part the following definitions apply:

15 ~~(1) "Affiliated Entity." An entity (whether corporation, partnership, proprietorship or other~~
16 ~~form of business organization) is affiliated with another entity if one has a majority ownership~~
17 ~~interest in the other.~~

18 ~~(2) "Alternative Access Vendor (AAV)." A provider, other than a local exchange~~
19 ~~telecommunications company, of Alternative Access Vendor Service.~~

20 ~~(3) "Alternative Access Vendor Service." The provision of local private line service between~~
21 ~~an entity and its own facilities or the facilities of an affiliated entity at another location or the~~
22 ~~provision of special access service between an end user and an interexchange company.~~

23 ~~(4) "Private line service." Any point to point or point to multipoint service dedicated to the~~
24 ~~exclusive use of the end user for the transmission of any telecommunications service.~~

25 ~~(5) "Special Access Service." Private line service which is connected from the end user's~~

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1 ~~premises to an interexchange company.~~

2 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.337 FS. History~~
3 ~~New 1-8-95.~~

4 **~~25-24.715 Certificate of Public Convenience and Necessity Required.~~**

5 ~~(1) No person shall provide Alternative Access Vendor Service without first obtaining a~~
6 ~~Certificate of Public Convenience and Necessity from the Commission.~~

7 ~~(2) A certificate authorizes the vendor to provide Alternative Access Vendor Service statewide~~
8 ~~as well as authority to provide interexchange private line service.~~

9 ~~(3) A certificate to provide Alternative Access Vendor Service does not authorize provision of~~
10 ~~interexchange switched service, shared tenant service, pay telephone service or any other~~
11 ~~telecommunications services requiring certification by this Commission. A separate~~
12 ~~application must be made for such authority.~~

13 ~~(4) Applicants for a certificate shall not provide service, collect deposits or collect payment for~~
14 ~~services until a certificate becomes effective. However, at their own risk, applicants may~~
15 ~~acquire equipment and facilities and may advertise and engage in promotional activities before~~
16 ~~a certificate becomes effective. In contacts with potential customers or advertisements before~~
17 ~~certification, applicants shall advise the potential customer that certification has not and may~~
18 ~~never be granted.~~

19 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337 FS.~~
20 ~~History New 1-8-95~~

21 **~~25-24.720 Application for Certificate.~~**

22 ~~(1) An applicant seeking to provide Alternative Access Vendor service shall submit an~~
23 ~~application on Commission Form PSC/TEL 43 (5/08), entitled "Application Form for~~
24 ~~Authority to Provide Alternative Access Vendor Service within the State of Florida," which is~~
25 ~~incorporated into this rule by reference. The form may be obtained from the Commission's~~

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1 ~~website at www.floridapsc.com/utilities/telecomm/ or by contacting the Division of~~
2 ~~Regulatory Analysis. A nonrefundable application fee of \$250.00 must accompany each~~
3 ~~application to cover processing costs. The Commission's acceptance of the application fee~~
4 ~~does not imply that a certificate will be granted.~~

5 ~~(2) An original and one copy of the application shall be filed with the Office of Commission~~
6 ~~Clerk.~~

7 ~~(3) A certificate will be granted if the Commission determines that such approval is in the~~
8 ~~public interest.~~

9 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337, 364.345*~~
10 ~~*FS. History New 1-8-95, Amended 1-5-06, 5-29-08.*~~

11 **~~25-24.725 Certificates Not Transferable.~~**

12 ~~Certificates of public convenience and necessity authorizing Alternative Access Vendor~~
13 ~~service may not be sold, assigned or transferred by the holder without prior Commission~~
14 ~~approval. Certificates shall not be used as collateral for any purpose.~~

15 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337, 364.345*~~
16 ~~*FS. History New 1-8-95*~~

17 **~~25-24.730 Application for Approval of Sale, Assignment, or Transfer of Certificate.~~**

18 ~~(1) A person seeking to obtain a certificate by sale, assignment or transfer from the holder~~
19 ~~shall submit an application jointly with the certificate holder on Commission Form PSC/TEL~~
20 ~~43 (5/08) (entitled "Application Form for Authority to Provide Alternative Access Vendor~~
21 ~~Service within the State of Florida"). The application form may be obtained from the~~
22 ~~Commission's website at www.floridapsc.com/utilities/telecomm/ or the Division of~~

23 ~~Regulatory Analysis. A nonrefundable application fee of \$250.00 must accompany each~~
24 ~~application to cover processing costs. The Commission's acceptance of the application fee~~
25 ~~does not imply that the application for sale, assignment or transfer of a certificate will be~~

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1 | granted.

