

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

|                                       |   |                      |
|---------------------------------------|---|----------------------|
| IN RE: Repeal of Rules 25-4.123       | ) | DOCKET NO. 900971-PU |
| through 25-4.131, F.A.C., regarding   | ) |                      |
| radio common carrier; 25-11.001,      | ) | ORDER NO. 24444      |
| F.A.C., regarding telegraph carriers; | ) |                      |
| 25-15.001 through 25-15.050, F.A.C.,  | ) | ISSUED: 4/29/91      |
| regarding air carriers; and           | ) |                      |
| 25-16.001 through 25-16.035, F.A.C.   | ) |                      |
| regarding freight forwarders.         | ) |                      |
|                                       | ) |                      |
|                                       | ) |                      |

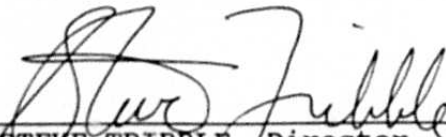
NOTICE OF ADOPTION OF RULE REPEAL

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has repealed Rules 25-4.123 through 25-4.131, F.A.C., relating to radio common carrier; Rule 25-11.001, F.A.C., relating to telegraph carriers; Rules 25-15.001 through 25-15.050, F.A.C., relating to air carriers; and Rules 25-16.001 through 25-16.035, F.A.C., relating to freight forwarders.

The rule repeal was filed with the Secretary of State on April 24, 1991, and will be effective on May 14, 1991. A copy of the relevant portions of the certification filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

By Direction of the Florida Public Service Commission, this  
29th day of APRIL, 1991.

  
 STEVE TRIBBLE, Director  
 Division of Records & Reporting

( S E A L )

CBM

0051

DOCUMENT NUMBER-DATE

04069 APR 29 1991

FPSC-RECORDS/REPORTING

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| RULE TITLE:   | RULE NO.: |
|---|-----------|
| Rules for General Application   | 25-4.123  |
| Applications for Certificates of Public<br>Convenience and Necessity<br>Service | 25-4.124  |
| Reports, Records, and Reports in General  | 25-4.125  |
| Tariffs   | 25-4.126  |
| Procedures  | 25-4.127  |
| Uniform System of Accounts  | 25-4.128  |
| Annual Reports  | 25-4.129  |
| Location and Preservation of Records  | 25-4.130  |
|   | 25-4.131  |

PURPOSE AND EFFECT: Repeal is necessary where there is no longer regulation by the Florida Public Service Commission.

SUMMARY: The rule would be repealed regarding radio common carriers.

RULEMAKING AUTHORITY: 364.42, F.S.

LAW IMPLEMENTED: 364.41, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THESE RULES: There should be no impact from repeal in areas which have no longer been regulated.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

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TIME AND DATE: 9:30 A.M., April 29, 1991

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE RULES AND THE ECONOMIC  
IMPACT STATEMENT IS: Director of Appeals, Florida Public Service  
Commission, 101 East Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THESE RULES IS:

(See attached)

NAME OF PERSON ORIGINATING PROPOSED RULES: Cindy Miller, Division  
of Appeals

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULES:  
Florida Public Service Commission

DATE PROPOSED RULES APPROVED: March 5, 1991

If any person decides to appeal any decision of the Commission with  
respect to any matter considered at the rulemaking hearing, if  
held, a record of the hearing is necessary. The appellant must  
ensure that a verbatim record, including testimony and evidence  
forming the basis of the appeal is made. The Commission usually  
makes a verbatim record of rulemaking hearings.

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RULE TITLE:

RULE NO.:

Interest on Customer Deposits

25-11.001

PURPOSE AND EFFECT: Repeal is necessary where there is no longer regulation by the Florida Public Service Commission.

SUMMARY: The rule would be repealed regarding telegraph carriers.

RULEMAKING AUTHORITY: 364.20, F.S.

LAW IMPLEMENTED: 364.05, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THIS RULE: No economic impact should occur from repeal where matters have no longer been regulated.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., April 29, 1991

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THIS RULE IS:

(See attached)

NAME OF PERSON ORIGINATING PROPOSED RULE: Cindy Miller, Division of Appeals

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:

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Florida Public Service Commission

DATE PROPOSED RULE APPROVED: March 5, 1991

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

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| RULE TITLE:  | RULE NO.: |
|--|-----------|
| Authorization of Rules                                       | 25-15.001 |
| Definitions  | 25-15.002 |
| Reference to Commission                                      | 25-15.003 |
| Rules for General Application                                | 25-15.004 |
| Rules of General Procedure                                   | 25-15.005 |
| Application Form; Contents                                   | 25-15.006 |
| Application for Temporary Operating Authority                | 25-15.007 |
| Reports, Records and Accounts in General                     | 25-15.008 |
| Location of Records and Accounts                             | 25-15.009 |
| Inspection of Records, Accounts, Facilities<br>and Equipment | 25-15.010 |
| Financial Reports  | 25-15.011 |
| Report of Scheduled Operations                               | 25-15.012 |
| Record of Accidents  | 25-15.013 |
| Definitions  | 25-15.014 |
| Procedures Generally   | 25-15.015 |
| Who May File   | 25-15.016 |
| Rate Organizations   | 25-15.017 |
| Filing of Non-participating Carriers                         | 25-15.018 |
| Construction, Filing and Posting; Generally                  | 25-15.019 |
| Tariff Form and Content                                      | 25-15.020 |
| Automatic Short Notice Filings                               | 25-15.021 |
| Authority for Short Notice                                   | 25-15.022 |
| Suspension of Tariff Filings                                 | 25-15.023 |

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| Modified Procedures   | 25-15.024 |
| Interlocking Relationships  | 25-15.025 |
| Transfer of Certificate Modification  | 25-15.026 |
| Flight Schedules and Timetables   | 25-15.027 |
| Nonstop Authorization   | 25-15.028 |
| Baggage   | 25-15.029 |
| Baggage Priority  | 25-15.030 |
| Authority for Checking Baggage  | 25-15.031 |
| Baggage Containers  | 25-15.032 |
| Baggage Storage   | 25-15.033 |
| Baggage and Animals Not Required to Be<br>Transported                                   | 25-15.034 |
| Bill of Lading and Waybill  | 25-15.035 |
| Denied Boarding   | 25-15.036 |
| Grounds for Suspension or Revocation  | 25-15.038 |
| Grounds for Cease and Desist Orders   | 25-15.039 |
| Enforcement Procedures  | 25-15.040 |
| Filing and Approval of Rate, Fare and<br>Schedule Changes by Interstate Air<br>Carriers | 25-15.050 |

PURPOSE AND EFFECT: Repeal is necessary in areas which are no longer regulated by the Florida Public Service Commission.

SUMMARY: The rule would be repealed regarding air carriers.

RULEMAKING AUTHORITY: 330.48, 330.48(4), 330.53, F.S.

LAW IMPLEMENTED: 120.56, 330.46, 330.48(1), 330.48(2), 330.48(3), 330.48(4), 330.49, 330.50(2), 330.51(1), 330.51(2), 330.52, 330.52(1), 330.52(4), 330.53, F.S.

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SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THESE RULES: There should be no economic impact from repeal where there was no longer FPSC regulation.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

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PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE RULES AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THIS RULE IS:

(See attached)

NAME OF PERSON ORIGINATING PROPOSED RULES: Cindy Miller, Division of Appeals

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULES: Florida Public Service Commission

DATE PROPOSED RULES APPROVED: March 5, 1991

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.



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## RULE TITLE:

## RULE NO.:

|   |           |
|---|-----------|
| Records and Reports in General  | 25-16.001 |
| Location of Records and Accounts  | 25-16.002 |
| Inspection of Records and Accounts  | 25-16.003 |
| Financial Reports   | 25-16.004 |
| Retention of Records  | 25-16.005 |
| Answering Correspondence  | 25-16.006 |
| Procedures Generally  | 25-16.010 |
| Minimum Filing Requirements   | 25-16.011 |
| Approval of Test Year; Representative<br>Freight Forwarders; Pre-hearing Conference | 25-16.012 |
| Definitions   | 25-16.020 |
| Procedures Generally  | 25-16.021 |
| Who May File  | 25-16.022 |
| Same; Rate Organization   | 25-16.023 |
| Construction, Filing and Posting; Generally   | 25-16.024 |
| Same; Freight Forwarders  | 25-16.025 |
| Suspensions of Tariff Filings   | 25-16.026 |
| Modified Procedure  | 25-16.027 |
| Rules for General Application; Exceptions   | 25-16.030 |
| Bill of Lading and Waybill  | 25-16.031 |
| Credit Allowance  | 25-16.032 |
| C. O. D. Payments   | 25-16.033 |
| Collection on Undercharges  | 25-16.034 |
| Filing Contracts and Agreements   | 25-16.035 |

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PURPOSE AND EFFECT: Repeal is necessary where there is no longer regulation by the Florida Public Service Commission.

SUMMARY: The rule would be repealed regarding freight forwarders

RULEMAKING AUTHORITY: 323.55(1), F.S.

LAW IMPLEMENTED: 323.55(1), 323.55(2), 323.56, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THESE RULES: No economic impact should occur from repeal where matters have no longer been regulated.

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(See attached)

NAME OF PERSON ORIGINATING PROPOSED RULES: Cindy Miller, Division of Appeals

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULES: Florida Public Service Commission

DATE PROPOSED RULES APPROVED: March 5, 1991

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if

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(R. 6/90)  
25-4.124

reports shall specify the following:

- (a) The amount of money to be refunded and how that amount was computed;
- (b) The amount of money actually refunded;
- (c) The amount of any unclaimed refunds; and
- (d) The status of any unclaimed amounts.

(8) With the last report under subsection (7) of this Rule, the company shall suggest a method for disposing of any unclaimed amounts. The Commission shall then order a method of disposing of the unclaimed funds.

*Specific Authority 350.127(2) FS. Law Implemented 364.05(4), 364.055(2) FS. History—New 8-18-83.*

**25-4.115 Directory Assistance.**

(1) Directory assistance service provided by any telephone company shall be subject to the following:

(a) Charges for directory assistance shall be reflected in tariffs filed with the Commission and shall apply to the end-user.

(b) The tariff shall state the number of telephone numbers that may be requested by a customer per directory assistance call.

(2) Charges for calls within a local calling area or within a customer's Home Numbering Plan Area (HNPA) shall be at rates prescribed in the general service tariff of the local exchange company originating the call and shall be subject to the following:

(a) There shall be no charge for calls from lines or trunks serving handicapped persons.

(b) The same charge shall apply for calls within a local calling area and calls within an HNPA.

(c) The tariff shall state the number of calls per billing month per individual line or trunk to the number designated for local directory assistance (i.e., 411, 311 or 611) for which no charges will apply. The local exchange company shall charge for each local directory assistance call in excess of this allowance. The charge shall not apply for calls from pay stations.

(d) The local exchange company shall apply the charge for each call to the number designated for long distance directory assistance within the customer's HNPA (i.e., 1 + 555-1212).

(3) Charges for intrastate calls to directory assistance outside of the caller's HNPA shall be at rates prescribed in the general services tariff of the interexchange companies and shall be subject to the following:

(a) There shall be no charge for calls from lines or trunks serving handicapped persons.

*Specific Authority 350.127 FS. Law Implemented 364.03, 364.04 FS. History—New 6-12-86, Amended 6-3-90.*

**25-4.116 Telephone Number Assignment Procedure.** Each company shall maintain written standard operating procedures for the assignment of telephone numbers. The standard operating procedure shall be applied in a non-discriminatory manner to requests for assignment of telephone numbers.

*Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.14 FS. History—New 2-9-87.*

**25-4.117 800 Service.** Telephone companies are prohibited from billing to or collecting from the

originating caller any charges for calls to an 800 service subscriber.

*Specific Authority 350.127(2) FS. Law Implemented 364.03 FS. History—New 3-5-90.*

**PART VIII RADIO COMMON CARRIERS**

**25-4.123 Rules for General Application.** The rules hereinafter set forth are for general application and are subject to such changes and modifications, permitted by law, as the Commission from time to time may determine advisable, and are also subject to such exceptions as may be considered just and reasonable in individual cases. They are supplementary to the statutes contained in Part II of Chapter 364, Florida Statutes.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 11-21-65, Repealed 12-1-68, New and Renumbered 3-27-69.*

**25-4.124 Applications for Certificates of Public Convenience and Necessity.**

(1) Separate applications required.

Applications for certificates of public convenience and necessity must be filed separately for each radio common carrier system.

(2) Form of application.

(a) Each application shall be addressed to the Florida Public Service Commission and filed with the Administrative Secretary of the Commission at its office at 101 East Gaines Street, Tallahassee, Florida, 32304.

