

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**M E M O R A N D U M**

May 29, 1997

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF APPEALS (CALDWELL) *AWC DS*  
DIVISION OF COMMUNICATIONS (MOSES) *MO*  
DIVISION OF RESEARCH & REGULATORY REVIEW (LEWIS) *JDK/ama*  
DIVISION OF CONSUMER AFFAIRS (PENA) *CRP*

**RE:** DOCKET NO. ~~960217~~ TI - PROPOSED PART V XI - RULES GOVERNING PREPAID CALLING SERVICES; RULES 25-24.900, F.A.C., SCOPE AND WAIVER; 25-24.905, F.A.C., TERMS AND DEFINITIONS; 25-24.910, F.A.C., CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED; 25-24.915, F.A.C., TARIFFS OR PRICE LISTS; 25-24.920, F.A.C., STANDARDS FOR PREPAID CALLING SERVICES AND CONSUMER DISCLOSURE; 25-24.925, F.A.C., REFUNDS; 25-24.930, F.A.C., ADEQUACY OF SERVICE; 25-24.935, F.A.C., DISCONTINUANCE OF SERVICE; 25-24.940, F.A.C., PENALTIES

**AGENDA:** JUNE 10, 1997 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

**RULE STATUS:** PROPOSAL MAY BE DEFERRED

**SPECIAL INSTRUCTIONS:** S:\PSC\APP\WP\960254.RCM

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**CASE BACKGROUND**

In December 1995, the Commission received allegations that more than 30,000 Telecuba prepaid calling services (PPCS) cards were suddenly deactivated, resulting in thousands of dollars of losses to Florida consumers. Docket No. 960217-TI was opened to investigate the incident and a show cause order was issued May 10, 1996 (Order No. PSC-96-0630-POF-TI). This docket remains open. The incident was not an isolated event; there have been ongoing reports of cards issued by other providers that do not work.

In February 1996, the Commission opened Docket Number 960254-TI; Establishment of Appropriate Regulatory Policy for Interexchange Companies Which Issue Prepaid Debit Cards. On April 29, 1996, Order No. PSC-0560-POF-TI was issued. The order specified that workshops be held to continue development of the

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DOCKET NO. 960254-TI  
DATE: May 10, 1997

Commission's policy regarding PPCS regulation. A workshop was held June 3, 1996. As a result of the workshop, on September 26, 1996, Order No. PSC-96-1224-POF-TI was issued. The substantive parts of the order defined a PPCS provider; provided a minimum \$1,000 fine for uncertificated PPCS providers; and ordered staff to initiate rulemaking. No party protested the order.

Proposed draft rules were prepared by staff consistent with the Order. A rule development workshop was held February 6, 1997, with participation from the industry, industry associations, and the Offices of the Attorney General and Public Counsel. A final staff consensus meeting was held March 19, 1997, and the statement of economic regulatory costs (SERC) was requested at that time. The SERC was received by Appeals May 16, 1997.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission propose Part VXi - Rules Governing Prepaid Calling Services; Rules 25-24.900, F.A.C., Scope and Waiver; 25-24.905, F.A.C., Terms and Definitions; 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required; 25-24.915, F.A.C., Tariffs or Price Lists; 25-24.920, F.A.C., Standards for Prepaid Calling Services and Consumer Disclosure; 25-24.925, F.A.C., Refunds; 25-24.930, F.A.C., Adequacy of Service; 25-24.935, F.A.C., Discontinuance of Service; 25-24.940, F.A.C., Penalties

**RECOMMENDATION:** Yes. The Commission should propose rules governing prepaid calling services.

**STAFF ANALYSIS:** Under Subsection 364.337(3), Florida Statutes, the Commission is authorized to certificate persons that provide intrastate interexchange telecommunications services upon certain conditions. Under Subsection 364.337(4), Florida Statutes, the Commission may adopt rules consistent with the legislative intent expressed in Section 364.01, Florida Statutes. That section, among other things, charges the Commission with overseeing the development of competition while protecting the public health, safety, and welfare. Finally, under Section 364.19, Florida Statutes, the Commission "may regulate, by reasonable rules, the terms of telecommunications service contracts between telecommunications companies and their patrons".