2 | ~~(2) An original and one copy of the application shall be filed with the Office of Commission~~

3 | ~~Clerk.~~

4 | ~~(3) An application for sale, assignment or transfer of a certificate will be granted if the~~

5 | ~~Commission determines that such approval is in the public interest.~~

6 | ~~(4) A certificate may be sold, assigned or transferred only as a whole.~~

7 | ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, 364.335, 364.337,~~

8 | ~~364.345 FS. History New 1-8-95, Amended 1-5-06, 5-29-08~~

9 | ~~**25-24.735 Cancellation of a Certificate.**~~

10 | ~~(1) The Commission may cancel an AAV service provider's certificate for any of the~~

11 | ~~following reasons:~~

12 | ~~(a) Violation of the terms and conditions under which the authority was originally granted;~~

13 | ~~(b) Violation of Commission rules or orders;~~

14 | ~~(c) Violation of Florida statutes; or~~

15 | ~~(d) Failure to provide service for a period of 6 months.~~

16 | ~~(2) If a certificated AAV service provider seeks to cancel its certificate, it shall request~~

17 | ~~cancellation from the Commission in writing and shall provide the following information with~~

18 | ~~its request:~~

19 | ~~(a) The date the final Regulatory Assessment Fee was paid;~~

20 | ~~(b) A statement of the reasons for cancellation;~~

21 | ~~(c) A statement on the treatment of customer deposits and final bills; and~~

22 | ~~(d) A representative copy of a customer notice regarding discontinuance of service.~~

23 | ~~Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285,~~

24 | ~~364.337, 364.345 FS. History New 1-8-95.~~

25

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1 ~~25-24.745 Records and Reports; Rules Incorporated.~~

2 (1) ~~The following rules are incorporated herein by reference and apply to Alternative Access~~
3 ~~Vendor service companies:~~

4 <u>Section</u>	<u>Title</u>
5 25-4.019	Records and Reports in General
6 25-4.020(2)	Location and Preservation of Records
7 25-4.043	Response to Commission Staff Inquiries
8 25-4.0161	Regulatory Assessment Fees; Telecommunications
9	Companies

10 (2) ~~Each AAV service provider shall file with the Commission's Division of Competitive~~
11 ~~Markets and Enforcement updated information for the following items within 10 days after~~
12 ~~any such change occurs:~~

13 (a) ~~Mailing address of the certificate holder; and~~

14 (b) ~~Name, title, and phone number of the individual responsible for Commission contacts.~~

15 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.016, 364.17, 364.18, 364.183,~~
16 ~~364.185, 364.337 FS. History New 1-8-95, Amended 11-13-95.~~

17 ~~25-24.800 Scope.~~

18 (1) ~~This part applies only to Competitive Local Exchange Companies. The provisions of~~
19 ~~Chapter 25-4, 25-9 or 25-14, F.A.C., shall not apply to Competitive Local Exchange~~
20 ~~Companies, unless specifically provided by this part.~~

21 (2) ~~In addition to the rules contained in this part, any Competitive Local Exchange Company~~
22 ~~which provides operator services in a call aggregator context shall also comply with the rules~~
23 ~~contained in Part XIII of Chapter 25-24, F.A.C.~~

24 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History New 12-~~
25 ~~27-95, Amended 2-1-99.~~

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1 ~~25-24.805 Certificate of Public Convenience and Necessity Required.~~

2 ~~(1) No person shall provide competitive local exchange telecommunications service without~~
3 ~~first obtaining a certificate of public convenience and necessity from the Commission. The~~
4 ~~certificate shall be for statewide authority, unless precluded by Section 364.337(1), F.S., to~~
5 ~~provide all Commission approved telecommunications services. Services may not be~~
6 ~~provided, nor may deposits or payment for services be collected, until the effective date of a~~
7 ~~certificate. However, marketing and development activities may begin prior to the effective~~
8 ~~date of the certificate at the applicant's risk that it may not be granted. Prior to certification,~~
9 ~~the applicant must advise the public in any customer contacts or advertisements that~~
10 ~~certification has not and may not be granted.~~

11 ~~(2) Any Alternative Access Vendor certificated prior to July 1, 1995, may become a~~
12 ~~Competitive Local Exchange Company by filing with the Commission's Office of~~
13 ~~Commission Clerk a letter of intent to provide local exchange service. An application fee is~~
14 ~~not required to be paid in conjunction with such filing. Authorization associated with such~~
15 ~~letter of intent shall be effective January 1, 1996, or upon receipt by the Commission,~~
16 ~~whichever is later. Competitive Access Vendors authorized pursuant to this section shall be~~
17 ~~subject to all rules applicable to Competitive Local Exchange Telecommunications~~
18 ~~Companies.~~

19 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History New 12-~~
20 ~~27-95.~~

21 ~~25-24.810 Application for Certificate.~~

22 ~~(1) An applicant for a certificate shall submit an application on Form PSC/TEL 8 (5/08),~~
23 ~~which is incorporated into this rule by reference. Form PSC/TEL 8 (5/08), entitled~~
24 ~~"Application Form for Authority to Provide Competitive Local Exchange Service Within the~~
25 ~~State of Florida", may be obtained from the Commission's website at~~

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1 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission's Division of~~
2 ~~Regulatory Analysis. A non-refundable application fee of \$400.00 must accompany the filing~~
3 ~~of each application.~~

4 (2) ~~An original and one copy of the application shall be filed with the Office of Commission~~
5 ~~Clerk.~~

6 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.335 FS. History New 12-27-95,~~
7 ~~Amended 1-5-06, 5-29-08.~~

8 **25-24.815 Application for Approval of Sale, Assignment or Transfer of Certificate.**

9 (1) ~~A person obtaining a certificate by sale, assignment or transfer from the holder thereof~~
10 ~~shall submit jointly with the certificate holder an application on Form PSC/TEL 8 (5/08),~~
11 ~~which is incorporated into this rule by reference. Form PSC/TEL 8 (5/08), entitled~~
12 ~~"Application Form for Authority to Provide Competitive Local Exchange Service Within the~~
13 ~~State of Florida", may be obtained from the Commission's website at~~
14 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission's Division of~~
15 ~~Regulatory Analysis. A non-refundable application fee of \$400.00 must accompany the filing~~
16 ~~of each application.~~