(b) Each application shall be subscribed and sworn to before a notary public or other officer authorized to administer oaths in the following form:

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (applicant), do solemnly swear that the facts stated in the foregoing application and all exhibits attached thereto are true and correct and that said statement of facts constitutes a complete statement of the matter to which it relates.

(Sign Here) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public

If applicant is a corporation, the affidavit must be made by the president or other officer authorized by the bylaws of the corporation to act for it; attach as Exhibit "A" certificate from Secretary of State, showing same is in good standing, and list names and addresses of stock holders, directors, officers and resident agent. If applicant is a firm, association or partnership, some member of such firm, association, or partnership authorized to make such affidavit shall execute same; attach as Exhibit "A" verified statement showing names and addresses of all owners and/or partners and percentage of ownership of each. If applicant is trading and doing business under a fictitious name, then attach as Exhibit "A" certificate from county or Circuit Court Clerk showing registration of same, and list all owners and their addresses, and percentage of ownership.

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(c) Each application shall specify therein or show by exhibit attached thereto, the following:

1. Full and accurate name and address of applicant.

2. The date the business was established.

3. Give a current detailed statement (balance sheet) of financial condition of applicant, prepared by a C. P. A. or by a public accountant (pursuant to Section 73.01(4), Florida Statutes), showing all assets and liabilities of every kind and character, including debts secured by mortgages and not secured, judgments, current indebtedness, and all other liabilities, and same shall be nourized and attached as Exhibit "B". If the application is made on behalf of one segment of a company involved in radio common carrier operations requiring certification in more than one area or if the company is engaged in non-regulated enterprises, a statement must be included which discloses the investment in plant and related depreciation reserves dedicated to the operation of the system for which this application is being made.

4. Attach to the application as Exhibit "C", prepared and notarized as in Paragraph 3 above a statement of profit and loss of applicant for the preceding calendar or fiscal year if applicant has operated for such period. If the application is made on behalf of one segment of a company involved in radio common carrier operations requiring certification in more than one area or if the company is engaged in non-regulated enterprises, a statement must be included showing for the same period, the profits or losses resulting from the operation of the system for which this application is being made.

5. Attach as Exhibit "D" copies of any license issued by the Federal Communications Commission governing the operation of the system for which the application is being made.

6. Provide a concise general description of the territory professed to be served by the applicant.

7. Attach as Exhibit "E" a county map or maps, as required, delineating thereon the territory professed to be served by applicant; said maps shall show clearly all section lines and shall be of sufficient scale to accurately identify said territory.

8. Give the names and addresses and call letters, if assigned, of all other radio common carriers serving any part of the territory professed to be served by applicant.

9. State the number of customers being served by the system at the time application for certificate is made.

10. Type of application — new or existing system.

Each application shall show whether it is for a new system under Subsection 364.41(6), Florida Statutes, 1965, or an existing system under Subsection 364.41(5), Florida Statutes, 1965.

a. If applicant is an existing system under Subsection (5), above referred to, describe fully the existing plant and any plant under construction.

b. If applicant is a new system under Subsection (6), above referred to, describe fully the proposed plant and the estimated cost thereof.

Tariffs to be filed with application.

Each application for certificate shall include as an exhibit five (5) conformed copies of applicant's tariffs showing all rates, classifications and charges for service subject to the jurisdiction of the Commission furnished by the applicant and all rules and regulations relating thereto. These tariff filings shall conform to the general provisions set out in Commission Rule 25-9.

a. If applicant is an existing system, the filing shall conform to the current tariffs in effect at the time of the application.

b. If applicant is a new system, the tariffs filed shall set forth a complete schedule of applicant's proposed initial rates and charges and all rules and regulations relating thereto.

(3) Applications for Certificates of Public Convenience and Necessity shall be accompanied by a corresponding Federal Communications Commission (FCC) license application with exhibits, as required by FCC Rules, Volume VII, Part 21 (47 CFR Part 21) which the applicant intends to file with the FCC should the certificate be granted. No application will be accepted for docketing which does not contain all the technical information required to be submitted with the FCC application. A certificate shall be granted only to an applicant who meets the citizenship requirements for an FCC license.

(4) Where a carrier makes application for additional frequencies or change of service with the FCC, a copy of such application shall also be submitted for review to this Commission at the same time.

(5) Joint application for transfer or acquisition shall show the transferee or acquiring company to be qualified to the same extent as an original applicant.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 11-21-65, Repealed 12-1-68, New and Renumbered 3-27-69.*

#### ANNOTATIONS

##### Evidence required

*Where certificate of public convenience and necessity to operate as radio common carrier would provide for duplicate and competing service, it is essential for Commission to have testimony before it concerning effect that duplicate and competing service would have on present service. Utility commission must always proceed cautiously before issuing certificate that duplicates existing service, and any new service must not be permitted to vitally impair present service that meets public needs. Westmore v. Bevis, 312 So. 2d 722 (1975).*

##### 25-4.125 Service.

(1) This Commission recognizes to the same extent as the FCC the distinction between two-way and one-way radio-telephone service.

(2) A certificated service area shall comprise only that area in which 90% of all communications are completed.

(3) Each carrier is required to provide service to all customers (a) operating within its authorized territory who request the service which the carrier is authorized to provide and (b) who will comply with

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its approved tariff. Where the service of more than one carrier is available, a customer may select any carrier whose base station serves the municipality which the customer wishes to communicate generally.

(4) The metropolitan area at which the certificated base station is located, or operational control is exercised, or telephone interconnect is made shall be the only location from which any

service may be provided those subscribers operating within the certificated area of that metropolitan area.

(5) Transient service, subject to the limitation of the carrier's tariff and capabilities, shall be provided by all carriers capable of communicating on the frequency used by the mobile station.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 3-27-69.*

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(R. 2/88)

25-4.131

**25-4.126 Reports, Records, and Reports in General.**

(1) A duplicate copy of all reports required to be submitted by the carrier to the FCC, pursuant to FCC Rule, Volume VII, Part 21 (47 CFR, Part 21) are required to be submitted to this Commission.

(2) Each radio common carrier shall furnish to the Commission at such times and in such form as the Commission may require, the results of any required tests and summaries of any required records. The radio common carrier shall also furnish the Commission with any information concerning the company's facilities or operations which the Commission may reasonably request and require. All such data, unless otherwise specified, shall be consistent with and reconcilable with the company's annual report to the Commission.

(3) Where a radio common carrier company is operated with another enterprise, records must be separated in such manner that the results of the radio common carrier operation may be determined at any time.

(4) Upon direction of the Commission and notification to the company any member of the Commission Staff may, at any reasonable time, make a personal visitation to the company offices or other places of business within or without the State and may inspect any accounts, books, records, and papers of the company which may be necessary in the discharge of Commission duties. The Commission's representatives shall be provided adequate work space during such visits.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 3-27-69, Amended 3-31-76.*

**25-4.127 Tariffs.**

(1) All tariff applications for new or changed service, rates or charges shall conform to Commission rules.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 3-27-69.*

**25-4.128 Procedures.**

(1) A hearing to determine the inadequacy or inability or refusal or neglect of an existing carrier to provide reasonably adequate service shall be held at the same time as and in connection with the hearing on an application for a Certificate of Public Convenience and Necessity. Other procedures available in the form of formal complaints (carrier or customer), or show cause orders and investigations instituted by the Commission as provided by Commission rules will be used.

(2) When it is shown to the Commission that no operations have been conducted by a certificate holder for any six (6) month period, after the license has been issued, that certificate shall be subject to cancellation after reasonable notice and hearing thereon.

(3) Upon filing of a joint application for transfer or acquisition, notice of the filing shall be mailed to all other RCC. If no objections to the transfer or acquisition are received by the Commission within fifteen (15) days of the date of mailing, the matter may proceed ex parte. If objections are filed, the

joint application shall be set for public hearing at which time only the joint applicants and carriers filing objections will be heard.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 3-27-69.*

**ANNOTATIONS****Evidence required**

*Where certificate of public convenience and necessity to operate as radio common carrier would provide for duplicate and competing service, it is essential for Commission to have testimony before it concerning effect that duplicate and competing service would have on present service. Utility commission must always proceed cautiously before issuing certificate that duplicates existing service, and any new service must not be permitted to vitally impair present service that meets public needs. Westmore v. Bevis, 312 So. 2d 722 (1975).*

**25-4.129 Uniform System of Accounts.** The Commission has prescribed the NARUC Uniform System of Accounts which has been filed in the Department of State to be used by all radio common carriers operating within the State. All inquiries relating to interpretation of the Uniform System shall be submitted to the Commission's Accounting Department in writing.

*Specific Authority 364.42 FS. Law Implemented 364.42 FS. History—New 1-1-73, Amended 3-19-78.*

**25-4.130 Annual Reports.** Each radio common carrier shall file with the Commission annual reports on forms prescribed by the Commission. These reports shall be certified correct by a responsible accounting official of the company and shall be filed on or before March 31, for the preceding calendar year. The filing date may be extended only by written permission of the Commission. Authorization for the correction of any errors found in the reports and replies to inquiries propounded by the Commission Staff shall be furnished in writing within fifteen (15) days from the date of the Commission's letter.

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 3-31-76.*

**25-4.131 Location and Preservation of Records.**

(1) All records that a radio common carrier 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.

(2) Any company who obtains permission to keep its required records outside of the State shall reimburse the Commission for the travel expense of the Commission's representative during any out-of-state audit.

(3) All records shall be preserved for the period of time specified in the current edition of Part 42 of the Rules and Regulations of the Federal Communications Commission entitled "Preservation of Records of Communication Common Carriers."

*Specific Authority 364.42 FS. Law Implemented 364.41 FS. History—New 3-31-76.*

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CHAPTER 25-11  
TELEGRAPH COMPANIES

25-11.001 Interest on Customer Deposits.

25-11.001 Interest on Customer Deposits. Each public utility which requires deposits to be made by its customer shall pay a minimum interest on such deposits of 6% per annum. The deposit interest shall be simple interest in all cases and settlement shall be made annually, either in cash or by credit on the current bill. This does not prohibit

any public utility paying a higher rate of interest than 6%. No customer depositor shall be entitled to receive interest on his deposit until and unless a customer relationship and the deposit has been in existence for a continuous period of six months; then he shall be entitled to receive interest from the date of the commencement of the customer relationship and placement of deposit.

*Specific Authority 364.20 FS. Law Implemented 364.05 FS. History—New 6-1-63, Amended 4-1-67, Formerly 25-11.01.*



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**PART I GENERAL PROVISIONS**

**25-15.001 Authorization of Rules.** The statutory power granted to the Florida Public Service Commission to establish rules for air carriers is contained basically in Section 330.48(4), Florida Statutes, which states as follows:

Section 4. Responsibility and authority of the Commission. — . . . .

"(1) The Commission shall have the authority to promulgate any rules and regulations consistent with the authority provided by Sections 330.45-330.53 and its practices pursuant hereto that it deems necessary to implement the provisions hereof."

*Specific Authority 330.48(4) FS. Law Implemented 330.48(4) FS. History—New 3-30-75, Formerly 25-15.01.*

**25-15.002 Definitions.** For the purpose of these rules, the following definitions shall apply, unless otherwise specified in a part herein:

(1) "Air Carrier." A person or corporation owning, controlling, operating or managing aircraft as a scheduled common carrier in the transportation of persons or property for compensation or hire only between points within this State, which person or corporation is not engaged in air transportation within the meaning of Section 101 of the Federal Aviation Act of 1958, or any legislation successor thereto, under a certificate or certificates issued by the Civil Aeronautics Board pursuant to Section 401 of the Federal Aviation Act of 1958, or any legislation successor thereto.

(2) "Aircraft." Any motor vehicle now known, or hereafter invented, used or designed for navigation of or flight in the air. For the purposes of these rules, aircraft shall be divided into four classes: Class 1 — aircraft seating in excess of 100 passengers; Class 2 — aircraft seating between 50 and 100 passengers; Class 3 — any aircraft seating not more than 49 passengers; Class 4 — aircraft which do not carry passengers.

(3) "Airport." Any area of land or water which is used, or intended for use, for the landing and take-off of aircraft.

(4) "Air Taxi Operator." An air carrier coming within the classification of "air taxicab operators" established by Part 298 of the Economic Regulations issued by the Civil Aeronautics Board pursuant to the provisions of the Federal Aviation Act of 1958 or any legislation successor thereto.

(5) "Certificate." A certificate of public convenience and necessity issued by the Commission to an air carrier.

(6) "Commission." The Florida Public Service Commission.