In the investigation portion of this docket, it was found by the Commission in Order No. PSC-96-0560-POF-TI, that there was a need to protect the public from potentially serious abuses in the provision of PPCS. The Order lists numerous categories where consumers were vulnerable and suggested remedial mechanisms. These

DOCKET NO. 960254-TI  
DATE: May 10, 1997

areas included duration of service, refunds of unused service, retailer education, customer service number, and uncertificated resellers. In Order No. PSC-96-1124-POF-TI, the Commission set penalties not less than \$1,000 to be imposed upon companies that do not apply for certification as an interexchange carrier.

The proposed rules resulted from an additional rule development workshop attended by the industry, industry associations, and consumer groups, as well as from subsequent comments that were filed. These proposed rules are intended to allow competition to flourish while providing the customer with sufficient information to make informed decisions. The rules defined PPCS as any prepaid telecommunications service that allows end users to originate outbound calls through an access number and authorization code, whether manually or electronically dialed.

In summary, the rules provide that no company shall provide PPCS without first obtaining a certificate from the Commission. A LEC, ALEC, or IXC may offer PPCS. Each company is required to file a tariff or price list. The card, its packaging, or the point of sale must disclose certain information and certain information must be printed on the card. The rates displayed or advertised must be in the company's tariffs or price lists. Billing increments shall not exceed one minute and a company may only round up to the next minute. Cards shall be considered active for one year unless an expiration date or period is printed on the card. A company may not discontinue service after a card is purchased unless the card was lost or stolen. The company must have a refund policy and must provide adequate service. Finally a penalty of not less than \$1,000 shall be imposed for a company operating without a certificate.

A rule-by-rule analysis provides:

**25-24.900 Scope and waiver.** Provides that Part XVI applies to companies using their own or resold telecommunication networks to provide PPCS. Companies may petition for a waiver that may be granted by the Commission under specified circumstances.

**25-24.905 Terms and definitions.** This section defines the terms "company"; "conversation time"; "prepaid calling services"; and "prepaid calling card."

**25-24.910 Certificate of Public Convenience and Necessity Required.** Requires any company that provides PPCS must first obtain a certificate as either a LEC, ALEC, or IXC. The rule allows companies to use "doing business as (D/B/A)" names, which become

DOCKET NO. 960254-TI

DATE: May 10, 1997

part of the certificated name, and allows staff to identify a particular company. Companies may need to use different names depending upon the availability of a name within a particular state. All D/B/A names used in Florida must be registered as fictitious names with the Florida Division of Corporations and must be on file with the FPSC.

**25-24.915 Tariffs and Price Lists.** Requires each company (including ALECs) to file either a tariff or price list for PPCS. If a company already has a tariff or price list on file, the company may include its charges for PPCS in those tariffs or price lists. The maximum amount a person will be charged per minute for PPCS and applicable surcharges must be included in the tariff or price list.

**25-24.920 Standards for Prepaid Calling Services and Consumer Disclosure.** Requires information to be legibly printed on each card. This information includes the Florida certificated name (or D/B/A name), a toll-free customer service number, a toll-free network access number and authorization code, if required for access. Disclosure information is also required to be provided to the customer at the point of sale in order for the customer to make an informed decision. The information may be printed on the card, on the packaging with the card, or in a prominent area at the point of sale. The last requirement allows information to be placed on a vending machine or other mechanical dispensing apparatus. This information includes the maximum charge per minute (that is reflected in the tariff or price list for PPCS), applicable surcharges, the expiration policy, if applicable, and the refund policy of the company. The company must provide through its customer service number its Florida certificate number, refund policy, rates and surcharges, balance of use in the customer's account, and the expiration date or period, if any.

Several companies noted that providing the maximum charge at the point of sale was problematic. For instance, the tariffs could be changed on a day's notice, while the company would have disclosure information at the point of sale with a different rate or charge. It was suggested that a toll free number be provided for customers to obtain rates. Staff debated this issue, resulting in disclosure of a maximum per minute charge. At least the customer would know the minimum value of the card. If rates were actually lower, the customer would not be harmed. It was expected that printing the maximum value on the disclosure material would not limit the distribution of the card to Florida. Moreover, disclosing a dollar value on the card is meaningless. The purchaser pays \$20.00 for a card to find out upon calling a toll free number that he can call for one minute!