17 (2) ~~An original and one copy of the application shall be filed with the Office of Commission~~
18 ~~Clerk.~~

19 (3) ~~An application for sale, assignment or transfer of a certificate will be granted if the~~
20 ~~Commission determines that such approval is in the public interest.~~

21 (4) ~~A certificate may be sold, assigned or transferred only as a whole.~~

22 (5) ~~In the case of sale, assignment or transfer where the assignor and assignee or transferor or~~
23 ~~transferee are all currently certificated by the Commission and there are no pending actions~~
24 ~~against them, a sale, assignment or transfer shall be considered effective upon filing. Any~~
25 ~~party protesting the sale, assignment or transfer shall be required to prove why the sale,~~

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

1 ~~assignment or transfer is not in the public interest.~~

2 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.335, 364.345(2) FS. History~~

3 ~~New 12-27-95, Amended 1-5-06, 5-29-08.~~

4 **~~25-24.820 Revocation of a Certificate.~~**

5 ~~(1) The Commission may on its own motion, after notice and opportunity for hearing, revoke a~~
6 ~~company's certificate for any of the following reasons:~~

7 ~~(a) Violation of a term or condition under which the authority was originally granted;~~

8 ~~(b) Violation of Commission rule or order;~~

9 ~~(c) Violation of Florida Statute; or~~

10 ~~(d) Violation of a price list standard.~~

11 ~~(2) If a certificated company desires to cancel its certificate, it shall request cancellation from~~
12 ~~the Commission in writing and shall provide the following with its request. Cancellation of a~~
13 ~~certificate shall be ordered subject to the holder providing the required information.~~

14 ~~(a) A statement of intent and date certain to pay regulatory assessment fee.~~

15 ~~(b) A statement of why the certificate is proposed to be cancelled.~~

16 ~~(c) A statement as to how customer deposits and final bills will be handled.~~

17 ~~(d) Proof of individual customer notice regarding discontinuance of service.~~

18 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.345 FS. History New 12-27-95~~

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

FLORIDA PUBLIC SERVICE COMMISSION

OFFICE OF TELECOMMUNICATIONS

APPLICATION FORM

FOR

AUTHORITY TO PROVIDE TELECOMMUNICATIONS COMPANY SERVICE WITHIN THE STATE OF FLORIDA

Instructions

- A. This form is used as an application for an original certificate and for approval of transfer of an existing certificate. In the case of a transfer, the information provided shall be for the transferee (See Page 8).
- B. Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
- C. Use a separate sheet for each answer which will not fit the allotted space.
- D. Once completed, submit the original and one copy of this form along with a non-refundable application fee of **\$500.00** to:

**Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770**

- E. A filing fee of **\$500.00** is required for the transfer of an existing certificate to another company.
- F. If you have questions about completing the form, contact:

**Florida Public Service Commission
Office of Telecommunications
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6600**

1. This is an application for (check one):

Original certificate (new company).

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority rather than apply for a new certificate.

2. Name of company:

3. Name under which applicant will do business (fictitious name, etc.):

4. Official mailing address:

Street/Post Office Box: _____
City: _____
State: _____
Zip: _____

5. Florida address:

Street/Post Office Box: _____
City: _____
State: _____
Zip: _____

6. Structure of organization:

Individual
 Foreign Corporation
 General Partnership
 Other, please specify:

Corporation
 Foreign Partnership
 Limited Partnership

If individual, provide:

Name: _____
Title: _____
Street/Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

7. **If incorporated in Florida**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:
8. **If foreign corporation**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:
9. **If using fictitious name (d/b/a)**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida. The Florida Secretary of State fictitious name registration number is:
10. **If a limited liability partnership**, please proof of registration to operate in Florida. The Florida Secretary of State registration number is:
11. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.

Name: _____
Title: _____
Street/Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

12. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable. The Florida registration number is:

13. Provide F.E.I. Number:

14. Who will serve as liaison to the Commission in regard to the following?

(a) The application:

Name: _____
Title: _____
Street Name & Number: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

(b) Official point of contact for the ongoing operations of the company:

Name: _____
Title: _____
Street Name & Number: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

(c) Where will you officially designate as your place of publicly publishing your schedule (a/k/a tariffs or price lists)?

- Florida Public Service Commission
- Website – *Website address:*
- Other – *Please provide address:*

15. List the states in which the applicant:

(a) has operated as a telecommunications company.

(b) has applications pending to be certificated as a telecommunications company.

(c) is certificated to operate as a telecommunications company.

(d) has been denied authority to operate as a telecommunications company and the circumstances involved.

(e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

(f) has been involved in civil court proceedings with another telecommunications entity, and the circumstances involved.

16. Have any of the officers, directors, or any of the ten largest stockholders previously been:

(a) adjudged bankrupt, mentally incompetent (and not had his or her competency restored), or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. Yes No

If yes, provide explanation.

(b) granted or denied a certificate in the State of Florida (this includes active and canceled certificates). Yes No

If yes, provide explanation and list the certificate holder and certificate number.

(c) an officer, director, partner or stockholder in any other Florida certificated or registered telephone company. Yes No

If yes, give name of company and relationship. If no longer associated with company, give reason why not.

17. Submit the following:

(a) **Managerial capability:** resumes of employees/officers of the company that would indicate sufficient managerial experiences of each. Please explain if a resume represents an individual that is not employed with the company and provide proof that the individual authorizes the use of the resume.