(7) "Operation of Aircraft, Operate Aircraft." The use, navigation or piloting of aircraft in the airspace over the State, or upon any airport within

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the State. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of these rules.

(8) "Part; sub-Part." The terms "Part" or "sub-Part" refer to the specified sections of Chapter 25-15 of the rules of the Florida Public Service Commission.

(9) "Passenger." Any individual aboard an aircraft, or holding a ticket and intending to board an aircraft, but not including the pilot, co-pilot, flight engineer, steward or stewardess, or other members of the crew necessary for the operation of the aircraft.

(10) "Person." An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representatives thereof.

(11) "Point." An airport.

(12) "Rate(s)." The term "rate" or "rates" includes rates, fares and charges applicable to the transportation by an air carrier of passengers (and their baggage) and of property.

(13) "Rule; Order." The term "Rule" or "Order" refers to rules or orders issued by the Florida Public Service Commission, unless otherwise specified.

(14) "State." The State of Florida.  
*Specific Authority 330.48(4) FS. Law Implemented 330.46 FS. History—New 3-30-75, Formerly 25-15.02.*

**25-15.003 Reference to Commission.** In the event of any dispute involving the interpretation of any of these rules, any party in interest may refer the matter to the Commission for interpretation.

*Specific Authority 330.48(4) FS. Law Implemented 120.56 FS. History—New 3-30-75, Formerly 25-15.03.*

**25-15.004 Rules for General Application.** The rules hereinafter set forth are for general application and are subject to such changes and modifications permitted by law, as the Commission, from time to time may determine advisable, and are also subject to such exceptions as may be considered just and reasonable in individual cases. They are supplementary to the statutes contained in Chapter 330, Florida Statutes.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(4) FS. History—New 3-30-75, Formerly 25-15.04.*

**25-15.005 Rules of General Procedure.** Except as otherwise provided, the Commission's rules of practice and procedure (Chapter 25-22) shall be applicable with respect to the proceedings conducted pursuant to this chapter.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(4) FS. History—New 3-30-75, Formerly 25-15.05.*

## PART II APPLICATION AND CERTIFICATION PROCEDURES

### 25-15.006 Application Form; Contents.

(1) Every application for a certificate of public convenience and necessity and every application for extension of an existing certificate shall be in writing, verified by the applicant, on PSC Form No. AC-1 and filed as an original plus three (3) copies. Each application shall include full and adequate information with respect to each of the following:

(a) The name and address of applicant and the date established.

(b) Certification from the Secretary of State if the applicant is a corporation; a verified statement of names and addresses of all directors and officers or owners and percentage of ownership of each; and evidence of compliance with the fictitious name statute (Florida Statute Section 865.09) if applicant is operating under a fictitious name.

(c) A detailed statement (Balance sheet) of financial condition of applicant, showing all assets of every kind and character and original cost thereof, and all liabilities of every kind and character, including debts secured by mortgages and unsecured judgments, current indebtedness and all other liabilities. The balance sheet should be typewritten, and must be dated and certified by a certified public accountant (Florida Statute Section 473.02).

(d) A statement of profit and loss of the applicant for the preceding fiscal year (or any part thereof if the applicant has not operated for the entire fiscal year), certified by a responsible officer of the applicant.

(e) A map delineating the routes over which the applicant seeks to operate.

(f) A detailed description of the equipment to be operated, including reserve equipment (include the model, type, FAA Registration Number, weight, tonnage and passenger capacity).

(g) A schedule of proposed service, showing frequency of service and time of departure and arrival at terminals.

(h) A proposed tariff for the transportation requested (including rates, rules and regulations).

(i) Names and schedules of all CAB and Commission certificated carriers operating on the route or routes sought to be served by applicant.

(j) The conditions relied upon by the applicant as justification for the grant of the requested certificate.

(2) The application shall be accompanied by a filing fee of \$1,000.00.

(3) The application shall be accompanied by fifteen (15) copies of a brief written statement giving the name and address of the applicant and attorney, if any, and the authority sought (Commission Rule 25-2.056).

(4) Each application shall contain a statement indicating the agreement of the applicant to conform with and abide by all rules, conditions, limitations, terms, tariffs, and classifications which may be approved, issued or prescribed by the Commission.

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(5) Insurance requirements; evidence of coverage; no operations without insurance coverage; notification by insurer.

(a) Each application shall have attached written evidence that the applicant understands and acknowledges the insurance requirements set forth herein, and that arrangements have been or will be made to obtain the requisite coverage in accordance with the minima established in (b) below.

(b) No air carrier subject to Commission jurisdiction shall conduct operations unless and until there shall have been filed with and approved by the Commission a currently effective certificate of insurance reflecting coverage issued by a company authorized to transact business in Florida or an eligible surplus lines insurer in amounts not less than the following minima:

1. Liability for bodily injury to or death of aircraft passengers: A minimum for any one passenger of at least one hundred thousand dollars (\$100,000) and a minimum for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying one hundred thousand dollars (\$100,000) by one hundred percent (100%) of the total number of passenger seats installed in the aircraft.

2. Liability for bodily injury to or death of persons (excluding passengers): A minimum of at least one hundred thousand dollars (\$100,000) for any one person in any one occurrence, and a minimum of at least five hundred thousand dollars (\$500,000) for each occurrence.

3. Liability for loss or damage to property: A minimum of at least five hundred thousand dollars (\$500,000) for each occurrence.

(c) Notwithstanding the provisions of paragraph (b) of this section, an air carrier may be insured for a single limit of liability for each occurrence. In that event, coverage must be equal to or greater than the combined required minimums for bodily injury, property damage, and/or passenger liability for the type of use to which such aircraft is put, as the case may be.

(d) In the case of a single limit of liability, aircraft may be insured by a combination of primary and excess policies. Such policies must have combined coverage equal to or greater than the required minimums for bodily injury to nonpassengers, property damage, and/or passenger liability for the type of use to which the aircraft is put, as the case may be.

(e) Evidence of current insurance coverage is required to be on file at the Commission at all times. Carriers whose insurance policies are cancelled or expire after they have been filed shall cease operations of all Commission-certificated services until evidence of renewed, satisfactory coverage is in the hands of the Commission.

(f) Insurers are required to file notices with the Commission upon the following occasions:

1. Upon the issuance of insurance coverage to an air carrier certificated by this Commission. Such notice shall include the names of the insurer and of the insured; the date coverage is effective; the policy

number(s); the limits of liability for public liability and property damage under said policies; a statement that the insurer understands and will observe the Commission requirement that expiration or cancellation of the insurance policy not take effect until thirty (30) days after written notice has been given by the insurer or his authorized agent to the Commission at its office in Tallahassee, Florida; and the signature of the Insurer's authorized agent.

2. Upon the thirtieth (30th) day prior to the effective date of expiration or cancellation of insurance coverage issued to an air carrier certificated by this Commission. Such notice shall include the same information as the notice described in Sub-paragraph 1, above, except that the date of expiration or cancellation shall be so identified and shall take the place of the date of effective coverage; and the reason for discontinuance of coverage shall be added.

(6) If, after receipt of any application, the Commission shall request the applicant to supply it with additional information, such information shall be furnished in the form of an amendment to the original application. For purposes of this Part, the application will be deemed to be filed upon receipt of the additional information filed as an amendment to the original application.

(7) Each application shall include a certification by the applicant that the local airport operating authority for each airport which will be affected by the proposed service has been served notice of the application. Such notice may consist of a copy of the application, with attachments, or as a minimum, shall contain a statement of the routes and points to be served, the type of equipment to be used and the flight schedule to be followed. Such notice shall state that the local airport operating authority has a right to appear as an affected party at any hearing concerning the grant of authority.

*Specific Authority 330.48(4) FS, Law Implemented 330.49 FS, History—New 3-30-75, Amended 1-18-79, 4-17-79, Formerly 25-15.06.*

#### 25-15.007 Application for Temporary Operating Authority.

(1) Application for temporary authority (exemption from certification requirements) to operate as an air carrier in the transportation of passengers and of property for compensation, as provided by Chapter 330, Florida Statutes, will be considered by the Commission only under the following circumstances:

(a) Formal application for a Certificate of Public Convenience and Necessity and written application for temporary authority shall have been filed with the Commission, and a satisfactory showing made to the Commission by affidavit or sworn testimony of person or persons other than the applicant that an immediate and urgent transportation need exists; or

(b) Written application for temporary authority shall have been filed with the Commission and a satisfactory showing made to the Commission by

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affidavit or sworn testimony of person or persons other than the applicant that an immediate and urgent need exists and the period of such emergency will be too short to justify an application for certificate of public convenience and necessity and a public hearing thereon.

(2) An affidavit of either the applicant or his attorney shall be filed with the Commission showing that written notice of such application for temporary authority has been served personally or by first-class mail on all Commission Certificated air carriers serving any part of the route proposed to be served by the applicant. Said affidavit shall fully show to whom notice was given and the date of such notice.

(3) The Commission will not consider an application for temporary authority until five (5) days have elapsed following the affidavit of service, except upon a satisfactory showing made by applicant that five (5) days notice would be impractical due to the extreme urgency of the transportation need.

(4) Any person required to be served notice pursuant to Subsection (2) above may file written protest with the commission opposing the grant of said authority and request hearing thereon if hearing is desired. Such protest may be by letter or telegram. If hearing is requested the application for temporary authority will not be acted upon until the protestant is given an opportunity to be heard.

(5) If an application for temporary authority is granted, protest thereafter filed (within ten (10) days of the affidavit of service) which were not heard prior to such grant of authority will be treated as petitions to vacate the temporary authority and will be thereafter heard if hearing was requested.

(6) Temporary authority, unless suspended or revoked by the Commission, shall be valid only for a maximum of ninety (90) days unless such authority is renewed by this Commission.

(7) Transportation service rendered under temporary authority shall be subject to all applicable rules, regulations and requirements of the Commission.

*Specific Authority 330 48(4) FS. Law Implemented 330 49, 330 50(2) FS. History—New 3-30-75, Formerly 25-15.07*

PART III REPORTS, RECORDS, AND ACCOUNTS

25-15.008 Reports, Records and Accounts in General.

(1) Each air carrier shall file with the Commission reports required by the Commission on forms prescribed by the Commission, shall furnish to the Commission any other information and data which the Commission may request, and shall comply with all other requirements specified in this Part (III). All reports or things required by this Part (III) shall be filed with the Commission's Tallahassee office located at 101 East Gaines Street, Tallahassee, Florida 32304. The filing date for any report can be extended only upon written request to the Commission. Such a request must give a

sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the date due to permit proper time for consideration and communication to the carrier of the action taken.

(2) To the extent an air carrier is required by the Civil Aeronautics Board or the Federal Aviation Administration to file with that Agency reports containing financial data, operating information, or other data comparable to that specified for reports to be filed with the Commission pursuant to the Part (III), such air carrier may comply with the requirements of this Part (III) by filing with the Commission copies of the reports filed with that agency.

*Specific Authority 330 48(4) FS. Law Implemented 330 48(3) FS. History—New 3-30-75, Formerly 25-15.08*

25-15.009 Location of Records and Accounts.

All records and accounts that an air carrier is required to maintain by reason of these or other rules prescribed by the Commission shall be kept at the office or offices of the air carrier within the State, unless otherwise authorized by the Commission.

*Specific Authority 330 48(4) FS. Law Implemented 330 48(3) FS. History—New 3-30-75, Formerly 25-15.09*

25-15.010 Inspection of Records, Accounts, Facilities and Equipment.

Any member of the Commission staff, upon the direction of the commission or in the performance of delegated staff duties, may make at any reasonable time, and upon reasonable notice, a personal visit to the offices or other places of business of an air carrier, and may inspect any facilities, equipment, records, accounts, books, reports and papers of such air carrier which may appear necessary in the discharge of Commission duties.

*Specific Authority 330 48 FS. Law Implemented 330 48(3) FS. History—New 3-30-75, Formerly 25-15.10*

25-15.011 Financial Reports.

(1) Each air carrier shall maintain its books and records in accordance with such Uniform System of Accounts as this Commission may require and in accordance with any applicable accounting releases interpreting, modifying or updating such system of accounts, which the Commission may issue. All inquiries relating to the interpretation of the Uniform System of Accounts shall be submitted to the Commission in writing.

All air carriers shall maintain their books and records in accordance with the Uniform System of Accounts and Reports for Commuter Airlines developed by the Commuter Airline Association of America, unless an air carrier requests in writing that an alternate system of accounts be required for them in lieu of the CAAA System of Accounts and such alternate system is approved by this Commission as the required system for such air carriers.

Requests for exemptions from the required system of account shall also be made in writing.