DOCKET NO. 960254-TI

DATE: May 10, 1997

The proposed rule also requires the company to provide a live operator or recording device to take consumer complaints. The company must attempt contact by the next business day the customer whose complaint was received by recording. The company is prohibited from reducing the value of the card by more than the charges disclosed at the point of sale. A card may be recharged at higher rates so long as the rates are disclosed at time of recharge and those rates are in the tariff or price list.

The company must bill in increments of one minute and must only charge for conversation time. Surcharges may apply to other services so long as the surcharges are in the company's tariff or price list and are disclosed to the customer at the time of sale.

Finally, cards without a specific expiration period printed on the card shall be considered active for a minimum of one year from the date of first use, or if recharged, from the date of the last recharge. One company suggested another option, and offered additional language to the rule, to allow the company to change the expiration date upon customer request or cancel cards a customer reports lost or stolen. The purpose of having the proposed rule requires that cards remain active for one year from date of first use or last recharge is to provide standardization within the industry and make it easier for consumers to make informed purchases. Allowing the expiration date to be based upon what is announced via a voice prompt would not achieve the purpose of the proposed rule. Also, the language suggested by the company allows a company to deactivate cards based upon a company suspicion of fraud. This criteria is vague, difficult to verify, and may encourage abuse since PPCS are generally paid for in advance.

Research of other states revealed that few states have policies or rules for PPCS. In addition, the FCC has not published any formal position on the issue. Therefore, it is not possible to standardize Florida's policy. Furthermore, to wait until such policy is formulated elsewhere would be to the detriment of the public.

**25-24.925 Refunds.** If PPCS are rendered unusable for reasons beyond the consumer's control, and have not exceeded the expiration period, each company shall provide a refund equal to the value remaining in the account. The company may provide refunds in cash or replacement services, at their option, but the refund must be made to the consumer within 60 days of notification. Consumers that have reported cards lost or stolen are not entitled to refunds under this rule.

DOCKET NO. 960254-TI

DATE: May 10, 1997

**25-24.930 Adequacy of Service.** Companies providing PPCS are required to meet the service standards that are required of all interexchange carriers. These standards include:

☛ A minimum of 95% of all call attempts completed to the called party.

☛ A minimum of 95% of all call attempts completed to a company's toll free customer service number.

☛ a minimum of 97% timing accuracy of conversation time shall be achieved.

**25-24.935 Discontinuance of Service.** Requires companies to be responsible for ensuring that the end user purchased cards remain usable in accordance with Rule 25-24.920(10). The company may use contracts, bonds, or any other means to comply with this rule.

Two companies suggested that the rule should specify that network providers are not liable for failure or default of a carrier purchasing network time and access for resale. Underlying carriers may at times have to disconnect a reseller according to one company. The purpose of the rule is to establish a uniform product that can be counted on to work for a given period of time, regardless of how the product is distributed or marketed. Since the Commission may not have regulatory authority over the entity that is distributing or marketing the card, the proposed rule makes PPSC companies responsible for providing a working card through their contracts with distributors, marketing agents, or other means.

**25-24.940 Penalties.** After due process, a company found to be providing PPCS in Florida without a certificate may be fined no less than \$1,000.

#### **Statement of Estimated Regulatory Costs.**

The major cost identified by the industry related to the cost of compliance with the service standards and disclosure. One company stated that additional costs would be incurred to separate Florida traffic to comply with the service standard rule. The rule does not require that a company must separate out Florida traffic if the company meets the proposed standards throughout its calling area. Some companies stated that special packaging would be required of Florida cards, thus additional costs would be incurred. AT&T, for instance, stated that changing its point-of-sale materials would cost approximately \$776,000; Cable & Wireless,

DOCKET NO. 960254-TI

DATE: May 10, 1997

Inc., estimated \$600,000 annual increase in packaging costs; and MCI estimated costs between \$50,000 and \$100,000.

Several companies estimated that additional costs would be associated with equipment and personnel necessary to implement the proposed rule requirements.

No direct impact on small cities or small counties was foreseen. Minimal impact on small business is expected.

**ISSUE 2:** If no requests for hearing or comments are filed, should the rule amendments as proposed be filed for adoption with the Secretary of State and the docket be closed?

**RECOMMENDATION:** Yes. If no comments or requests for hearing are filed, the rules should be filed for adoption and the docket should be closed.