(b) **Technical capability:** resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance. Please explain if a resume represents an individual that is not employed with the company and provide proof that the individual authorizes the use of the resume.

(c) **Financial Capability:** applicant's audited financial statements for the most recent three (3) years. If the applicant does not have audited financial statements, it shall so be stated. Unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

1. the balance sheet,
2. income statement, and
3. statement of retained earnings.

Note: *It is the applicant's burden to demonstrate that it possesses adequate managerial capability, technical capability, and financial capability. Additional supporting information can be supplied at the discretion of the applicant.*

THIS PAGE MUST BE COMPLETED AND SIGNED

REGULATORY ASSESSMENT FEE: I understand that all telephone companies must pay a regulatory assessment fee. Regardless of the gross operating revenue of a company, a minimum annual assessment fee, as defined by the Commission, is required.

RECEIPT AND UNDERSTANDING OF RULES: I acknowledge receipt and understanding of the Florida Public Service Commission's rules and orders relating to the provisioning of telecommunications company service in Florida.

APPLICANT ACKNOWLEDGEMENT: By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide telecommunications company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "***Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083.***"

I understand that any false statements can result in being denied a certificate of authority in Florida.

COMPANY OWNER OR OFFICER

Print Name: _____
Title: _____
Telephone No.: _____
E-Mail Address: _____

Signature: _____ Date: _____

CERTIFICATE TRANSFER

As current holder of Florida Public Service Commission Certificate Number _____, I have reviewed this application and join in the petitioner's request for a transfer of the certificate.

COMPANY OWNER OR OFFICER

Print Name: _____
Title: _____
Street/Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____

Signature: _____ Date: _____

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-4.004: Certificates of Public Convenience and Necessity

25-4.005: Transfer of Certificate of Public Convenience and Necessity As to All or Portion of Service Area

PURPOSE AND EFFECT: These rules are amended to implement statutory changes to chapter 364, FS, made by the Regulatory Reform Act of 2011.

Docket No. 120241-TP

SUMMARY: As a result of the amendments to chapter 364, FS, made by the Regulatory Reform Act of 2011, all applications concerning the granting and transfer of certificates of authority for all telecommunications companies, as defined by chapter 364, FS, will be regulated by Rules 25-4.004 and 25-4.005, F.A.C., and separate sets of rules on this topic for shared tenant service, alternative access vendor service, and competitive local exchange service are repealed. Rules 25-4.004 and 25-4.005 are amended in order to implement these changes by incorporating provisions necessary to regulate the granting and transfer of certificates of authority for all telecommunications companies.

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: 350.127(2), FS

LAW IMPLEMENTED: 350.113, 350.127(1), 364.33, 364.335, 364.336, FS

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G. W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6216, kcowdery@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.004 Certificates of ~~Public Convenience and Necessity~~ or Authority; Application.

(1) No person shall provide telecommunications services to the public without either a certificate of necessity issued prior to July 1, 2011, or a certificate of authority issued after July 1, 2011. Services may not be provided, nor may deposits or payment for services be collected, until the effective date of a certificate. However, marketing and development activities may begin prior to the effective date of the certificate at the applicant's risk that the certificate may not be granted. Prior to certification, the applicant must advise the public in any customer contacts or advertisements that certification has not and may not be granted.

(2) Each applicant for a certificate of authority shall submit an application on Form PSC/TEL 162 (X/XX), entitled "Application Form for Authority to Provide Telecommunications Company Service Within the State of Florida," which is incorporated into this rule by reference and which is available at http://www.flrules.org/Gateway/reference.asp?No_Ref-XXXXX, from the Commission's website at www.floridapsc.com/utilities/telecomm/, or by contacting the Commission's Office of Telecommunications. A non-refundable application fee of \$500.00 must accompany the filing of each application.

(3) An application for certificate of authority shall be filed with the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(4) Each holder of a certificate of necessity or authority shall file with the Commission's Office of Commission Clerk updated information for the following items within ten days after a change occurs:

(a) The street address of the certificate holder including number, street name, city, state and zip code, and the mailing address if it differs from the street address.

(b) Name, title, and phone number of the individual responsible for contact with the Commission.

~~Except as provided in Chapter 364, F.S., no person shall begin the construction or operation of any telephone line, plant or system or an extension thereof or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Florida Public Service Commission a certificate that the present or future public convenience and necessity require or will require such construction, operation or acquisition. Rulemaking Authority 350.127(2) FS. Law Implemented 350.127(1), 364.33, 364.335, FS. History--Revised 12-1-68, Formerly 25-4.04, Amended _____.~~

~~25-4.005 Transfer of Certificate of Public Convenience and Necessity or Authority As to All or Portion of Service Area.~~

~~(1) Except as provided in section 364.33, F.S., a certificate holder and the person seeking to obtain the certificate by transfer from the holder shall submit a joint application on Commission Form PSC/TEL 162 (X/XX), entitled "Application Form for Authority to Provide Telecommunications Company Service Within the State of Florida," incorporated by reference into Rule 25-4.004, F.A.C. The application shall be filed with the Office of Commission Clerk. A nonrefundable application fee of \$500.00 must accompany the filing of each application to cover processing costs. The Commission's acceptance of the application fee does not imply that the application for transfer of a certificate will be granted.~~

