

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Rules 25- ) DOCKET NO. 931181-TP  
24.700, .705, .710, .715, .720, ) ORDER NO. PSC-94-1577-FOF-TP  
.721, .725, .730, .735, .740, ) ISSUED: December 19, 1994  
.745, .747, F.A.C., Regulating )  
Alternative Access Vendors; and )  
Proposed Amendment of Rule 25- )  
4.002, F.A.C., Application and )  
Scope, Rule 25-4.0161, F.A.C., )  
Regulatory Assessment Fees; )  
Telecommunications Companies; )  
Rule 25-9.001, F.A.C., )  
Application and Scope; and Rule )  
25-14.001, F.A.C., In General )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

NOTICE OF ADOPTION OF RULES

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted proposed rules 25-24.700, .705, .710, .715, .720, .721, .725, .730, .735, .740, .745, and .747, Florida Administrative Code, and proposed amendments to Rules 25-4.002, 25-4.0161, 25-9.001, and 25-14.001, Florida Administrative Code, relating to governing Alternative Access Vendor (AAV) Service Providers, with changes.

The rules were filed with the Department of State on December 19, 1994 and will be effective on January 8, 1995. A copy of the rules as filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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By ORDER of the Florida Public Service Commission, this 19th  
day of December, 1994.

BLANCA S. BAYÓ, Director  
Division of Records & Reporting

by: Kay Dlyn  
Chief, Bureau of Records

( S E A L )

MAH

TELEPHONE COMPANIES

CHAPTER 25-24

PART XIV

RULES GOVERNING ALTERNATIVE ACCESS VENDOR (AAV) SERVICES

25-24.700 Reserved

25-24.705 Scope and Waiver

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25-24.735 Cancellation of a Certificate

25-24.740 AAV Service Provider Operations; Rules Incorporated

25-24.745 Records and Reports; Rules Incorporated

25-24.747 Notification Requirements

25-24.700 Reserved

25-24.705 Scope and Waiver.

(1) This part applies to every person or company providing  
Alternative Access Vendor (AAV) service. Chapters 25-4, 25-9 and  
25-14, Florida Administrative Code, shall apply to Alternative  
Access Vendor service only as provided in this part.

(2) An AAV service provider may petition for a waiver of any provision of this part. The Commission may grant a waiver to the extent that it determines that a waiver is in the public interest. The Commission may grant the petition in whole or in part and may prescribe different requirements than are set forth in this part. In disposing of a petition, the Commission shall consider the factors enumerated in Section 364.337(2), Florida Statutes (1991). Specific Authority: 350.127(2), F.S.

Law Implemented: 364.01, 364.337(1), (2), F.S.

History: New \_\_\_\_\_.

25-24.710 Terms and Definitions.

For purposes of this part the following definitions apply:

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

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

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

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

(5) "Special Access Service." Private line service which is connected from the end user's premises to an interexchange company.

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

Law Implemented: 364.01, 364.02, 364.337, F.S.

History: New \_\_\_\_\_.

25-24.715 Certificate of Public Convenience and Necessity Required.

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

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

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

(4) Applicants for a certificate shall not provide service, collect deposits or collect payment for services until a

certificate becomes effective. However, at their own risk, applicants may acquire equipment and facilities and may advertise and engage in promotional activities before a certificate becomes effective. In contacts with potential customers or advertisements before certification, applicants shall advise the potential customer that certification has not and may never be granted.

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

Law Implemented: 364.33, 364.335, 364.337, F.S.

History: New \_\_\_\_\_.

25-24.720 Application for Certificate.

(1) An applicant seeking to provide Alternative Access Vendor service shall submit an application on Commission Form PSC/CMU 43 (1/95), entitled "Application Form for Authority To Provide Alternative Access Vendor Service within the State of Florida," which is incorporated into this rule by reference. The form may be obtained from the Division of Communications. A nonrefundable application fee of \$250.00 must accompany each application to cover processing costs. The Commission's acceptance of the application fee does not imply that a certificate will be granted.

(2) An original and 12 copies of the application shall be filed with the Division of Records and Reporting.

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

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

Law Implemented: 364.33, 364.335, 364.337, 364.345, F.S.

History: New \_\_\_\_\_.

25-24.721 Tariffs Not Required.

Alternative Access Vendors are not required to file tariffs.

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

Law Implemented: 364.337, F.S.

History: New \_\_\_\_\_.

25-24.725 Certificates Not Transferrable.

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

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

Law Implemented: 364.33, 364.335, 364.337, 364.345, F.S.

History: New \_\_\_\_\_.

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

(1) A person seeking to obtain a certificate by sale, assignment or transfer from the holder shall submit an application jointly with the certificate holder on Commission Form PSC/CMU 43 (1/95) (entitled "Application Form for Authority To Provide Alternative Access Vendor Service within the State of Florida"). The application form may be obtained from the Division of Communications. A nonrefundable application fee of \$250.00 must

accompany each application to cover processing costs. The Commission's acceptance of the application fee does not imply that the application for sale, assignment or transfer of a certificate will be granted.