**STAFF ANALYSIS:** Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

RULES OF THE FLORIDA PUBLIC SERVICE COMMISSION

RULES GOVERNING PREPAID CALLING SERVICES

Part XVI

25-24.900      Scope and Waiver

25-24.905      Terms and Definitions

25-24.910      Certificate of Public Convenience and Necessity

Required

25-24.915      Tariffs or Price Lists

25-24.920      Standards for Prepaid Calling Services and Consumer

Disclosure

25-24.925      Refunds

25-24.930      Adequacy of Service

25-24.935      Discontinuance of Service

25-24.940      Penalties

RULES GOVERNING PREPAID CALLING SERVICES

25-24.900      Scope and Waiver.

(1) This part applies to companies using their own or resold telecommunications networks to provide prepaid calling services (PPCS).

(2) A company that offers for sale PPCS may petition for a waiver for any provision of this Part pursuant to Chapter 120.

The Commission may grant a waiver to the extent that it determines

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that it is consistent with the public interest to do so. The Commission may grant the petition in whole or part, may limit the waiver to certain geographic areas, or may impose reasonable alternative regulatory requirements on the petitioning company.

In disposing of a petition, the Commission may consider:

(a) The factors enumerated in Section 364.337(4), Fla.

Statutes:

(b) The extent to which competitive forces may serve the same function as, or obviate the necessity for, the provision sought to be waived; and

(c) Alternative regulatory requirements for the company which may serve the purposes of this Part.

(3) Prepaid calling services provided without compensation are exempt from Part XVI.

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

Law Implemented: 364.19, 364.337(4), F.S.

History: New

25-24.905 Terms and Definitions.

For purposes of this part, the definitions to the following terms apply:

(1) "Company" means any entity providing prepaid calling services using its own or resold telecommunications network to provide prepaid calling services.

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(2) "Conversation time" is the time when two-way telecommunications is possible.

(3) "Prepaid Calling Services (PPCS)" means any prepaid telecommunications service that allows end users to originate calls through an access number and authorization code, whether manually or electronically dialed.

(4) "Prepaid Calling Card" or "Card" means any object containing an access number and authorization code that enables an end user to use PPCS.

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

Law Implemented: 364.335, 364.337(4) F.S.

History: New

25-24.910 Certificate of Public Convenience and Necessity Required.

A company shall not provide PPCS without first obtaining a certificate of public convenience and necessity as a local exchange company, alternative local exchange company, or interexchange company. The name used as the provider of PPCS printed on the prepaid calling card shall appear identical to the name in which the certificate is issued. If "doing business as" names are used, the names must be registered as fictitious names with the Florida Division of Corporations and the certificate must

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reflect the names prior to the names being used. The "doing business as" names are considered to be the certificated name.

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

Law Implemented: 364.33, 364.335, 364.337(4) F.S.

History: New

25-24.915 Tariffs and Prices Lists.

(1) This section applies to all companies as defined in 25-24.905(1), regardless of certificate type or other tariff or price list requirements.

(2) Each company shall file a tariff or price list for PPCS.

(3) Each company shall include in its tariff or price list the following information:

(a) Maximum amount a person will be charged per minute for PPCS, and

(b) Applicable surcharges.

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

Law Implemented: 364.04, 364.057, 364.08, 364.09, 364.10, 364.19, 364.27, 364.337, F.S.

History: New

25-24.920 Standards For Prepaid Calling Services and Consumer Disclosure.

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2 (1) The following information shall be legibly printed on the  
3 card:  
4 (a) The Florida certificated name clearly identified as the  
5 provider of the PPCS:  
6 (b) Toll-free customer service number;  
7 (c) Toll-free Network access number; and  
8 (d) Authorization code, if required to access service.  
9 (2) Each company shall legibly display the following  
10 information either on the card, packaging, or in a prominent area  
11 at the point of sale of the PPCS in such a manner that the  
12 consumer may make an informed decision prior to purchase:  
13 (a) Maximum charge per minute for PPCS;  
14 (b) Applicable surcharges;  
15 (c) Expiration policy, if applicable; and  
16 (d) Refund policy.  
17 (3) Each company shall provide through its customer service  
18 number the following information:  
19 (a) Certificate number;  
20 (b) Refund policy;  
21 (c) Rates and surcharges;  
22 (d) Balance of use in account; and  
23 (a) Expiration date or period, if any.  
24 (4) Each company shall provide a live operator to answer  
25 incoming calls 24 hours a day, 7 days a week or shall record end

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2 user complaints. A combination of live operators or recorders may  
3 be used. If a recorder is used, the company shall attempt to  
4 contact each complainant no later than the next business day  
5 following the date of the recording.