~~(2) The company transferring the certificate shall pay to the Commission all regulatory assessment fees owed pursuant to sections 350.113 and 364.336, F.S., and Rule 25-4.0161, Florida Administrative Code.~~

~~(1) Request for approval by the Commission of transfer of any certificate of public convenience and necessity (or portion thereof) shall be made by joint petition of the certificate holder and transferee after reasonable notice has been given to all subscribers affected by the proposed transfer. Requests for approval shall be accompanied by an affidavit that notice of intention to file the petition has been given:~~

~~(a) By mail or personal delivery to the governing bodies of the counties and municipalities affected, to the public counsel, and to the Commission;~~

~~(b) By a legal advertisement in a newspaper of general circulation in the area affected and published on two (2) separate occasions at least two (2) weeks prior to the filing of the joint petition on the proposed transfer, and~~

~~(e) By written notice subject to Commission approval, issued to each subscriber in the area to be transferred concurrent with the filing of the petition.~~

~~(2) Upon approving a transfer of certificate, or portion thereof, the Commission will cancel same and reissue in the name of the transferee or amend the description of the service area or both.~~

~~(3) Such joint petitions shall include detailed descriptions of the affected boundaries; the number of subscribers, if any, in each petitioned area; changes in rates; service being provided by either petitioner in areas to be transferred; pending applications for service held by either petitioner; changes in calling scope; customers to be transferred; deposits and deposit interest; any financial exchange or consideration for the proposed change, and a list by name and telephone number of all customers who will be exempt from the proposed change.~~

~~(4) Any subscriber or group of subscribers of a telephone company may petition the Commission for transfer from the service area of such telephone company to that of another telephone company serving contiguous territory.~~

~~(5) If a customer survey is conducted by a telephone company among customers affected by the proposed transfer, return postage shall be paid by the company serving the affected customer and survey ballots shall be returnable to the Public Service Commission, Attention: Division of Regulatory Analysis, for tabulation.~~

Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 364.335, 364.336 FS. History—New 12-1-68, Amended 5-4-81, Formerly 25-4.05, Amended 9-16-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Catherine Beard

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 38, Number 23, June 8, 2012.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

- 25-24.565: Certificate of Public Convenience and Necessity Required
- 25-24.567: Application for Certificate
- 25-24.568: Improper Use of a Certificate
- 25-24.569: Application for Approval of Sale, Assignment or Transfer of Certificate
- 25-24.572: Cancellation of a Certificate
- 25-24.705: Scope and Waiver
- 25-24.710: Terms and Definitions
- 25-24.715: Certificate of Public Convenience and Necessity Required
- 25-24.720: Application for Certificate
- 25-24.725: Certificates Not Transferable
- 25-24.730: Application for Approval of Sale, Assignment, or Transfer of Certificate
- 25-24.735: Cancellation of a Certificate
- 25-24.745: Records and Reports; Rules Incorporated
- 25-24.800: Scope
- 25-24.805: Certificate of Public Convenience and Necessity Required
- 25-24.810: Application for Certificate
- 25-24.815: Application for Approval of Sale, Assignment or Transfer of Certificate
- 25-24.820: Revocation of a Certificate

PURPOSE AND EFFECT: These rules are repealed consistent with amendments made to chapter 364, FS, by the Regulatory Reform Act of 2011.

Docket No. 120241-TP

SUMMARY: The rules repealed relate to the application, transfer and cancellation or revocation of certificates of public convenience and necessity for shared tenant service, alternative access vendor service, and competitive local exchange service. As a result of changes made to chapter 364, FS, by the Regulatory Reform Act of 2011, the existing three separate sets of rules concerning certificates which regulate these three types of companies are obsolete, and are replaced by one set of rules in chapter 25-4, F.A.C.

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: 350.127(2), FS

LAW IMPLEMENTED: 350.113, 350.127(1), 364.01, 364.016, 364.02, 364.17, 364.18, 364.183, 364.185, 364.32, 364.33, 364.335, 364.337, 364.339, 364.345, FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED

AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G. W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6216, kcowdery@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-24.565 Certificate of Public Convenience and Necessity Required.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339 FS. History—New 1-28-91, Amended 7-29-97, Repealed

25-24.567 Application for Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345 FS. History—New 1-28-91, Amended 5-8-91, 11-20-91, 7-29-97, 1-5-06, 5-29-08, Repealed

25-24.568 Improper Use of a Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345 FS. History—New 1-28-91, Amended 7-29-97, Repealed

25-24.569 Application for Approval of Sale, Assignment or Transfer of Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, 364.335, 364.337, 364.339, 364.345 FS. History—New 1-28-91, Amended 11-20-91, 7-29-97, 1-5-06, 5-29-08, Repealed

25-24.572 Cancellation of a Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285, 364.339, 364.345 FS. History—New 1-28-91, Amended 7-29-97, Repealed

25-24.705 Scope and Waiver.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337(1), (2), (6) FS. History—New 1-8-95, Repealed

25-24.710 Terms and Definitions.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.337 FS. History—New 1-8-95, Repealed

25-24.715 Certificate of Public Convenience and Necessity Required.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337 FS. History—New 1-8-95, Repealed

25-24.720 Application for Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337, 364.345 FS. History-New 1-8-95, Amended 1-5-06, 5-29-08, Repealed

25-24.725 Certificate Not Transferrable.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337, 364.345 FS. History-New 1-8-95, Repealed