(2) An original and 12 copies of the application shall be filed with the Division of Records and Reporting.

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

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

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

Law Implemented: 364.32, 364.33, 364.335, 364.337, 364.345, F.S.

History: New \_\_\_\_\_.

25-24.735 Cancellation of a Certificate.

(1) The Commission may cancel an AAV service provider's certificate for any of the following reasons:

(a) violation of the terms and conditions under which the authority was originally granted:

(b) violation of Commission rules or orders:

(c) violation of Florida statutes; or

(d) failure to provide service for a period of 6 months.

(2) If a certificated AAV service provider seeks to cancel its certificate, it shall request cancellation from the Commission



in writing and shall provide the following information with its request:

- (a) the date the final Regulatory Assessment Fee was paid;
- (b) a statement of the reasons for cancellation;
- (c) a statement on the treatment of customer deposits and final bills; and
- (d) a representative copy of a customer notice regarding discontinuance of service.

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

Law Implemented: 350.113, 350.127(1), 364.285, 364.337, 364.345, F.S.

History: New \_\_\_\_\_.

25-24.740 AAV Service Provider Operations; Rules Incorporated.

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

<u>Section</u>	<u>Title</u>
<u>25-4.022</u>	<u>Complaint - Trouble Reports, Etc.</u>
<u>25-4.036</u>	<u>Design and Construction of Plant</u>
<u>25-4.038</u>	<u>Safety</u>
<u>25-4.041</u>	<u>Courtesy</u>

(2) An AAV service provider may act as an agent of its customer in obtaining service from the local exchange company, provided the local exchange company bills the customer directly for the service rendered.

(3) An AAV service provider shall not resell local exchange company private line or foreign exchange (FX) service.

(4) Each AAV service provider shall require each customer to provide in writing, at least once every 12 months, the intrastate percentage of the customer's traffic carried over the AAV's facilities.

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

Law Implemented: 364.337, F.S.

History: New \_\_\_\_\_.

25-24.745 Records and Reports; Rules Incorporated.

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

Title

<u>25-4.019</u>	<u>Records &amp; Reports in General</u>
<u>25-4.020(1), (2)</u>	<u>Location &amp; Preservation of Records</u>
<u>25-4.043</u>	<u>Inquiries</u>
<u>25-4.0161</u>	<u>Regulatory Assessment Fees</u>

(2) Each AAV service provider shall file with the Commission's Division of Communications updated information for the following items within 10 days after any such change occurs:

(a) mailing address of the certificate holder; and

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

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

Law Implemented:     364.337, F.S.

History:    New \_\_\_\_\_.

25-24.747 Notification Requirements.

(1) Each AAV service provider shall provide the following to each customer before providing service:

- (a) amount of nonrecurring charge;
- (b) amount of recurring charge;
- (c) terms of agreement;
- (d) penalties for violating service arrangements;
- (e) description of service being provided;
- (f) quality of service to be provided; and
- (g) applicable charges for termination of service.

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

Law Implemented:     364.337, F.S.

History:    New \_\_\_\_\_.

25-4.002 Application and Scope.

(1) These rules and regulations are intended to define reasonable service standards which will promote the furnishing of adequate and satisfactory local and long distance service to the public, and to establish the rights and responsibilities of both the utility and the customer. The rules contained in Parts I-IX of this Chapter apply to any Local Exchange Company as defined in Section 25-4.003(26). The rules contained in Part X of Chapter 25-24 apply to any Interexchange Company as defined in Section

25-4.003(18). The rules in Part XI of Chapter 25-24 apply to any pay telephone service company as defined in Section 25-4.003(36).  
~~7-F.6.~~ The rules in Part XII of Chapter 25-24 apply to all Shared Tenant Service Companies as defined in Section 25-24.560(10). The rules in Part XIII of Chapter 25-24 apply to all Operator Service Provider Companies as defined in Section 25-24.610(1)(f). The rules contained in Part XIV of Chapter 25-24 apply to all Alternative Access Vendor Service Providers as defined in Section 25-24.710(2).

(2) In any case where compliance with any of these rules introduces unusual hardship, or if unreasonable difficulty is involved in immediate compliance with any particular rule, written application may be made to the Commission for modification of the rule or for temporary exemption from its requirements.

(3) The adoption of these rules shall in no way preclude the Commission, upon complaint, upon its own motion or upon the application of any utility, upon due notice and opportunity for hearing, from altering or amending them, in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, or from making such modifications with respect to the application as may be found necessary to meet exceptional conditions.

(4) Except as provided in Parts X and XI of Chapter 25-24, the adoption of these rules shall not in any way relieve any utility from any of its duties under the laws of this State.

Specific Authority: 350.127, F.S.

Law Implemented: 364.01, 364.337, F.S.

