

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Rule 25-4.045,) DOCKET NO. 931035-TL
F.A.C., Cross-Subsidization of) ORDER NO. PSC-94-0312-NOR-TL
Local Exchange Company) ISSUED: March 18, 1994
Competitive Services by Monopoly)
Services; and Amendment of Rule)
25-9.005(3), F.A.C., Information)
to Accompany Filings)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

NOTICE OF RULEMAKING

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to adopt new Rule 25-4.045, F.A.C., relating to cross-subsidization of local exchange company competitive services by monopoly services; and amended Rule 25-9.005, F.A.C., relating to information to accompany filings.

The attached Notice of Rulemaking will appear in the March 25, 1994 edition of the Florida Administrative Weekly.

If requested, a hearing will be held at the following time and place:

9:30 a.m., April 20, 1994
Room 122, Fletcher Building
101 East Gaines Street
Tallahassee, FL 32399

Written requests for hearing and written comments or suggestions on the rules must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than April 15, 1994.

DOCUMENT NUMBER-DATE

02583 MAR 18 1994

FPSC-RECORDS/REPORTING

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By Direction of the Florida Public Service Commission, this
18th day of March, 1994.

STEVE TRIBBLE, Acting Director
Division of Records & Reporting

by: Key Hagan
Chief, Bureau of Records

(S E A L)

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FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 931035-TL

RULE TITLE:

RULE NO.:

Cross-Subsidization of Local Exchange Company

25-4.045

Competitive Services By Monopoly Services

PURPOSE AND EFFECT: Implements statutory prohibitions against cross-subsidization of competitive services by local exchange companies by providing definitions and requiring demonstration that competitive services are not priced below incremental cost.

SUMMARY: Rule 25-4.045(1) defines "cross-subsidization" as pricing a competitive service below its incremental costs and recovering the shortfall from rates for monopoly services.

Rule 25-4.045(2) defines "competitive service" as a service found subject to effective competition pursuant to Section 364.338.

Rule 25-4.045(3) requires that the local exchange company demonstrate that a competitive service is not priced below incremental cost.

RULEMAKING AUTHORITY: 350.127(2), F.S.

LAW IMPLEMENTED: 364.01(3)(e), 364.338, 364.3381, F.S.

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.

HEARING: 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 20, 1994

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 THE RULE IS:

25-4.045: Cross-Subsidization of Local Exchange Company
Competitive Services By Monopoly Services.

(1) Section 364.3381, F.S., prohibits cross-subsidization of local
exchange company (LEC) competitive services by LEC monopoly
services. For purposes of Section 364.3381, "cross-subsidization"
is defined as pricing of a competitive service below its
incremental costs, with the resulting shortfall being recovered
through the rates for monopoly services.

(2) For purposes of Section 364.3381, "competitive service" refers
to a LEC service which has been determined to be subject to
effective competition in accordance with Section 364.338.

(3) When a LEC service has been deemed to be subject to effective
competition and an order issued, the local exchange company shall
file incremental cost data sufficient to demonstrate that the price
for the competitive service is not below its incremental cost.

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Such cost data shall be filed within 90 days after the date of the order.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.01(3)(e), 364.338, 364.3381, F.S.

History: New

NAME OF PERSON ORIGINATING PROPOSED RULE: David Dowds

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

DATE PROPOSED RULE APPROVED: March 8, 1994

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.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

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FLORIDA PUBLIC SERVICE COMMISSION

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RULE TITLE:

RULE NO.:

Information to Accompany Filings

25-9.005

PURPOSE AND EFFECT: To implement the statutory prohibition against cross-subsidization of competitive services by local exchange companies by requiring that newly tariffed services not be priced below incremental cost.

SUMMARY: Rule 25-9.005(3)(a) provides that local exchange companies with annual revenues of \$100,000,000 or more file cost data sufficient to demonstrate that newly tariffed services are not priced below incremental cost. Local exchange companies with annual revenues below \$100,000,000 shall file cost data or otherwise demonstrate that newly tariffed services are not priced below that local exchange company's incremental cost.

RULEMAKING AUTHORITY: 350.127(2), F.S.

LAW IMPLEMENTED: 364.01(3)(e), 364.05, 364.338, 364.3381, F.S.

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.

HEARING: 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 20, 1994

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 THE RULE IS:

25-9.005 Information to Accompany Filings

(3)(a) When a local exchange telephone company whose annual revenues from regulated telecommunications operations are \$100,000,000 or more files a tariff to introduce a new service, incremental cost data shall be filed sufficient to demonstrate that the proposed rates for the service are not below incremental cost. When a local exchange telephone company whose annual revenues from regulated telecommunications services are less than \$100,000,000 files a tariff for a new service, it shall provide incremental cost data, if available, or otherwise demonstrate that the proposed rates for the service are not below that local exchange company's incremental cost.

(3)(b) Where the change involves a rate or charge and the electric, gas, or telephone utility elects to make a cost study, the utility shall file a cost information statement containing a summary of the cost study performed, including:

- 1.a. All underlying assumptions;
- 2.b. The cost study number, if assigned;
- 3.e. The cost of providing the service or equipment;

- ~~4.d.~~ The proposed contribution above or below direct cost, stated in both dollars and percent;
- ~~5.e.~~ A statement as to why each above-cost or below-cost contribution rate was chosen; and
- ~~6.f.~~ The anticipated effect of the change on the company's rate of return.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.01(3)(e), 364.05, 364.338, 364.3381, 366.06, 367.081, F.S.

History: Repromulgated 1/8/75, 10/22/75, Amended 1/18/82, 8/8/85, formerly 25-9.05 Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: David Dowds

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