25-24.730 Application for Approval of Sale, Assignment or Transfer of Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, 364.335, 364.337, 364.345 FS. History-New 1-8-95, Amended 1-5-06, 5-29-08, Repealed

25-24.735 Cancellation of a Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285, 364.337, 364.345 FS. History-New 1-8-95, Repealed

25-24.745 Records and Reports: Rules Incorporated.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.016, 364.17, 364.18, 364.183, 364.185, 364.337 FS. History-New 1-8-95, Amended 11-13-95, Repealed

25-24.800 Scope.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History-New 12-27-95, Amended 2-1-99, Repealed

25-24.805 Certificate of Public Convenience and Necessity Required.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History-New 12-27-95, Repealed

25-24.810 Application for Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.335 FS. History-New 12-27-95, Amended 1-5-06, 5-29-08, Repealed

25-24.815 Application for Approval of Sale, Assignment or Transfer of Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.335, 364.345(2) FS. History-New 12-27-95, Amended 1-5-06, 5-29-08, Repealed

25-24.820 Revocation of a Certificate.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.345 FS. History-New 12-27-95, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Catherine Beard

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 38, Number 38, July 13, 2012, and, Vol. 38, No. 23, June 8, 2012.

Rules 25-4.004, 25-4.005, 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C.

Docket No. 120241-TP

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

Rules 25-4.004 and 25-4.005, F.A.C., are amended and Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C., are repealed in order to implement changes made to chapter 364, Fla. Stat., by the Regulatory Reform Act of 2011. These changes include repeal of Sections 364.377 and 364.339, F.S., and amendment of Sections 364.33 and 364.335, F.S.

Rule 25-24.004, Certificates of Public Convenience and Necessity, is amended to delete current references to certificates of public convenience and necessity and instead reference certificates of authority, consistent with Section 364.33, Fla. Stat. The rule is amended in order to create one standard application form and \$500 application fee and to incorporate certain rule requirements for applications for certificates of authority for shared tenant service, alternative access vendor service, and competitive local exchange companies, consistent with changes to Chapter 364, F.S., resulting from the Regulatory Reform Act of 2011.

Rule 25-24.005, Transfer of Certificate of Public Convenience and Necessity as to All or Portion of Service Area, is amended to reference certificates of authority, consistent with Section 364.33, Fla. Stat.; to adopt one standard application form and \$500 application fee; to incorporate certain rule requirements relating to transfer of certificates for shared tenant service and alternative access vendor services; and to delete existing sections (1) – (5) as obsolete because of the statutory changes resulting from the Regulatory Reform Act of 2011.

Rules 25-24.565, Certificate of Public Convenience and Necessity Required, and Rule 25-24.567, Application for Certificate, relating to shared tenant service, Rules 25-24.715, Certificate of Public Convenience and Necessity Required, and 25-24.720, Application for Certificate, relating to alternative access vendor service, and Rules 25-24.805, Certificate of Public Convenience and Necessity Required, and 25-24.810, Application for Certificate, relating to competitive local exchange companies, are all repealed. These rules are obsolete and unnecessary because all relevant provisions concerning application for certificates have been incorporated into Rule 25-4.004, F.A.C., in order to have one standard set of rules, consistent with the statutory changes resulting from the Regulatory Reform Act of 2011.

Rule 25-24.568, Improper Use of a Certificate, and Rule 25-24.569, Application for Approval of Sale, Assignment or Transfer of Certificate, relating to shared tenant service, Rule 25-24.725, Certificates Not Transferable, and Rule 25-24.730, Application for Approval of Sale, Assignment, or Transfer of Certificate, relating to alternative access vendor service, and Rule 25-24.815, Application for Approval of Sale, Assignment or Transfer of Certificate, relating to

competitive local exchange companies, are all repealed. These rules are obsolete and unnecessary because all relevant provisions governing certificate transfers have been incorporated into Rule 25-4.005, F.A.C., in order to have one standard set of certificate transfer rules for all telecommunications companies, consistent with the statutory changes resulting from the Regulatory Reform Act of 2011.

Rule 25-24.572, Cancellation of Certificate (shared tenant services), Rule 25-24.735, Cancellation of a Certificate (alternative access vendor), and Rule 25-24.820, Revocation of a Certificate (competitive local exchange company), are repealed. These rules are obsolete, unnecessary, and redundant of Section 364.285(1), F.S., which grants the Commission the authority to revoke the certificate of any utility which has refused to comply with or has willfully violated any lawful rule or order of the Commission or provision of Chapter 364, F.S. These rules are also obsolete and duplicative of Section 364.335(3), F.S., which provides that a certificate of authority may be terminated by a telecommunications company by submitting notice to the Commission.

Rule 25-24.705, Scope and Waiver, Rule 25-24.710, Terms and Definitions, and Rule 25-24.745, Records and Reports, Rules Incorporated, concerning alternative access vendor services, are repealed. These rules are obsolete because, as a result of the Regulatory Reform Act of 2011, separate rules for alternative access vendor services are no longer consistent with Chapter 364, F.S. Rule 25-24.745 is also repealed as unnecessary and/or duplicative because the four other Commission rules referenced therein as applicable to alternative access vendors have or will be repealed or by their terms already apply to alternative access vendors.

