

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze; and proposed amendment of Rules 25-4.003, F.A.C., Definitions; 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated.

DOCKET NO. 040167-TP
ORDER NO. PSC-04-0452-NOR-TP
ISSUED: May 3, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to adopt Rules 25-4.082 and 25-4.083, Florida Administrative Code, and the amendment of Rules 25-24.490 and 25-24.845, Florida Administrative Code, relating to number portability and preferred carrier freezes.

The attached Notices of Rulemaking will appear in the May 7, 2004, edition of the Florida Administrative Weekly. If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments or suggestions on the rules must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than May 28, 2004.

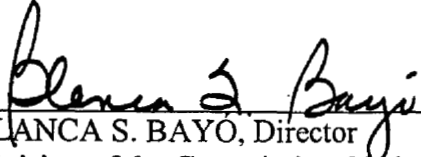
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FPSC-COMMISSION CLERK

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By ORDER of the Florida Public Service Commission this 3rd day of May, 2004.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(SEAL)

SMC

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040167-TP

RULE TITLE:	RULE NO.:
Number Portability	25-4.082
Preferred Carrier Freeze	25-4.083

PURPOSE AND EFFECT: To codify the requirements that a company must facilitate a subscriber's move to a new provider when the subscriber elects to switch providers and that a company may only put a preferred carrier freeze on a subscriber's service when one is requested by the subscriber.

SUMMARY: Rule 25-4.082 would require a local provider to facilitate the porting of a subscriber's telephone number and require that a working number should be ported regardless of whether a balance is owed. Rule 25-4.083 clarifies that a preferred carrier freeze should not be imposed on or removed from a subscriber's account without the subscriber's authorization and sets forth the information the company must receive from the subscriber to place a preferred carrier freeze on the subscriber's account.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: All the telecommunications companies that submitted data for the statement of estimated regulatory cost indicated that there would be additional costs for complying with the proposed rules.

The statement of estimated regulatory cost also concludes that small businesses should benefit from the proposed rules because the rules will remove barriers that prevent

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telecommunications companies from acquiring new customers. Also, small businesses, small cities, and small counties should not be negatively affected unless they operate as a competitive local exchange carrier.

The Commission and other state entities are not anticipated to have additional costs associated with promulgating the proposed rules. The statement of estimated regulatory cost also indicates that no additional Commission staff would be needed to implement the proposed rules, and, over time, the Commission could potentially benefit as the number of complaints filed with the Commission on this subject may decrease.

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

SPECIFIC AUTHORITY: 350.127, 364.603, F.S.

LAW IMPLEMENTED: 364.16, 364.603, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, 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 SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Samantha Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6202.

THE FULL TEXT OF THE PROPOSED RULES IS:

25-4.082 Number Portability.

(1) The serving local provider shall facilitate porting of the subscriber's telephone number upon request from the acquiring company.

(2) A working number shall be ported regardless of whether a balance is owed.

(3) A local provider shall not disconnect a subscriber's working number, regardless of whether a balance is owed, after receiving a local service request from another local provider.

Specific Authority: 350.127, F.S.

Law Implemented: 364.16, F.S.

History: New XX-XX-XX.

25-4.083 Preferred Carrier Freeze.

(1) A PC Freeze shall not be imposed on or removed from a subscriber's account without the subscriber's authorization and shall not be required as a condition for obtaining service.

(2) A PC Freeze shall be implemented or removed at no charge to the subscriber.

(3) The subscriber's authorization shall be obtained for each service for which a PC Freeze is requested. Procedures implemented by local exchange providers must clearly distinguish among telecommunications services (e.g., local, local toll, and toll) subject to a PC Freeze.

(4) All notification material regarding PC Freezes must include:

(a) An explanation of what a PC Freeze is and what services are subject to a freeze;

(b) A description of the specific procedures necessary to lift a PC Freeze and an explanation that the subscriber will be unable to make a change in provider selection unless the subscriber authorizes lifting of the PC Freeze; and

(c) An explanation that there are no charges for implementing or removing a PC Freeze.

(5) A local provider shall not solicit, market, or induce subscribers to request a PC Freeze. A local provider is not prohibited, however, from informing an existing or potential new subscriber who expresses concerns about slamming about the availability of a PC Freeze.

(6) A local exchange provider shall not implement a PC Freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(a) The local exchange provider has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of subsection (7);

(b) The local exchange provider has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the PC Freeze is to be imposed. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the information required in subsection (7)(a) through (d) Telecommunications providers electing to confirm PC Freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar

mechanism that records the required information regarding the PC Freeze request, including automatically recording the originating automatic numbering identification; or

(c) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the PC Freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the information required in subsection (7)(a) through (d). The independent third party must not be owned, managed, or directly controlled by the provider or the provider's marketing agent; must not have any financial incentive to confirm PC Freeze requests for the provider or the provider's marketing agent; and must operate in a location physically separate from the provider or the provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a PC Freeze.