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Exemptions may be granted to air carriers from employing any required Uniform System of Accounts upon a showing of such limited operations that the CAAA System of Accounts would constitute an unreasonable or undue record keeping requirement.

(2) All air carriers shall file with the Commission annual financial reports on either the Civil Aeronautics Board's Report of Financial and Operating Statistics Form 41, or other forms prescribed and furnished by the Civil Aeronautics Board of this Commission. These reports shall be certified correct by a responsible accounting official of the carrier and shall be filed on or before March 31, for the preceding calendar year. The filing date may be extended only by written permission of the Commission. All annual reports shall be subject to audit by the Commission's accountants. Authorization for the correction of errors found in the reports and replies to inquiries propounded by the Commission's accounting staff shall be furnished in writing within thirty (30) days from the date of the Commission's letter. Final acceptance of the annual report will be subject to receipt and approval of all corrections and replies to inquiries of the Commission's accountants.

(3) Each air carrier shall file within sixty (60) days after the end of each calendar quarter, a balance sheet and income statement covering the operations conducted during such quarter. The Commission may grant an exemption to an air carrier from the provisions of this rule, regarding the filing of quarterly financial statements, provided such air carrier submits a written request for an exemption and demonstrates that the submission of quarterly financial statements would either constitute an unreasonable burden or that the statements submitted would have only limited usefulness to the Commission.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(3) FS. History—New 3-30-75, Amended 12-3-78, Formerly 25-15.11.*

#### 25-15.012 Report of Scheduled Operations.

(1) Each air carrier shall file reports of scheduled operations. Such reports shall be filed for each quarter ending March 31, June 30, September 30, and December 31 of each calendar year, and shall be filed not more than forty (40) days after the end of each calendar quarter. Such reports shall be certified by the officer in charge of the carrier's accounts. The first report required to be filed under this sub-Part shall be filed with respect to the quarter commencing January 1, 1975.

(2) The reports required by this sub-Part shall consist of the following schedules:

(a) Schedule A shall describe the aircraft used in scheduled service by the carrier. Column (1) shall set forth the aircraft registration number of each aircraft; Column (2) shall set forth the type and model of each aircraft listed in Column (1); Column (3) shall set forth the capacity in passenger seats of each aircraft (crew seats should not be counted); Column (4) shall set forth the carrier's best estimate

in pounds as to total capacity available for cargo in both cargo and passenger compartments of each aircraft under normal operating conditions over the carrier's system. Estimates should take into consideration both limitations on lift capacity of aircraft as well as limitations imposed by the space available for cargo and average density per cubic feet of cargo carried. If passenger aircraft are also employed in all cargo configuration, give the cargo capacity with all seats in place and with all seats removed.

(b) Reserved

(c) Schedule C shall set forth all routings for scheduled flights performed by the reporting carrier, with the number of flights performed and the aircraft type(s) used on each routing. Column (1) shall set forth the origin point of each routing; Column (2) shall set forth the intermediate points on each routing whose origin is listed in Column (1). When there are two or more intermediate points on a routing they should be listed from top to bottom in the order in which the stops are performed; Column (3) shall set forth the destination point of the routing; Column (4) shall set forth the total number of flights performed in the reporting quarter over the routing indicated in Columns (1)—(3); Column (5) shall set forth the type(s) of aircraft used on the routing.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(3) FS. History—New 3-30-75, Formerly 25-15.12.*

25-15.013 Record of Accidents. Each air carrier shall keep a record of, and furnish to the Commission annually, full reports of any accident, where such accident causes property damage, personal injury or death. A preliminary report shall be filed with the Commission within 48 hours of the occurrence of such accident or incident and shall contain statements relating to the nature, extent and probable cause of same.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(3) FS. History—New 3-30-75, Formerly 25-15.13.*

#### PART IV TARIFFS

25-15.014 Definitions. For the purpose of this Part (IV), the following definitions shall apply:

(1) "Air Carrier." A person or corporation owning, controlling, operating or managing aircraft as a scheduled common carrier in the transportation of persons or property for compensation or hire between points within this State, which person or corporation is not engaged in air transportation within the meaning of Section 101 of the Federal Aviation Act of 1958, or any legislation successor thereto, under a certificate or certificates issued by the Civil Aeronautics Board pursuant to Section 401 of the Federal Aviation Act of 1958, or any legislation successor thereto.

(2) "FPSC" or "Commission." The three Commissioners as and constituting the Florida Public Service Commission.

(3) "Tariff." A publication stating all fares, rates, charges, rules, regulations or arrangements.

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applicable to air carriers including supplements or revised pages to any approved tariff.

(4) "General rate increase." A proposal to change all or substantially all of the tariff provisions. Factors to be used in determining if the proposed tariff is a general rate increase are: Number of users of the service affected by the change, number of individual rates being changed and whether or not the basic rate structure is being changed.

(5) "Tariff filing." Tariff changes or complete tariffs filed as a result of the grant of certificated authority, tariff changes filed subject to 30 days notice, and short notice tariff changes.

(6) "Rate organization." An organization (such as association, bureau, conference, committee) approved by Commission order, which is permitted to file tariffs for its member carriers.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.14.*

#### 25-15.015 Procedures Generally.

(1) General rate increases shall be by written petition to the Commission, which petition shall be accompanied with substantiating financial evidence. Notice of proposed increased rates and fares is required to be posted in a conspicuous place in each location where tickets are sold.

(2) Tariff filings shall be in accordance with the procedures established in Part IV, Chapter 25-15. *Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.15.*

**25-15.016 Who May File.** Subject to all of the provisions of Part IV, Chapter 25-15, tariffs may be filed with the Commission by either (1) an approved rate organization for its member carriers, or (2) a carrier not participating in a rate organization. *Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.16.*

#### 25-15.017 Rate Organizations; Recognition.

(1) Requests for approval as a rate organization shall be made to the Commission by application, which shall include at least the following:

(a) The basic organization document (articles of incorporation, partnership agreement, etc.).

(b) All supplemental documents detailing the structure organization and operation of the organization (by-laws, rules of procedures, rate and tariff agreement, organizational chart, etc.).

(2) To obtain Commission approval, each rate organization shall have written detailed procedures covering at least the following subjects: membership, member carriers, fee and assessments or how expenses are divided among its members, services to be performed, addition or termination of membership, officers and persons to correspond with the Commission, regular and special meetings, rate committee meetings, rate committee procedure, independent announcement, and procedure for amending basic and supplemental documents. Specifically, the following minimum requirements

shall be observed:

(a) Any interested person shall have the right to submit tariff proposals in writing to the secretary of the rate committee.

(b) The complete tariff proposal shall be noticed for hearing in the rate organizational publication (docket, agenda, bulletin, etc.), and mailed first class to all member carriers and to all other persons paying for and requesting receipt of the publication. Notice shall be mailed not later than ten days prior to the next scheduled rate committee meeting.

(c) Any interested person shall be heard at the meeting on tariff proposals.

(d) All persons receiving notice of the meeting shall be advised of the committee's disposition by first class mail within seven days following the meeting. No tariff shall be filed with the Commission until the committee's disposition has been mailed. Copies of tariffs shall be made available to those paying for and requesting copies.

(e) All member carriers shall have the free and unrestrained right to take independent action either before, during or after the procedure established in Paragraph (b) through (d). Notice of independent announcement shall be in the manner provided in Paragraph (b). Other member carriers will advise the secretary of the rate committee within ten days after the mailing of the notice that they also desire to participate in the tariff proposal for their account. Thereafter, the tariff shall be published under independent action in the rate organizations' next regular tariff publication.

(f) Paragraphs (a) through (e) above shall be applicable to all tariff filing procedures except for: correction of clerical or typographical errors which have not been in effect for more than ninety days and changes made necessary by changes in law or Commission order.

(3) Following the receipt of the rate organization application for approval with the Commission, the application will be noticed for hearing in the manner provided in Section 330.49(5), Florida Statutes.

(4) After Commission approval of a rate organization, no change in the substance of the organization's basic or supplemental documents shall be made unless first approved by the Commission, except that the addition or deletion of member carriers may be made upon immediate notice to the Commission's Rate Department.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.17.*

**25-15.018 Filing by Non-participating Carriers.** Non-participating carriers may submit tariff filings and general rate increases by written petition accompanied by the proper substantiating financial evidence.

(1) Notice of such petition shall be made to all known customers by legal notice, advertisement or other constructive notice, with certification of notice compliance furnished the Commission with the accompanying tariff. The Commission must receive

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the tariff prior to the issuance date, which must be not less than thirty (30) days prior to the scheduled effective date, unless otherwise authorized by the Commission.

(2) Subsection (1) above shall be applicable to all tariff filing procedure except for: correction of clerical or typographical errors which have not been been in effect more than ninety days and changes made necessary by changes in law or Commission order.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.18.*

#### 25-15.019 Construction, Filing and Posting; Generally.

##### (1) Filing

Every air carrier shall issue and file with the Commission tariffs showing the rates for the transportation of persons and property as a common carrier for compensation between points within the State. In filing such tariffs air carriers or their rate organization shall transmit six copies of each such tariff, supplement, amendment or revised page to the Commission's Rate Department, 101 East Gaines Street, Tallahassee, Florida 32304, in one package and under one letter of transmittal. If a receipt is desired, the letter of transmittal must be sent in duplicate, one copy of which will be stamped and returned as a receipt.

##### (2) Copies for Air Carriers

The letter of transmittal of each tariff filing submitted for filing with this Commission shall list the names and addresses of the head office of each air carrier operating a scheduled service between points to which the tariff applies and shall contain a certification that a copy of such tariff has been served upon or mailed to each such air carrier named at the address shown, or a certification that no other air carrier operates a scheduled service between the points to which the tariff applies. Failure to list such names and addresses or omission of such certification may result in suspension of the tariff pursuant to Rule 25-15.023.

##### (3) Posting

A copy of each tariff shall be kept for public inspection at each office of an air carrier where transportation covered by the tariff is offered for compensation.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.19.*

#### 25-15.020 Tariff Form and Content.

##### (1) Form

Tariffs may be printed, mimeographed, typewritten, or otherwise processed; provided, however, that all copies shall be clear and legible.

##### (2) Tariff Number

Each air carrier shall file tariffs under its own consecutive numbers beginning with F. P. S. C. No. 1. A rate organization shall file under its own series of F. P. S. C. numbers beginning with F. P. S. C. No. 1.

##### (3) Title Page

The title page of each tariff shall show:

(a) The F. P. S. C. number of the tariff in the upper right hand corner, and immediately thereunder the F. P. S. C. number of any tariffs canceled thereby.

(b) The name of the issuing air carrier or rate organization.

(c) A statement indicating the kind of tariff, whether the tariff contains local or joint rates, or if a tariff of rules and regulations, or a combination thereof.

(d) A brief but reasonable complete statement of the territory within which, or the points from and to or between which, the rates or rules apply.

(e) The date, if any, with which the tariff expires, together with a reference to the Commission decision containing the order authorizing such expiration date, if an increase in rates will result therefrom and a notation that the tariff is issued under the authority of and in compliance with such decision.

(f) The date on which the rates and rules will become effective, on the lower right-hand corner and the date on which the publication is issued, on the lower left-hand corner.

(g) The name, title, and address of the person issuing the tariff, near the bottom of the page.

##### (4) Contents of Tariff

Every tariff shall contain:

(a) The name of participating carriers.

(b) Such explanatory statements as may be necessary to remove all doubts as to the proper application of rates and rules contained in the tariff.

(c) Rules which govern the application of rates, or proper reference to the tariff(s) containing such rules.

(d) If the same tariff contains rates applicable to the transportation of both property (other than passenger's baggage) and persons, such rates shall be stated in separate passenger and property sections of the tariff.

(e) Rates shall be stated in cents or dollars of the United States together with the correct name of the places from and to which they apply, except that rates may be expressed as a fraction or percentage of other rates so stated, provided the application of such fraction or percentage is clearly stated.

##### (5) Reissues

(a) When a tariff is reissued the new tariff shall bear the next F. P. S. C. number in the series and shall specify on its title page the F. P. S. C. number of the tariff being canceled.

(b) The Commission may direct the reissue of a tariff.

##### (6) Amendments

(a) A book or pamphlet tariff may be amended by filing a supplement constructed generally in the same manner and arranged in the same order as the tariff being amended, and referring to the page, item or index of the tariff or previous supplement which it amends.