Rule 25-24.800, F.A.C., Scope, is repealed. This rule is obsolete, unnecessary, and duplicative because the rules in Chapter 25-24, F.A.C., have been or are in the process of being repealed. In addition, the statement in Rule 25-24.800 that Chapters 25-4, 25-9, or 25-14, F.A.C., do not apply to competitive local exchange companies unless specifically provided is obsolete and unnecessary. This is because any rules in Chapter 25-4, F.A.C., which apply to competitive local exchange companies do so specifically by the terms of those rules; Chapter 25-9 by its terms does not apply to competitive local exchange companies; and Chapter 25-14, F.A.C., has been repealed. In addition, the reference to the rules contained in Part XIII of Chapter 25-24, concerning operator services, is obsolete because those rules have also been repealed.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for these rules.

State of Florida



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-

DATE: September 19, 2012

TO: Kathryn Cowdery, Senior Attorney, Office of the General Counsel

FROM: Laura V. King, Economic Analyst, Division of Economics *W E39 CS*

RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-4.004, Florida Administrative Code (F.A.C.), Certificates of Public Convenience and Necessity and 25-4.005, Transfer of Certificate of Public Convenience and Necessity and Repeal of Rules 25-24.565, Certificate of Public Convenience and Necessity Required; 25-24.567, Application for Certificate; 25-24.568, Improper Use of a Certificate; 25-24.569, Application for Approval of Sale, Assignment or Transfer of Certificate; 25-24.572, Cancellation of a Certificate; 25-24.705, Scope and Waiver; 25-24.710, Terms and Definitions; 25-24.715, Certificate of Public Convenience and Necessity Required; 25-24.720, Application for Certificate; 25-24.725; Certificates Not Transferable, 25-24.730; Application for Approval of Sale, Assignment, or Transfer of Certificate; 25-24.735, Cancellation of a Certificate; 25-24.745, Records and Reports; Rules Incorporated; 25-24.800, Scope; 25-24.805, Certificate of Public Convenience and Necessity Required; 25-24.810, Application for Certificate; 25-24.815, Application for Approval of Sale, Assignment or Transfer of Certificate; 25-24.820, Revocation of a Certificate.

Summary of Rules

Rule 25-4.004, F.A.C., Certificates of Public Convenience and Necessity, establishes the requirement that no person shall begin construction or operation of any telephone system, an extension thereof, or acquire ownership or control thereof, either directly or indirectly, without first obtaining a certificate from the Commission. The rule applies to incumbent local exchange providers and has not been revised since 1968. Certification requirements for other types of local service providers are currently contained in other rules. The intent of the draft rule is to have one streamlined certification process which applies to all local telecommunications providers. The draft rule imposes no new requirements and has eliminated some steps that are no longer necessary. In addition, the draft rule: (1) makes clear that no person shall provide telecommunications services without a certificate of necessity (prior to July 1, 2011), or a certificate of authority (after July 1, 2011); (2) outlines the specific filing requirements, including that payment of a \$500 nonrefundable application fee must accompany the filing; and, (3) requires certificate holders to file with the Commission Clerk updated information (address, telephone number, etc.) within ten days after a change occurs.

Like the certification rule, Rule 25-4.005, Transfer of Certificate of Public Convenience applies to incumbent local exchange companies and has not been amended since 1999. This rule

requires that any request to transfer a certificate must be made by joint petition and notice be given to all subscribers affected by the proposed transfer. In addition, the rule outlines several requirements that must be fulfilled prior to the petition for transfer being considered or approved by the Commission. The intent of the draft rule is to have one streamlined process for the transfer of a certificate of necessity or authority. The draft rule imposes no new requirements and has eliminated some steps that are no longer necessary. The draft rule requires: (1) a joint application be filed by the certificate holder and the person seeking to obtain the certificate; (2) payment of a \$500 nonrefundable application fee must accompany the filing; and, (3) the company transferring the certificate pay all regulatory assessment fees owed.

The rules summarized below are to be repealed because they have been made obsolete with the implementation of statutory changes to Chapter 364, F.S., made by the Regulatory Reform Act of 2011, culminating with the amendments to Rules 25-4.004 and 25-4.005, F.A.C.

- Rule 25-24.565, F.A.C., Certificate of Public Convenience and Necessity Required, states that no person provide shared tenant service (STS) without first obtaining certification from the Commission.
- Rule 25-24.567, F.A.C., Application for Certificate, outlines the application process for STS certification, including payment of a \$250 nonrefundable application fee.
- Rule 25-24.568, F.A.C., Improper Use of a Certificate, specifies that a STS certificate may not be assigned or transferred by the holder without prior Commission approval and can not be used as collateral.
- Rule 25-24.569, F.A.C., Application for Approval of Sale, Assignment or Transfer of Certificate, this rule outlines the process to assign, transfer, or sell a STS certificate by completing the appropriate application and requiring payment of a \$250 nonrefundable fee.
- Rule 25-24.572, F.A.C., Cancellation of a Certificate, delineates under what circumstances the Commission may cancel a STS provider's certificate. Also, it outlines how the STS provider may request cancellation.
- Rule 25-24.705, F.A.C., Scope and Waiver, this rules specifically outlines which rules apply to Alternative Access Vendors (AAV) and how an AAV may file a petition for a waiver of any rule or part.
- Rule 25-24.710, F.A.C., Terms and Definitions, this rules defines specific terms as they are applied to an AAV provider.
- Rule 25-24.715, F.A.C., Certificate of Public Convenience and Necessity Required, requires that no person provide AAV service without first obtaining certification from the Commission.
- Rule 25-24.720, F.A.C., Application for Certificate, outlines the application process for AAV certification, including payment of a \$250 nonrefundable application fee.
- Rule 25-24.725, F.A.C., Certificates Not Transferable, specifies that an AAV certificate may not be sold, assigned, or transferred by the holder without prior Commission approval and can not be used as collateral.
- Rule 25-24.730, F.A.C., Application for Approval of Sale, Assignment, or Transfer of Certificate, this rule outlines the process to assign, transfer, or sell an AAV

certificate by completing the appropriate application and requiring payment of a \$250 nonrefundable fee.