(7) A local exchange provider shall accept a subscriber's written and signed authorization to impose a PC Freeze on a preferred provider selection. A written authorization shall be printed in a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(a) The subscriber's billing name and address and the telephone number(s) to be covered by the PC Freeze;

(b) The specific service, (e.g., local, local toll, and toll), separately stated, on which a PC Freeze will be imposed.

(c) That the subscriber understands that to make a change in provider selection, the subscriber must lift the PC Freeze; and

(d) That there will be no charge to the subscriber for a PC Freeze.

(8) All local exchange providers shall, at a minimum, offer subscribers the following procedures for lifting a PC Freeze:

(a) Acceptance of a subscriber's written or electronically signed authorization; and

(b) Acceptance of a subscriber's oral authorization along with a mechanism that allows the submitting provider to conduct a three-way conference call between the provider administering the PC Freeze and the subscriber. The provider administering the PC Freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the subscriber's intent to lift a specific PC Freeze.

(9) Information obtained under subsections (6) and (8)(a) shall be retained by the provider for a period of one year.

(10) A PC Freeze shall not prohibit a local provider from changing wholesale services when serving the same end user.

(11) Local providers shall make available an indicator on the customer service record that identifies whether the subscriber currently has a PC Freeze in place.

(12) Local providers shall make available the ability for the subscriber's new local provider to initiate a local PC Freeze using the local service request.

Specific Authority: 350.127, 364.603, F.S.

Law Implemented: 364.603, F.S.

History: New XX-XX-X.

NAME OF PERSON ORIGINATING THE PROPOSED RULES: Ray Kennedy

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NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission

DATE PROPOSED RULES APPROVED: April 20, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No.
17, April 25, 2003

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SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: All the telecommunications companies that submitted data for the statement of estimated regulatory cost indicated that there would be additional costs for complying with the proposed rules.

The statement of estimated regulatory cost also concludes that small businesses should benefit from the proposed rules because the rules will remove barriers that prevent telecommunications companies from acquiring new customers. Also, small businesses, small cities, and small counties should not be negatively affected unless they operate as a competitive local exchange carrier.

The Commission and other state entities are not anticipated to have additional costs associated with promulgating the proposed rules. The statement of estimated regulatory cost also indicates that no additional Commission staff would be needed to implement the proposed rules, and, over time, the Commission could potentially benefit as the number of complaints filed with the Commission on this subject may decrease.

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

SPECIFIC AUTHORITY: 350.127(2), 364.337(2), 364.604(5), F.S.

LAW IMPLEMENTED: 364.03, 364.14, 364.15, 364.16, 364.19, 364.337, 364.602, 364.603, 364.604, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND

ADMINISTRATIVE SERVICES, 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 SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Samantha Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6202.

THE FULL TEXT OF THE PROPOSED RULES IS:

25-24.490 Customer Relations; ~~Rules Incorporated.~~

(1) The following rules ~~are incorporated herein by reference and~~ apply to IXCs.

<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
25-4.083	<u>Preferred Carrier Freeze</u>	<u>All except subsections (11) and (12)</u>
25-4.110	Customer Billing	Subsections (11), (12), (14), (15), (17), (18), and (20)
25-4.111	Customer Complaint and Service Requests	All except subsection (2)
25-4.112	Termination of Service by Customer	All
25-4.113	Refusal or Discontinuance of Service by Company	All
25-4.114	Refunds	All

25-4.117	800 Service	All
25-4.118	Local, Local Toll, or Toll Provider Selection	All

(2) – (3) No change.

(4) Toll free number transfers.

(a) The serving IXC shall facilitate the transfer of the subscriber's toll free telephone number (e.g., 800, 877, 888) upon request from the acquiring company.

(b) The serving IXC shall not disconnect a subscriber's working toll free number after receiving a service transfer request from another IXC.

(c) A working toll free number shall be transferred regardless of whether a balance is owed.

Specific Authority: 350.127(2), 364.604(5), FS.

Law Implemented: 364.03, 364.14, 364.15, 364.16, 364.19, 364.337, 364.602, 364.603, 364.604, FS.

History: New 2-23-87, Amended 10-31-89, 3-5-90, 3-4-92, 3-13-96, 12-28-98, 7-5-00, 11-16-03, XX/XX/XX.

25-24.845 Customer Relations; ~~Rules Incorporated.~~

The following rules ~~are incorporated herein by reference and~~ apply to CLECs. In the following rules, the acronym "LEC" should be omitted or interpreted as "CLEC".

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<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
<u>25-4.082</u>	<u>Number Portability</u>	<u>All</u>
<u>25-4.083</u>	<u>Preferred Carrier Freeze</u>	<u>All</u>
25-4.110	Customer Billing	Subsections (11), (12), (14), (15), (16), (17), (18), and (20)
24-4.118	Local, Local Toll, or Toll Provider Selection	All

Specific Authority: 350.127(2), 364.337(2), 364.604(5), FS.

Law Implemented: 364.16, 364.337(2), 364.602, 364.603, 364.604, FS.

History: New 12-28-98, Amended 7-5-00, 11-16-03, XX/XX/XX.

NAME OF PERSON ORIGINATING THE PROPOSED RULES: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission

DATE PROPOSED RULES APPROVED: April 20, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No.
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