(b) A loose-leaf tariff may be amended by reproducing the entire page on which the change is being made, and by filing the new page as

consecutively numbered revision of the previous page, e.g., First Revised Page 10. A loose-leaf tariff may be amended by supplementing for the purpose of canceling, suspending, or vacating suspension of the tariff.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.20.*

**25-15.021 Automatic Short Notice Filings.**

(1) Tariffs may be issued and filed on not less than 5 days notice to the Commission and to the public prior to the effective date thereof for any of the following purposes:

- (a) To publish tariffs of newly established air carriers.
- (b) To publish rates governing a new type of service.
- (c) To publish rates for service to new points.

(2) The letter transmitting tariffs filed under this rule shall clearly explain the purpose of the filing.

(3) Tariffs filed on not less than 5 days notice under authority of this Rule 25-15.021 shall bear the following statement at the bottom of the title page of each complete tariff or supplement or on each revised page filed separately.

"Issued under authority of Rule 25-15.021."  
*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.21.*

**25-15.022 Authority for Short Notice.**

(1) Except as authorized by Rule 25-15.021, tariff filings may be filed on less than 30 days notice only upon specific authority granted by the Commission.

(2) Tariffs filed on less than 30 days notice under subsection (1) shall bear the following statement at the bottom of the title page of each complete tariff or supplement or on each revised page filed separately.

"Issued under authority of F. P. S. C. Authority No. \_\_\_\_\_," or "Issued by authority of Rule 25-15.022."

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.22.*

**25-15.023 Suspension of Tariff Filings.**

(1) **When Filed.** Protest against, and requests for suspension of a tariff filing filed under this rule will not be considered unless made in writing and filed with the Commission, 101 East Gaines Street, Tallahassee, Florida 32304. Such protests and requests for suspension shall reach the Commission at least twelve (12) days before the effective date of the tariff filing, or parts thereof to which they refer, unless the protested publications were filed on less than 30 day notice under the authority of this Commission, in which event the protests should be filed not less than five (5) days before such effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with subsection (2) of this rule and copies thereof are

immediately telegraphed by protestants to the rate organization or non-participating carrier, as the case may be. Six copies of such telegrams should immediately be mailed by the protestant to the Commission.

(2) **Content.** The protested tariff filing sought to be suspended should be identified by making reference to the name of the rate organization or non-participating carriers, to the Florida Public Service Commission number, and to the specific items or particular provisions protested. Reference should also be made to the tariff, and the specific provisions thereof, proposed to be suspended. The protest should state the grounds in support thereof, indicate in what respect the protested tariff filing is considered to be unlawful, and state what protestant offers by way of substitution. Such protests will be considered as addressed to discretion of the Commission and no protest shall include a prayer that it also be considered a formal complaint. Should a protestant desire to proceed further against a tariff filing which is not suspended, or which has been suspended and the suspension vacated, a separate formal petition should be filed.

(3) **Copies; Service.** Seven copies of each protest or reply filed under this rule must be filed with the Commission and one copy of the protest simultaneously be served upon the rate organization or non-participating carrier, as the case may be, and upon other persons known by protestant to be interested.

(4) **Reply to Protest.** A reply to a protest filed under this section should be filed and served promptly.

**(5) Suspension.**

(a) The Commission shall consider the tariff filing and the pleading, if any, and enter its order, which shall not be subject to reconsideration provided in Commission Rules 25-2.064 or 25-2.118.

(b) An order granting suspension shall provide for notice of hearing or modified procedure, with the matter ultimately disposed of by further order of the Commission within seven (7) months after the date of the suspension order; otherwise, the tariff filing shall go into effect at the end of that period.

(c) An order denying suspension shall allow the tariff involved to become effective as published.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.23.*

**25-15.024 Modified Procedure.**

(1) **How Initiated.** Modified procedure will be ordered in a proceeding upon the Commission's initiative or upon its approval of a request filed by any party that the modified procedure shall be observed. An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified procedure rules.

(2) **Default.** If within any time period provided in the modified procedure rules a party fails to file a pleading required by those rules, or otherwise fails



to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter, the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

(3) **Intervention.** Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

(4) **Joint Pleadings.** Parties having common interests shall arrange for joint preparation of pleadings filed under modified procedure.

(5) **Content of Pleadings.**

(a) **Generally.** A statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. In addition, protestant's statement and petitioner's statement in reply shall specify those statements of fact and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such exception. Petitioner's statement of reply shall be confined to rebuttal of the protestant's statement.

(b) **Exhibit Identification.** An exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Petitioner (Protestant) \_\_\_\_\_ Exhibit No. \_\_\_\_\_, Witness \_\_\_\_\_"

(6) **Verification.** The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witness orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

(7) **When Pleadings Filed and Served.** Within twenty (20) days from the date of an order requiring modified procedure, petitioner shall serve upon the other parties a statement of all the evidence upon which it relies. Within thirty (30) days thereafter, protestant shall serve its statement. Within ten (10) days thereafter, petitioner shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

(8) **Copies of Pleadings.** The original and six copies of any statement shall be filed with the Commission. Subsequent pleadings are subject to Subsection (10).

(9) **Hearings.**

(a) **Request for cross examination or other hearing.** If cross examination of any witness is desired, the name of the witness and the subject matter of the desired cross examination shall, together with any other request for oral hearing,

including the basis therefor, be stated at the end of protestant's statement or petitioner's statement in reply, as the case may be. Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross examination.

(b) **Hearing Issues Limited.** The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

(10) **Subsequent Procedure.** Procedure subsequent to that provided in modified procedure rule shall be the same as that in proceedings not handled under modified procedure.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(2) FS. History—New 3-30-75, Formerly 25-15.24.*

## PART V GENERAL MANAGEMENT AND SERVICE PROVISIONS

### 25-15.025 Interlocking Relationships.

Requests for approval of interlocking corporate relationships as provided by Section 330.51(1) Florida Statutes, shall be by formal application to the Commission. Such application shall include the following information:

(1) The full name, place of residence and citizenship of the individual for whom application is made.

(2) The major business or occupation of such individual and the address of such business or occupation.

(3) A complete description of the interlocking relationship for which approval is sought, as well as a description of any other interlocking relationship occupied by such individual which has been approved by the Commission. This description shall include the date and manner of the individual's election or appointment to the position or positions which he occupies or seeks to occupy, and shall state the name or names of the person or persons primarily responsible, directly or indirectly, for his election or appointment. It shall also include a statement of his present or contemplated duties in connection with the interlocking relationship for which approval is sought.

(4) Such further facts as the applicant deems desirable in order to show that the public interest will not be adversely affected by the approval by the Commission of the interlocking relationship.

*Specific Authority 30.48(4) FS. Law Implemented 330.51(1) FS. History—New 3-30-75, Formerly 25-15.25.*

### 25-15.026 Transfer of Certificate; Modification.

(1) No certificate of public convenience and necessity authorizing any common carriage may be sold, assigned, or transferred by the holder to another until the same has been approved by the Commission as herein provided. This section shall apply with like effect to the transfer of control of a corporate certificate holder through transfer of stock ownership or otherwise.

(2) When any such certificate is proposed to be

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old, assigned or transferred, or when the stock of a corporate certificate holder is proposed to be signed, sold, transferred or purchased and such will effect a transfer of control of the corporation, all of the parties, nominal and actual, to such transaction shall jointly file an application with the Commission upon forms provided by the Commission. Such application shall set forth the details of the transaction, specifying the consideration and method of payment, the date such assignment, sale or transfer is desired to be consummated, the financial statement of the transferee, the certificate authority, if any, held by the transferee from any regulatory commission of this State, of the United States, or of any other state or district of the United States, and any other pertinent facts. Upon the filing of such petition, the Commission shall issue and serve upon all air carriers operating under certificates of the Commission, a written notice which shall contain the pertinent facts of such application. Said notice shall require any objections or protests to such transfer to be filed in writing with the commission by a date to be fixed in such notice. Any objection or protest filed shall state fully the basis therefor. In the event no such written protest is filed with the Commission within the time fixed in such notice, then and in that event, the Commission may consider said petition and act upon the same as an ex parte matter, and for the purpose of such consideration, the Commission may hold a hearing as provided in Subsection (3) and may require either or both of the parties to such proposed transfer to appear before it for the purpose of giving testimony, or to produce any such records or information as the Commission may direct and find necessary to consider in passing upon said petition.

(3) In the event one or more written protests stating ground therefor are filed with the Commission as herein provided within the time fixed in said notice, then the Commission shall cause a public hearing to be held and shall issue and serve upon the applicants and all persons who have filed such protests a notice of such hearing, containing the general pertinent facts of such application, the date of such hearing to be not less than fifteen days following the date of such notice. At such public hearing, persons who have filed written protests as aforesaid shall have the right to appear and be heard and to offer testimony and evidence in support of or in protest of the granting of such application. Following such hearing, if the Commission finds and determines that such sale, assignment or transfer is not contrary to the public interest, and that the certificate has not been abandoned, it shall enter an appropriate order granting the transfer. The Commission shall have no power order granting the transfer. The Commission shall have no power or authority, directly or indirectly, to grant or issue any temporary or interim approval of a sale, assignment, or transfer as aforesaid, but shall have power only to approve or disapprove same, finally, and after hearing.

(4) A certificate may be divided as to routes, and part thereof transferred, sold or assigned, provided the Commission finds that such routes are clearly severable and the division thereof is not contrary to the public convenience and necessity.

(5) When the transfer of any certificate, or the sale of capital stock of a corporate certificate holder, as herein provided, is approved by the Commission, the Commission is hereby empowered to reasonably alter, restrict or modify the terms and provisions of such certificate, or impose restrictions on such transfer where the public interest may be best served thereby, or the existing transportation facilities within the territory or on the route involved may be safeguarded or improved in the public interest.

(6) The order of the Commission approving any sale, assignment, or transfer shall direct immediate cancellation of the certificate and reissuance thereof to the transferee unless alterations, restrictions or modifications of the terms and provisions of such certificate are imposed in conjunction with such approval. In such latter event the Commission order of approval shall require the transferee to notify it in writing within a period of time fixed by the Commission whether or not it will accept the certificate as so altered or restricted. If such notification is given, or if given in the negative, the Commission shall enter its order canceling and revoking its approval; otherwise the Commission shall thereafter cancel the certificate and reissue it to the transferee.

(7) Notwithstanding any of the provisions hereof, any executor, administrator, receiver, trustee in bankruptcy or in reorganization, or other court officer, shall be entitled, as judicial assignee, to operate the business of the certificate holder, without the approval of the Commission upon filing with the Commission a certified copy of this order of appointment, but any sale, transfer or assignment by any such judicial officer shall be subject to the terms and conditions hereof.

*Specific Authority 330.48(4) FS Law Implemented 330.49, 330.51(2) FS History—New 3-30-75, Formerly 25-15.26*

#### 25-15.027 Flight Schedules and Timetables.

(1) **Filing of Timetable (Flight Schedule).** Every passenger air carrier operating in this State, pursuant to a certificate of public convenience and necessity issued by this Commission, shall file with the Commission at its office in Tallahassee three (3) copies of its Florida intrastate timetable (flight schedule) showing the points between which the air carrier is engaging in air transportation, the time of arrival and/or departure at each point, the types of equipment operated on each schedule, and the days of operation of each schedule. All schedules shall be filed with the Commission at least ten (10) days prior to the effective date thereof.

(2) **Additions and Changes Requiring Filings.** Each supplement filing shall include a summary list of all "service changes," "equipment changes" and "time changes," with appropriate reference to the affected schedule pages, flight

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numbers and all pertinent data concerning each item. The term "service change" as used herein means such change as the inauguration of new service, a stop added or deleted, non-stop service between points not presently receiving such service, a change in airport served, service between points not presently receiving such service, service suspension or addition or reduction in number of flights. This section does not apply to the adding of extra sections to handle overflow traffic.

(3) **Schedule Time and Performance.** Each schedule time shown in a timetable shall include reasonable "block-to-block" time, realistically encompassing ground and air traffic delay. Within 30 days after termination of each quarter, a summary report of canceled flights and deviation in schedule arrival performance in excess of 30 minutes shall be submitted to the Commission. The report shall list days of delay, flight numbers and the reasons for the cancellation or delay. Carriers shall operate in accordance with timetables on file at all times except where safety or other emergency conditions require modifications.

(4) **Public Notice of Filings.** Written notice of timetable additions and/or changes shall be conspicuously posted for public inspection at all airports affected by such changes in service at least ten (10) days prior to the effective date thereof. The Commission, upon request or complaint or upon its own motion, may suspend the effective date of the timetable and require a formal application for authorization and, if it deems it necessary to protect the public interest, may require a hearing on such schedule addition, deletion or changes. Unless suspended within the ten-day period of notice to the public and the Commission, the addition, deletion or changes may be placed in effect on the effective date of the timetable change.