- Rule 25-24.735, F.A.C., Cancellation of a Certificate, delineates under what circumstances the Commission may cancel an AAV provider's certificate. Also, it outlines how the AAV provider may request cancellation.
- Rule 25-24.745, F.A.C., Records and Reports; Rules Incorporated, this rule identifies and incorporates by reference other rules which AAV are required to follow. In addition, established the reporting requirements when there is a change of address or a change in the name, title, and/or phone number of the individual responsible for Commission contacts.
- Rule 25-24.800, F.A.C., Scope, specifically outlines which rules apply to Competitive Local Exchange Companies (CLECs) and to CLECs which provide operator services in a call aggregator context.
- Rule 25-24.805, F.A.C., Certificate of Public Convenience and Necessity Required, states that no person shall provide CLEC service without first obtaining certification from the Commission.
- Rule 25-24.810, F.A.C., Application for Certificate, outlines the application process for CLEC certification, including payment of a \$400 nonrefundable application fee.
- Rule 25-24.815, F.A.C., Application for Approval of Sale, Assignment or Transfer of Certificate, this rule outlines the process to assign, transfer, or sell a CLEC certificate by completing the appropriate application and requiring payment of a nonrefundable \$400 fee.
- Rule 25-24.820, F.A.C., Revocation of a Certificate, this rule delineates under what circumstances the Commission may revoke a CLEC certificate. Also, it outlines how the CLEC provider may request cancellation.

Economic Analysis Showing Whether The Rules Discussed Above Are Likely To Have An Adverse Impact On Either Economic Growth Or Business Competitiveness In Excess Of \$1 Million Within 5 Years

Section 120.541(2)(a)1 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. The rule amendments are intended to reduce regulatory oversight and to streamline the procedures for obtaining and transferring certificates to provide local service; as such, these rules are not expected to adversely impact economic growth, private job sector employment, private sector investment, and business competitiveness during the five year period identified in the statute.

Economic Analysis Showing Whether The Rules Discussed Above Are Likely To Increase Regulatory Costs In Excess Of \$1 Million Within 5 Years

Section 120.541(2)(a)3 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. Although the fees for the application and transfer are being increased, it is extremely unlikely to increase regulatory costs in excess of \$1 million within 5 years. The number of applications and transfers has been steadily declining, staff does not believe this trend will change. In fact, in 2011, the Commission issued only 14 certificates. In order to reach regulatory costs in excess of \$1 Million within 5 years the Commission would need to grant approximately 800 application/transfer requests per year.

Estimated Number Of Entities Required To Comply And General Description Of Individuals Affected

Section 120.541(2)(b) 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 individuals affected by Subsections (1), (2), and (3) of Rule 25-4.004, F.A.C., are those persons or entities applying to become telecommunications companies. It is difficult to estimate the number; however, in 2009 there were 28 entities, in 2010 there were 25, and in 2011 there were 14 entities. Since Subsection (4) requires each certificate holder to file updated information, such as a change of address or telephone number, with the Commission Clerk, all AAVs, STS, CLECs, and ILECs are required to comply. This number totals 325.

All of the 325 currently certified entities would be required to comply with the provisions of draft Rule 25-4.005, F.A.C. when seeking to transfer their certificates.

Rule Implementation And Enforcement Cost And Impact On Revenues For The Agency And Other State And Local Government Entities

Section 120.541(2)(c) 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. The rule development process includes a sequence of actions by the agency which vary according to the rule being implemented. These steps include rule drafting; a rule development workshop; preparing, filing, and presenting a rule recommendation (including a SERC); Commission consideration of the draft rule recommendation at an Agenda Conference; a rule hearing if one is requested; a possible additional agenda conference for those cases where a rule hearing is conducted or written comments are filed; and ultimately, filing the rule with the Secretary of State. Most of the costs to the agency associated with these rule development actions, including a possible rule hearing, are fixed costs and not likely to be affected substantially for the level of complexity associated with the development of these rules. Enforcement costs with the rule change are also primarily fixed costs and should remain at approximately the same levels as they have been in the past.

September 19, 2012

SERC

Page 5 of 5

Increases to the application filing fee and transfer fee are expected to have a minimal impact on the revenues for the agency because the Commission receives few application and transfer requests. The impact on state and local government revenue is expected to be nil.

Estimated Transactional Costs To Individuals And Entities

Section 120.541(2)(d) 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, entities or individuals wishing provide telecommunications services or to obtain a certificate by transfer would be required to prepare the appropriate application/form and submit a nonrefundable fee of \$500.

Impact On Small Businesses, Small Cities, Or Small Counties

Section 120.541(2)(e) requires an analysis of the impact of the proposed rule change 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. Staff believes the impact of the proposed rule changes on small businesses, small counties, and small cities will be de minimus.

Additional Information Deemed Useful By The Agency

None.

cc: Jim Dean
Connie Kummer
Beth Salak
Catherine Beard
ECO SERC File