History: Revised 12/1/68, formerly 25-4.02, Amended 2/23/87,

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25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) As applicable and as provided in s. 350.113, F.S. s. 364.336, F.S., and s. 364.337(4), F.S., each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of .15 of one percent of its gross operating revenues derived from intrastate business. For the purpose of determining this fee, each interexchange telecommunications company and each pay telephone company shall deduct from gross operating revenues amounts paid for use of the local network to a telecommunications company providing local service. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee of \$50 shall be imposed.

(2) Regulatory assessment fees and the applicable regulatory assessment fee return form are due each January 30 for the

preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30. Commission Form PSC/CMU 25 (1/91), entitled "Communication Company Regulatory Assessment Fee Return," applicable to local exchange telecommunications companies; Form PSC/CMU 26 (12/91), entitled "Pay Telephone Service Provider Regulatory Assessment Fee Return;" Form PSC/CMU 34 (12/91), entitled "Shared Tenant Service Provider Regulatory Assessment Fee Return;" and Form PSC/CMU 153 (12/91), entitled "Interexchange Company Regulatory Assessment Fee Return;" and Form PSC/CMU 1 (1/95), entitled "Alternative Access Vendor Regulatory Assessment Fee Return." are incorporated into this rule by reference and may be obtained from the Commission's Division of Administration. Each company shall have up to and including the due date in which to submit the applicable form and:

- (a) Remit the total amount of its fee, or
- (b) Remit an amount which the company estimates is its full fee, or
- (c) Seek and receive from the Commission a 30-day extension of its due date.

(3) Where the company remits less than its full fee pursuant to subsection (2)(b) of this rule, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90 percent of the total

regulatory assessment fee, include interest as provided by subsection (5)(b) of this rule.

(4) Where a company receives a 30-day extension of its due date pursuant to subsection (2)(c) of this rule, then the company shall remit a charge in addition to the regulatory assessment fees, as set out in s. 350.113(5), F.S.

(5) The delinquency of any amount due to the Commission from the company pursuant to the provisions of s. 350.113, F.S., and this rule, begins with the first day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in s. 350.113, F.S., shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

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

Law Implemented: 350.113, 364.336, 364.337(4), F.S.

History: New 5/18/83, formerly 25-4.161, Amended 10/16/86, 1/1/91, 12/29/91, \_\_\_\_\_.

25-9.001 Application and Scope.

(1) The provisions of Parts I, II and III of these rules shall only apply to public utilities as defined in Rule 25-9.02(2) and Parts IV and V of these rules shall only apply to municipalities and cooperatives as defined in Rule 25-9.51(2).

Except as provided by Parts X through XIV and ~~XI~~, Chapter 25-24, Florida Administrative Code, the provisions of this Chapter shall not apply to Interexchange Companies, ~~or~~ Pay Telephone Service Companies, Shared Tenant Service Companies, Operator Service Provider Companies or Alternative Access Vendor Service Providers.

(2) The following shall prescribe the procedures to be used by public utilities in filing:

- (a) Rules and Regulations
- (b) Rate Schedules
- (c) Standard Forms and Riders
- (d) Contracts and Agreements
- (e) Tariffs

(3) No rules and regulations, or schedules of rates and charges, or modifications or revisions of the same, shall be effective until filed with and approved by the Commission as provided by law.

(4) Upon acceptable showing by any utility, the Commission may waive or modify, as to that utility, the provisions of any rule herein contained, except when such provisions are fixed by Statute.

(5) No deviation from these rules shall be permitted unless authorized in writing by the Commission.

Specific Authority: 350.127(2), 366.05(1), 367.121, F.S.

Law Implemented: 364.03, 364.04, 364.05, 364.08, 364.337, 366.04(2)(b), 366.05(1), 367.041(2), 367.091, 367.101, F.S.



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History: Repromulgated 1/8/75, 10/22/75, Amended 8/9/79, formerly 25-9.01, Amended 2/23/87, \_\_\_\_\_.

25-14.001 In General.

The Commission is responsible for the setting of reasonable rates and charges of numerous utility companies. In determining reasonable charges to be paid by the customers of these companies, the Commission promulgates policy determinations affecting all companies subject to its jurisdiction. This chapter has been established to identify policy determinations affecting the rates, charges and tariffs of all companies subject to our rate-setting jurisdiction. Except as provided by Parts X through XIV, Chapter 25-24, Florida Administrative Code, the provisions of this Chapter shall not apply to Interexchange Companies, ~~or~~ Pay Telephone Service Companies, Shared Tenant Service Companies, Operator Service Provider Companies or Alternative Access Vendor Service Providers.

Specific Authority: 350.127(2), 366.05(1), 367.121, F.S.

Law Implemented: 364.03, 364.05, 364.337, 366.04, 366.041, 366.05, 367.121, F.S.

History: New 7/25/73, formerly 25-14.01, Amended 2/23/87, \_\_\_\_\_.