(5) **Interruption of Service.** Every passenger air carrier shall report promptly in writing to the Commission any interruption of its air transportation service likely to continue for more than twenty-four (24) hours. A notice of such interruption shall be sent to, and posted at, each airport along the routes involved. Such report and notice shall contain a full statement of the cause of the interruption and, if possible, an estimate of its probable duration.

(6) **Required Information in Public Timetables.** The timetable which every passenger air carrier publishes, posts and distributes to the general public shall not contain any deceptive or misleading information and shall be identical in content regarding schedules, time and equipment with the timetable on file with the Commission. Public timetables of every passenger air carrier shall plainly set forth a summary of the carrier's tariff provisions with respect to the following:

- A. Reservations
- B. Advance check-in requirements prior to flight departure
- C. Baggage allowance
- D. Baggage liability including availability of additional insurance

E. Compensation for passengers denied boarding with confirmed reservations.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.27.*

**25-15.028 Nonstop Authorization.** Upon approval from the Commission, the holder of a certificate may inaugurate scheduled non-stop service between any two points not consecutively named in its certificate in addition to the service provided between the consecutive points. Any air carrier that would be adversely affected by such proposed service may file a protest and petition this Commission for a hearing on such matter. Upon the completion of such hearing, the Commission shall grant such non-stop authorization only upon a finding that public convenience and necessity would be best served by such service and that there would be no significant adverse effect on competing Commission Certificated Carriers.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.28.*

#### 25-15.029 Baggage.

(1) Baggage containing fragile, perishable, or valuable articles shall not be checked or received for transportation without a declaration of such contents; and if baggage is checked or delivered for transportation by a passenger without making manifest of such contents or value thereof, the air carrier shall not be liable therefor.

(2) In the event that the passenger fails to take advantage of this checking service and the baggage is retained in the physical possession of the owner, the air carrier may proceed on the theory that the passenger has assumed full responsibility for his own baggage and the air carrier shall not be responsible to the passenger for loss or damage to said baggage.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.29.*

**25-15.030 Baggage Priority.** When more baggage is presented to be transported by any given passenger aircraft than can be carried safely and conveniently on the aircraft, the order of priority shall be: (1) carry on, (2) checked baggage, within free allowance, (3) baggage in excess of free allowance, and (4) air freight.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.30.*

**25-15.031 Authority for Checking Baggage.** Baggage checks shall be issued for baggage. Such checks shall state the carrier's liability for lost or damaged baggage as provided in the carrier's approved tariff.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.31.*

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**25-15.032 Baggage Containers.** All baggage subject to being checked shall be enclosed in receptacles provided with handles and shall be locked or otherwise securely fastened, and made of material of sufficient strength and durability and of a quality to withstand rapid handling and piling incidental to its transportation.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.32.*

**25-15.033 Baggage Storage.** Each piece of baggage or personal property checked on valid transportation, either inbound or outbound, remaining at airports, may be subject to storage rules and charges, if shown in the baggage tariff. Baggage not claimed within 90 days may be disposed of.

*Specific Authority 330.49(4) FS. Law Implemented 330.48(1), (2) FS. History—New 3-30-75, Formerly 25-15.33.*

**25-15.034 Baggage and Animals Not Required to Be Transported.** All articles not coming within the classification of personal or sample baggage shall be charged for either by the piece or by gross weight according to the air freight rates shown in the tariffs on file with the Commission. Any certificated air carrier may reject for shipment entirely as baggage or air freight, any articles if the same are: too heavy, too bulky, offensive, contaminating, improperly packed, or not in proper condition. If such items are transported without full disclosure on the part of the shipper, the air carrier shall not be liable therefor. Pets, animals or birds may be transported as air cargo, except that bona fide seeing eye dogs accompanying blind passengers must be transported with the passenger at no additional cost if such transportation can be accomplished without creating a safety hazard to other passengers.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.34.*

**25-15.035 Bill of Lading and Waybill.**

(1) Air carriers transporting air freight shall adopt a bill of lading and a waybill or a combined bill of lading and waybill. Each such bill of lading and waybill shall show the following minimum information:

- (a) Name of the carrier
- (b) Waybill number
- (c) Origin point and date shipment received by air carrier
- (d) Names and addresses of consignor and consignee
- (e) Number of packages and description of articles and special marks
- (f) Weight, class and rate
- (g) Air freight charges collect
- (h) Air freight charges prepaid
- (i) Advance charges
- (j) C. O. D. charges and C. O. D. fee
- (k) Line for acknowledgement of prepaid collected

(1) Line for acknowledgement by consignee of receipt of shipment and date received.

(2) Every bill of lading or combined bill of lading and waybill shall show the information listed above and contain the following information:

- (a) Line for signature of shipper or his agent
- (b) Line for signature of air carrier's agent.

(3) Each of the documents required by this subsection shall be prepared in no less than quadruplicate. One copy of each shall be given to the consignor, one copy shall be retained at origin point as air carrier record, one copy shall accompany each shipment and be subject to all times to inspection, and one copy shall be given to the consignee with the delivery of the freight. The consignee's receipt for delivery shall be taken on the copy that accompanies the shipment and shall thereafter be retained by the air carrier.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.35.*

**25-15.036 Denied Boarding.**

(1) Definitions. For the purpose of this rule:

(a) "Airport" means the airport at which the direct or connecting flight on which the passenger holds confirmed reserved space is scheduled to arrive at or some other airport serving the same metropolitan area, provided that transportation to the other airport is accepted (i.e., used) by the passenger.

(b) "Air carrier" means an air carrier as defined in Section 330.46(1) of the Florida Statutes.

(c) "Comparable air transportation" means a transportation provided by air carrier holding certificates of public convenience and necessity issued either by the Commission or the Civil Aeronautics Board.

(d) "Confirmed reserved space" means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier, or its agent who has received confirmation from the carrier, has verified as being reserved for the accommodation of the passenger.

(e) "Stopover" means a deliberate interruption of a journey by the passenger, scheduled to exceed four hours, at a point between the place of departure and the place of destination.

(f) "Value of the first remaining flight coupon" means the applicable one-way fare, including any surcharge, less any applicable discount.

(2) Priority rules. Every carrier shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight. Every carrier shall file with the Commission two copies of such rules and criteria including that portion of its company manual instructing employees on the order of boarding priorities in case of an oversold flight. Such rules and criteria shall not make, give or cause any undue or unreasonable preference or advantage to any particular person or subject any particular person to any unjust discrimination.

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ny undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) Filing of denied boarding compensation tariffs. Every carrier shall file tariffs providing compensation to a passenger holding confirmed reserved space who presents himself for carriage at the appropriate time and place, and who has complied fully with the carrier's requirements as to ticketing, check-in and reconfirmation procedures and is acceptable for transportation under the carrier's tariff, where the flight for which the passenger holds confirmed reserved space is unable to accommodate the passenger and departs without him.

(4) Amount of denied boarding compensation. The tariffs required by this part shall provide for compensation to be paid to a passenger holding confirmed reserved space at the rate of 100 percent of the value of the carrier's on line first remaining flight coupon with a \$10 minimum and \$200 maximum.

(5) Exceptions to eligibility for denied boarding compensation. A passenger shall not be eligible for denied boarding compensation if:

(a) The flight for which the passenger holds confirmed reserved space is unable to accommodate him because of:

1. Government requisition of space or
2. Substitution of equipment of lesser capacity when required by operational or for safety reasons;

or

(b) The carrier arranges for comparable air transportation or for other transportation accepted (i.e., used by the passenger) which, at the time either such arrangement is made, is planned to arrive at the airport of the passenger's next stopover, or, if none, at the airport of his destination earlier than, or not later than, two hours after the time the direct or connecting flight on which confirmed reserved space is held is planned to arrive; or

(c) The passenger is accommodated on the flight for which he holds confirmed reserved space, but is offered accommodations or is seated in a section of the aircraft other than that specified in his ticket at no extra charge; provided that a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund.

(6) Denied boarding compensation as liquidated damages. The tariffs required by this part shall specify that the carrier will tender, on the day and place the denied boarding occurs, compensation in the amount specified above, which, if accepted by the passenger, shall constitute liquidated damages for all damages incurred by the passenger as a result of the carrier's failure to provide the passenger with confirmed reserved space.

(7) Denied boarding compensation drafts. Every carrier shall tender to a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, a draft or cash payment for the amount of compensation provided in subsection (4), and the reverse side of such draft shall include a release stating that when the draft is endorsed by the passenger, the passenger there-

by relieves the carrier from liability for all claims for damages which might accrue to the passenger as a result of the carrier's failure to provide the passenger with space on the flight in question, provided that the draft is endorsed and paid within 30 days of the date on which the denied boarding occurs; provided further, however, that where a carrier arranges for the passenger's convenience, alternate means of transportation which departs before the draft can be prepared and tendered the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs.

(8) Written explanation of denied boarding compensation. Every carrier shall furnish passengers who are denied boarding of flights on which they hold confirmed reserved space, immediately after the denied boarding occurs, a written statement explaining the terms, conditions and limitations of the denied boarding compensation provided by this part.

*Specific Authority 330.48(4) FS. Law Implemented 330.48(1) FS. History—New 3-30-75, Formerly 25-15.36.*

#### PART VI ENFORCEMENT PROVISIONS

##### 25-15.038 Grounds for Suspension or Revocation.

(1) Rights conferred by a certificate issued pursuant to Part (II) of these rules may be suspended or revoked by the Commission upon any of the following findings:

(a) The certificate holder is no longer fit, willing or able to perform the services for which the certificate was issued.

(b) The certificate holder has failed to comply with the rules or an order of the Commission.

(c) The certificate holder has abandoned the rights conferred by the certificate, provided that abandonment shall not be found to have occurred if the certificated air carrier has, at all times, actually maintained one scheduled flight per week between all points authorized by the carrier's certificate. In such case, the revocation or suspension shall apply only to those marks found to be abandoned by the certificate holder.

(2) Rights conferred by a certificate issued pursuant to Part II of these rules may be suspended by the Commission upon a finding by any agency of the Federal Government that the air carrier for which the certificate is issued is operating in violation of any Federal safety law or regulation. *Specific Authority 330.48(4) FS. Law Implemented 330.52(1), (2) FS. History—New 3-30-75, Formerly 25-15.38.*

##### 25-15.039 Grounds for Cease and Desist Orders. The Commission may issue a cease and desist order to any person operating an aircraft if the Commission finds:

(1) That the aircraft is being operated without a certificate of public convenience and necessity.

(2) That the aircraft is being operated in violation of any provisions of these rules.

(3) That the aircraft is being operated in

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connection with any illegal activity.

*Specific Authority 330.48(4) FS. Law Implemented 330.52(4) FS. History—New 3-30-75, Formerly 25-15.39.*

#### 25-15.040 Enforcement Procedures.

(1) The procedures established by this sub-Part will be applicable to suspension, revocation, and cease and desist orders issued by the Commission.

(2) Proceedings authorized by this Part (VI) may be instituted upon the Commission's own initiative or upon written complaint by any air carrier or interested party, if the Commission determines that such complaint is made upon reasonable grounds. A written complaint shall specify the action requested of the Commission and shall set forth in detail the facts upon which action is requested. The Commission will join two or more complaints if such complaints involve substantially the same subject or statement of facts. The Commission's motion or written order will be served upon the person whose actions are the subject of such motion or complaint and such person shall submit a written answer to the allegations set forth in the motion or complaint. The answer shall be filed within twenty (20) days after the date of service of the motion or complaint.

(3) Within fifteen (15) days after receipt of the answer required by this sub-Part, the Commission will decide whether to institute a proceeding, dismiss the complaint, or withdraw the Commission's order. If the complaint is dismissed or the motion withdrawn, the Commission will so notify all interested parties. If a proceeding is instituted, the Commission will serve notice of hearing upon the certificate holder or person against whom a proceeding is instituted and upon all other interested parties. Such notice will be served not less than fifteen (15) days prior to the hearing unless otherwise determined by the Commission. Hearings will be conducted in as expeditious a manner as possible. The rules of evidence applicable to such hearings will be the general rules of evidence applied in the Circuit Courts of this State. Testimony taken at such hearings will be reported and transcribed for use by the Commission and parties to the proceeding.

(4) After the conclusion of a hearing, the Commission will issue its order. The Commission will serve notice of its order on all parties to the proceeding no later than three (3) days after issuance of the order.

(5) Any person aggrieved by any order of the Commission issued pursuant to this Part (VI) may, no later than fifteen (15) days after service of such order, request in writing a reconsideration by the Commission of its order. A request for reconsideration shall state the matters of record alleged to have been erroneously decided, the grounds relied upon and the relief sought.

(6) Any person who is aggrieved by the decision of the Commission upon such reconsideration may apply to the Circuit Court of Leon County for

review of the Commission decision by filing a petition for a writ of certiorari within the time and in the manner prescribed by the Florida Appellate Rules and the statutes of this state not superseded by or in conflict with said rules.

*Specific Authority 330.48(4) FS. Law Implemented 330.52 FS. History—New 3-30-75, Formerly 25-15.40.*

#### PART VII REQUIREMENTS OF CIVIL AERONAUTICS BOARD CARRIERS

##### 25-15.050 Filing and Approval of Rate, Fare and Schedule Changes by Interstate Air Carriers.

(1) All persons engaged in air transportation pursuant to a certificate or certificates issued by the Civil Aeronautics Board pursuant to section 401 of the Federal Aviation Act of 1958, or any legislation successor hereto, shall file with the Florida Public Service Commission notice of any change in their rates, fares or schedules between points in the State of Florida. Such notice shall be filed not later than on the effective date thereof.

(2) The Commission shall cause notice thereof promptly to be delivered to every state certificated air carrier.

(3) A notice of hearing shall be issued within thirty days after such effective date upon complaint of any state certificated air carrier. The hearing may be held after thirty days after service of such notice of hearing upon the person making such change in a rate, fare or schedule.

(4) The Commission may disapprove, after notice and hearing, any change in a rate, fare or schedule between points in this state as cited in paragraph 1 of this rule, as provided in section 330.53, Florida Statutes, if such change would impose an undue economic burden on state certificated carriers operating between the same points.

*Specific Authority 330.53 FS. Law Implemented 330.53 FS. History—New 8-17-75, Formerly 25-15.50.*

#### ANNOTATIONS

##### Preemption

*Where intrastate air carrier exempt under 49 U.S.C. § 1305(a)(1) challenged Florida Public Service Commission's authority to regulate it, court upheld Commission's authority, as Deregulation Act's preemption clause did not forbid state regulation of such exempt carriers. Charter Air Center, Inc. v. Florida Public Service Commission, 503 F. Supp. 243 (N.D. Fla. 1980).*

##### Validity

*Where interstate air carriers challenged constitutionality of statute purporting to empower Florida Public Service Commission to regulate their business activities, district court properly exercised jurisdiction. Mere fact that constitutional claims might have been raised before state agency charged with statute's enforcement, in absence of other concrete impediments to proper exercise of federal question jurisdiction, does not alone deprive court of jurisdiction. Brandt International, Inc. v. Florida Public Service Commission, 576 F. 2d 1100 (5th Cir. 1978).*

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FREIGHT FORWARDERS

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CHAPTER 25-16  
FREIGHT FORWARDERSPART I REPORTS, RECORDS AND  
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PART I REPORTS, RECORDS AND  
ACCOUNTS

25-16.001 **Records and Reports in General.**  
Each freight forwarder shall file with the Commission at such times and in such form as the Commission may require, records, reports or other data which the Commission may reasonably request and require. The filing date may be extended only by written permission of the Commission. Requests for an extension of time in which to file such records, reports or data shall be made in writing and contain a sufficient reason for granting the extension, set forth the date when the same will be filed, and be submitted ten days in advance of the due date to permit proper time for consideration and communication to the forwarder of the action taken.  
*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 12-7-76, Formerly 25-16.01.*

25-16.002 **Location of Records and Accounts.**  
All records and accounts that a freight forwarder is required to maintain under these rules shall be kept at the office or offices of the freight forwarder within

the state, unless otherwise authorized in writing by the Commission.

Any freight forwarder authorized to keep its required records outside of the state shall reimburse the Commission for the reasonable travel expenses of the Commission's representative during any out-of-state audit.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 12-7-76, Formerly 25-16.02.*

25-16.003 **Inspection of Records and Accounts.** Any member of the Commission Staff, upon the direction of the Commission or in the performance of delegated staff duties, may make at any reasonable time, and upon reasonable notice, a personal visit to the offices or other places of business of a freight forwarder, and may inspect any facilities, equipment, records, accounts, books, reports, and papers of such freight forwarder which may appear necessary in the discharge of Commission duties.

During such visits, the company shall provide the Staff member(s) with adequate and comfortable working and filing space, consistent with prevailing conditions and climate and comparable with the accommodations provided the company's outside auditors.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(2) FS. History—New 12-7-76, Formerly 25-16.03.*

25-16.004 **Financial Reports.**

(1) Each freight forwarder shall maintain its accounts and records in conformity with the Uniform System of Accounts prescribed by the Interstate Commerce Commission in the Code of Federal Regulations, Title 49, Subtitle B, Chapter X, Subchapter C, Part 1210 as compiled on the effective date of this rule. All inquiries relating to interpretation of this Uniform System and Classification of Accounts shall be submitted to the Commission's accounting department in writing.

(2) All freight forwarders shall file with the Commission annual financial reports on forms prescribed and furnished by this Commission. These reports shall be certified correct by a responsible accounting official of the carrier and shall be filed on or before March 31 for the preceding calendar year. The filing date may be extended only by written permission of the Commission. All annual reports shall be subject to audit by the Commission's Staff. Authorization for the correction of errors found in the reports and replies to inquiries propounded by the Commission's Staff shall be furnished in writing within fifteen (15) days from the date of the Commission's letter. Final acceptance of the annual report will be subject to receipt and approval of all corrections and replies to inquiries of the Commission's Staff.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 12-7-76, Amended 8-21-79, Formerly 25-16.04.*

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**25-16.005 Retention of Records.** Each freight forwarder shall preserve its records in accordance with the requirements of the Code of Federal Regulations, Title 49, Subtitle B, Chapter X, Subchapter C, Part 1238, and shall follow the procedures described therein for the destruction of records.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 12-7-76, Formerly 25-16.05.*

**25-16.006 Answering Correspondence.** Correspondence relating to informal complaints or requesting specific information or performance should be answered within fifteen days from the date of the Commission's letter or within the time specified in such letter.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 12-7-76, Formerly 25-16.06.*

## PART II GENERAL RATE INCREASES

**25-16.010 Procedures Generally.**

(1) General rate increases shall be initiated by written petition to the Commission, which petition shall be accompanied by the proper application fee, and minimum filing requirements as prescribed by Rule 25-16.011 completed for an approved test period and using representative freight forwarders as required by Rule 25-16.012.

(2) The requirements in section (1) shall not preclude the Commission from requesting additional information at any reasonable time or preclude the petitioner from filing additional supplemental data in support of its application.

(3) In any case where compliance with this Rule, Rule 25-16.011 or Rule 25-16.012 introduces unusual hardship, written application to the Commission may be made for temporary exemption from its requirements.

*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 12-7-76, Formerly 25-16.10.*

**25-16.011 Minimum Filing Requirements.**

The following schedules shall be completed in accordance with sample forms and instructions supplied by the Commission for the test period by representative freight forwarders before a petition for general rate relief shall be deemed filed.

|             |  |
|-------------|--|
| Schedule a. | Present and Proposed Rates   |
| Schedule b. | Comparative Statement of Financial Position  |
| Schedule c. | Analysis of Retained Earnings for the test period and the twelve months immediately preceding the same period              |
| Schedule d. | Comparative Results of Operations covering the test period and a twelve month period immediately preceding the test period |

Schedule e.

Schedule f.

Schedule g.

Schedule h.

Schedule i.

Schedule j.

Schedule k.

Schedule l.

Schedule m.

*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 12-7-76, Formerly 25-16.11.*

**25-16.012 Approval of Test Year; Representative Freight Forwarders; Pre-hearing Conference.** Prior to the filing of a general rate increase petition under Rule 25-16.010, the petitioner shall submit to the Commission a written request for approval of a test year and a list of freight forwarders, where applicable, as being representative of the services on which the increase is being sought. The Commission will then promptly approve or disapprove the request.

In the event of disapproval, the Commission will concurrently approve an alternative test year and/or representative freight forwarders. In determining the appropriate test year, such factors as the length of time that has or will expire since the end of any proposed test year, availability of data, whether a proposed test year is representative of normal operations, and other relevant factors will be considered. In determining which freight forwarders are representative, such factors as the volume of traffic handled, the scope of operations, the size of the freight forwarder and other relevant factors which may affect the determination of representative freight forwarders will be considered.

The Commission may upon request by any party or on its own motion, set an appropriate time and place for an informal conference or a pre-hearing conference to aid in the determination of the appropriate test year and the appropriate representative freight forwarders. Thereafter, the Commission will approve a test year and list of representative freight forwarders.

*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 12-7-76, Formerly 25-16.12.*

Summary of separation factors  
 Statement of Operations separated between the operations on which increases are sought and all other operations  
 Annualized Income Statement  
 Pro Forma Income Statement  
 Statement of Changes in Financial Position  
 Transactions between Applicant and Affiliated Companies or persons  
 Capital Structure  
 Intermediate and long term debt  
 Preferred Stock and Common Stock



## PART III TARIFFS

25-16.020 **Definitions.** For the purpose of Part III of this Chapter, the following words or phrases have the meaning indicated.

(1) FPSC or Commission, and Board of Suspension, means the three commissioners as and constituting the Florida Public Service Commission.

(2) Tariff means a publication stating all rates, charges, rules, regulations or arrangements applicable to freight forwarders including supplements or revised pages to any approved tariff.

(3) General rate increase means a proposal to change all or substantially all of the tariff provisions and includes rate applications contemplated in Section 323.56, F. S. Factors to be used in determining if the proposed tariff is a general rate increase are: number of users of the service, number of individual rates being changed and whether or not the basic rate structure is being changed.

(4) Tariff filing means tariff changes or complete tariffs filed as a result of the grant of certificated authority, tariff changes filed subject to 30 day notice, and short notice tariff changes, including tariff filings contemplated by Section 323.56, F. S.

(5) Rate organization means an organization (such as association, bureau, conference, committee) approved by Commission order, which is permitted to file tariffs for its member freight forwarders.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.20*

25-16.021 **Procedures Generally.**

(1) General rate increases shall be in accordance with procedures established in Part II, Chapter 25-16.

(2) Tariff filings shall be in accordance with the procedures established in Part III, Chapter 25-16.  
*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.21*

25-16.022 **Who May File.** Subject to all of the provisions of this Part, tariffs are filed with the Commission by an approved rate organization for its member freight forwarders.

*Specific Authority 323.55(1) FS. Law, Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.22*

25-16.023 **Same; Rate Organization.**

(1) Approval as a rate organization shall be made to the Commission by application, which shall include at least the following:

(a) The basic organizational document (articles of incorporation, partnership agreement, etc.).

(b) All supplemental documents detailing the structure, organization and operation of the organization (by-laws, rules of procedure, rate and tariff agreement, organizational chart, etc.).

(c) Detailed opinion of applicant's attorney of how the organization complies with Section 323.55(1), F. S., and Part III of this Chapter.

(2) To obtain Commission approval, each rate organization shall have written detailed procedures

covering at least the following subjects: membership, member freight forwarders, fee and assessments or how expenses are divided among its members, services to be performed, addition or termination of membership, officers and person to correspond with the Commission, regular and special meetings, rate committee, rate committee meetings, rate committee procedure, independent announcement, and procedure for amending basic and supplemental documents. Specifically, the following minimum requirements shall be observed:

(a) Any interested person shall have the right to submit tariff proposals in writing to the secretary of the rate committee.

(b) The complete tariff proposal shall be noticed for hearing in the rate organizational publication (docket, agenda, bulletin, etc.), and mailed first class to all member freight forwarders and to all other persons paying for and requesting receipt of the publication. Notice shall be mailed not later than ten days prior to the next scheduled rate committee meeting.

(c) Any interested person shall be heard at the meeting on tariff proposals.

(d) All persons receiving notice of the meeting shall be advised of the committee's disposition by first class mail within seven days following the meeting. No tariff shall be filed with the Commission until the committee's disposition has been mailed. Copies of tariffs shall be made available to those paying for and requesting copies.

(e) All member freight forwarders shall have the free and unrestrained right to take independent action either before, during, or after the procedure established in paragraphs (b) through (d). Notice of independent announcement shall be in the manner provided in paragraph (b). Other member freight forwarders will advise the secretary of the rate committee within ten days after the mailing of the notice that they also desire to participate in the tariff proposal for their account. Thereafter, the tariff shall be published under independent action in the rate organization's next regular tariff publication.

(f) Paragraphs (a) through (e) above shall be applicable to all tariff filing procedures except for: correction of clerical or typographical errors which have not been in effect more than ninety days; and changes made necessary by changes in law or Commission order.

(3) Following the receipt of the rate organization application for approval with the Commission, the application will be noticed for hearing in the manner provided in Section 323.03(2), F. S.

(4) After Commission approval of a rate organization, no change in the substance of the organization's basic or supplemental documents shall be made unless first approved by the Commission, except that the addition or deletion of member freight forwarders may be made upon immediate notice to the Commission's Rate Department.

*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.23*

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**25-16.024 Construction, Filing and Posting; Generally.**

(1) All tariffs shall conform to the construction, filing and posting as provided in Rule 25-16.025. Applications for certificate authority shall contain a statement that the applicant will participate in specified uniform tariff.

(2) Rule 25-16.025 shall be governed by the following:

(a) All references to the Interstate Commerce Commission shall be interpreted to mean the Florida Public Service Commission.

(b) All references to MF-ICC, shall be interpreted to mean FF-FPSC.

(c) All specified dates used in Tariff Circular MF No. 3 shall be interpreted to be the effective date of Part III, Chapter 25-16.

(d) All references to the Act shall be interpreted to mean Part II, Chapter 323, Florida Statutes.

(e) Copies of Tariff Circulars MF No. 3 may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.

*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.24.*

**25-16.025 Same; Freight Forwarders.** Freight Forwarders shall comply with Interstate Commerce Commission Tariff Circular MF No. 3 (49 CRF 1307), except for Rules 5, 16, 20(e), 22 and 23 as follows:

(1) Rule 5 — Routing: not applicable.  
(2) Rule 16 — Seasonal Motor-Water Rates: not applicable.

(3) Rule 20(e) — Filing and Posting Tariffs: Six (6) copies of tariffs, supplements and revised pages are required in lieu of three (3) copies. Tariffs sent for filing shall be addressed:

Florida Public Service Commission  
Rate Department  
101 East Gaines Street  
Tallahassee, Florida 32304

(4) Rule 22 — Powers of Attorney: Powers of Attorney are not required to be filed with the Commission.

(5) Rule 23 — Concurrences: Concurrences are not required to be filed with the Commission.  
*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.25.*

**25-16.026 Suspensions of Tariff Filings.**

(1) Consent. The protested tariff filing sought to be suspended should be identified by making reference to the name of the rate organization, to the Florida Public Service Commission number, and to the specific items or particular provisions protested. Reference should also be made to the tariff, and the specific provisions thereof, proposed to be superseded. The protest should state the grounds in support thereof, indicate in what respect the protested tariff filing is considered to be unlawful, and state what protestant offers by way of substitution. Such protests will be considered as

addressed to the discretion of the Commission and no protest shall include a prayer that it also be considered a formal complaint. Should a protestant desire to proceed further against a tariff filing which is not suspended, or which has been suspended and the suspension vacated, a separate later formal petition should be filed.

(2) When filed. Protests against, and requests for suspension of a tariff filing filed under this rule will not be considered unless made in writing and filed with the Commission, 101 East Gaines Street, Tallahassee, Florida 32304. Such protests and requests for suspension shall reach the Commission at least twelve (12) days before the effective date of the tariff filing, or parts thereof to which they refer, unless the protested publications were filed on less than 30 day notice under the authority of this Commission, in which event the protests should be filed not less than five (5) days before such effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with subsection (1) of this rule and copies thereof are immediately telegraphed by protestants to the rate organization. Six copies of such telegrams should immediately be mailed by the protestant to the Commission.

(3) Copies; service. Seven copies of each protest or reply filed under this rule must be filed with the Commission and one copy of the protest simultaneously be served upon the rate organization and upon other persons known by protestant to be interested.

(4) Reply to protest. A reply to a protest filed under this section should be filed and served promptly.

(5) Board of Suspension.  
(a) The Board of Suspension shall consider the tariff filing and the pleadings, if any, and enter its order, which shall not be subject to reconsideration provided in Rules 25-2.064 or 25-2.123.

(b) An order granting suspension shall provide for notice of hearing or modified procedure, with the matter ultimately disposed of by further order of the Commission within seven (7) months after the date of the suspension order; otherwise the tariff filing shall go into effect at the end of that period.

(c) An order denying suspension shall allow the tariff involved to become effective as published.  
*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.26.*

**25-16.027 Modified Procedure.**

(1) How initiated. Modified procedure will be ordered in a proceeding upon the Commission's initiative or upon its approval of a request filed by any party that the modified procedure shall be observed. An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified procedures rules.

(2) Default. If within any time period provided in the modified procedure rules a party fails to file a

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pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter, the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

(3) Intervention. Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

(4) Joint pleadings. Parties having common interests shall arrange for joint preparation of pleadings filed under modified procedure.

(5) Content of pleadings.

(a) Generally. A statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. In addition, protestant's statement and petitioner's statement in reply shall specify those statements of fact and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such exception. Petitioner's statement of reply shall be confined to rebuttal of the protestant's statement.

(b) Exhibit identification. An exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Petitioner (Protestant) \_\_\_\_\_, Exhibit No. \_\_\_\_\_, Witness \_\_\_\_\_."

(6) Verification. The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

(7) When pleadings filed and served. Within twenty (20) days from the date of an order requiring modified procedure, petitioner shall serve upon the other parties a statement of all the evidence upon which it relies. Within thirty (30) days thereafter, protestant shall serve its statement. Within ten (10) days thereafter, petitioner shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

(8) Copies of pleadings. The original and six copies of any statement shall be filed with the Commission. Subsequent pleadings are subject to Subsection (10).

(9) Hearings.

(a) Request for cross examination or other hearing. If cross examination of any witness is desired, the name of the witness and the subject matter of the desired cross examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of

protestant's statement or petitioner's statement in reply, as the case may be. Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross examination.

(b) Hearing issues limited. The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

(10) Subsequent procedure. Procedure subsequent to that provided in modified procedure rule shall be the same as that in proceedings not handled under modified procedure.

*Specific Authority 323.55(1) FS. Law Implemented 323.56 FS. History—New 2-8-78, Formerly 25-16.27.*

PART IV GENERAL RULES APPLYING TO  
FREIGHT FORWARDERS

**25-16.030 Rules for General Application; Exceptions.** The rules hereinafter set forth are for general application and are subject to such changes and modifications, permitted by law, as the Commission from time to time may determine advisable, and are also subject to such exceptions as may be considered just and reasonable in individual cases. They are supplementary to the statutes contained in Part II, Chapter 323, Florida Statutes. *Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.30.*

**25-16.031 Bill of Lading and Waybill.**

(1) Freight forwarders shall adopt a bill of lading and a waybill or a combined bill of lading and waybill. Each such bill of lading and waybill shall show the following minimum information:

- (a) Name of the freight forwarder;
- (b) Waybill number of pro. number;
- (c) Origin point and date shipment received by forwarder;
- (d) Names and addresses of consignor and consignee;
- (e) Number of packages and description of articles and special marks;
- (f) Weight, class and rate;
- (g) Freight charges collect;
- (h) Freight charges prepaid;
- (i) Advance charges;
- (j) C. O. D. charges and C. O. D. fee;
- (k) Line for acknowledgement of prepay collected;

(l) Line for acknowledgement by consignee of receipt of shipment and date received.

(2) Every bill of lading or combined bill of lading and waybill shall show the information listed above and contain the following information.

- (a) Line for signature of shipper or his agent;
- (b) Line for signature of forwarder agent.

(3) Each of the documents required by this section shall be prepared in no less than quadruplicate. One copy of each shall be given to the consignor, one copy shall be retained at origin point as forwarder record, one copy shall accompany each shipment and be subject at all times to inspection by the Commission's investigators and one copy shall

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be given to the consignee with the delivery of the freight. The consignee's receipt for delivery shall be taken on the copy that accompanies the shipment and shall thereafter be retained by the forwarder.  
*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.31.*

**25-16.032 Credit Allowance.** No credit allowance extending beyond a period of fifteen (15) days shall be allowed by freight forwarders operating under the jurisdiction of the Commission, provided that this rule shall not apply to credit extended to the federal and state governments or political subdivisions thereof.  
*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.32.*

**25-16.033 C. O. D. Payments.**

(1) No freight forwarder shall render any C. O. D. service unless such forwarder has published, posted and filed tariffs which contain rates, charges and rules governing such service, which rules shall conform to these regulations. Such tariff will not become effective until approved by this Commission.

(2) Every freight forwarder shall remit each C. O. D. collection directly to the consignor as payee promptly and within fifteen (15) days after delivery of the C. O. D. shipment to the consignee.

(3) Every freight forwarder shall maintain a record of all C. O. D. shipments received for delivery in such manner and form as will plainly and readily show the following information with respect to each shipment.

(a) Number and date of freight bill.

(b) Name and address of shipper or other person designated as payee.

(c) Name and address of consignee.

(d) Date collected by delivering forwarder.

(e) Date remitted to payee and check number or other identification of remittance to payee.

(4) The Commission in its discretion may require a bond to be filed by forwarders to insure payments of C. O. D. collections.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.33.*

**25-16.034 Collection on Undercharges.**

(1) Demand for the payment of all undercharges on freight transported by any freight forwarder doing business in the State of Florida shall be made by such freight forwarder upon the consignee or person paying for transportation charges within a reasonable time after delivery of such freight, express or property.

(2) If such undercharges are not paid upon demand the freight forwarder making such demand shall make every effort to collect said undercharges and proof of failure to such freight forwarder to collect such undercharges or to exhaust its legal remedies to collect same, shall be considered a violation of Section 323.68, Florida Statutes.  
*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.34.*

**25-16.035 Filing Contracts and Agreements.**

Certificated forwarders shall file copy of any agreement entered into pertaining to any matter under the jurisdiction of the Commission unless notified by the Commission not to file specified types of agreements.

*Specific Authority 323.55(1) FS. Law Implemented 323.55(1) FS. History—New 2-8-78, Formerly 25-16.35.*

Rules 25-4.123, 24-4.124  
25-4.125, 25-4.126  
25-4.127, 25-4.128  
25-4.129, 25-4.130  
25-4.131

Docket No. 900971-PU

SUMMARY OF RULES

The rule would be repealed regarding radio common carriers.

SUMMARY OF HEARINGS ON THE RULE

No comments nor requests for hearing were received.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The Commission has not exercised jurisdiction in these areas for many years. Thus, repeal is warranted.

91 APR 24 PM 3:49  
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TALLAHASSEE, FLORIDA

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ORDER NO. 24444  
DOCKET NO. 900971-PU  
PAGE 38

Rule 25-11.001

Docket No. 900971-PU

SUMMARY OF RULE

The rule would be repealed regarding telegraph carriers.

SUMMARY OF HEARINGS ON THE RULE

No comments nor requests for hearing were received.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The Commission has not exercised jurisdiction in these areas for many years. Thus, repeal is warranted.

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91 APR 24 PM 3:43

TALLAHASSEE, FLORIDA

ORDER NO. 24444  
DOCKET NO. 900971-PU  
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Rules 25-15.001, 25-15.002  
25-15.003, 25-15.004  
25-15.005, 25-15.006  
25-15.007, 25-15.008  
25-15.009, 25-15.010  
25-15.011, 25-15.012  
25-15.013, 25-15.014  
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25-15.017, 25-15.018  
25-15.019, 25-15.020  
25-15.021, 25-15.022  
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25-15.033, 25-15.034  
25-15.035, 25-15.036  
25-15.038, 25-15.039  
25-15.040, 25-15.050

Docket No. 900971-PU

SUMMARY OF RULES

The rule would be repealed regarding air carriers.

SUMMARY OF HEARINGS ON THE RULE

No comments nor requests for hearing were received.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The Commission has not exercised jurisdiction in these areas for many years. Thus, repeal is warranted.

FILED  
91 APR 24 PM 3:45  
TALLAHASSEE  
STATE  
DEPARTMENT OF  
TRANSPORTATION  
FLORIDA

ORDER NO. 24444  
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Rules 25-16.001, 25-16.002  
25-16.003, 25-16.004  
25-16.005, 25-16.006  
25-16.010, 25-16.011  
25-16.012, 25-16.020  
25-16.021, 25-16.022  
25-16.023, 25-16.024  
25-16.025, 25-16.026  
25-16.027, 25-16.030  
25-16.031, 25-16.032  
25-16.033, 25-16.034  
25-16.035

Docket No. 900971-PU

SUMMARY OF RULES

The rule would be repealed regarding freight forwarders

SUMMARY OF HEARINGS ON THE RULE

No comments nor requests for hearing were received.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The Commission has not exercised jurisdiction in these areas for many years. Thus, repeal is warranted.

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91 APR 24 PM 3:42  
DEPARTMENT OF STATE  
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