6 (5) The rates displayed in accord with paragraph (2) above  
7 shall be reflected in the tariff or price list for PPCS.

8 (6) A company shall not reduce the value of a card by more  
9 than the charges printed on the card, packaging, or visible  
10 display at the point of sale. The service may, however, be  
11 recharged by the consumer at a rate higher than the rate at  
12 initial purchase or last recharge. The higher rate and surcharges  
13 shall be no more than the rates and surcharges in the tariff or  
14 price list and the consumer shall be informed of the higher  
15 charges at the time of recharge.

16 (7) The billing increment shall not exceed one minute.

17 (8) Each company shall only charge for conversation time.

18 (9) Conversation time of less than a full minute shall not be  
19 rounded up beyond the next full minute.

20 (10) Cards without a specific expiration period printed on the  
21 card, and with a balance of service remaining, shall be considered  
22 active for a minimum of one year from the date of first use, or if  
23 recharged, from the date of the last recharge.

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(11) If PPCS are sold without a card or printed material, tariffed charges and surcharges shall be disclosed at the point of sale.

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

Law Implemented: 364.19 F.S.

History: New

25-24.925 Refunds.

(1) Each company shall have a refund policy that meets the following minimum requirements:

(a) For PPCS that are rendered unusable for reasons beyond the consumer's control, and have not exceeded the expiration period, each company shall provide a refund equal to the value remaining in the account.

(b) Refunds may be cash or replacement service, at the company's option, but must be made to the end user within 60 days of notification by the end user.

(2) Each company shall not be required to provide a refund when a card has been lost or stolen.

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

Law Implemented: 364.19, F.S.

History: New

25-24.930 Adequacy of Service.

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2 Each company shall ensure that:

3 (1) A minimum of 95 percent of all call attempts shall be  
4 completed to the called party. Station busies will be counted as  
5 completed calls.

6 (2) A minimum of 95 percent of all call attempts shall be  
7 completed to a company's toll-free customer service number.  
8 Station busies will not be counted as completed calls.

9 (3) A minimum of 97 percent (allowing for a one-second  
10 variation) timing accuracy of conversation time shall be achieved.

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

12 Law Implemented: 364.19, F.S.

13 History: New

14  
15 25-24.935 Discontinuance of Service.

16 A company shall be responsible for ensuring, either through its  
17 contracts with its distributors or marketing agents, or other  
18 means, that end user purchased cards remain usable in accord with  
19 Rule 25-24.920(10).

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

21 Law Implemented: 364.19, F.S.

22 History: New

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24 25-24.940 Penalties.

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Upon completion of show cause proceedings, the Commission shall impose penalties of not less than \$1,000 to each uncertificated company which has provided PPCS within the state of Florida.

Specific Authority: 350.127 (2) F.S.

Law Implemented: 364.285 F.S.

History: New

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# MEMORANDUM

May 16, 1997

TO: DIVISION OF APPEALS (MOORE)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *K. Lewis*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COST FOR DOCKET NO. 960254-TL, PROPOSED RULES 25-24.900, 25-24.905, 25-24.910, 25-24.915, 95-24.920, 25-24.925, 25-24.930, 25-24.935, and 25-24.940, FAC, PREPAID CALLING SERVICES

## SUMMARY OF THE RULE

The proposed new rules would establish regulations for providers of prepaid calling services (PPCS). The proposed rules define prepaid calling services and provide requirements for certification, tariffs and price lists, service standards and customer disclosure, refunds, adequacy of service, discontinuance of service, and penalties for uncertificated companies.

## ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

All companies that provide prepaid calling services using their own or resold telecommunications networks will be required to comply. Companies certified as Local Exchange Companies (LECs), Alternative Local Exchange Companies (ALECs) or Interexchange Companies (IXCs) may provide prepaid calling services according to the proposed rule. A data request regarding the regulatory costs of the proposed rules was sent to the 124 IXCs known to be providing prepaid calling services, the 12 LECs, 24 randomly selected ALECs, the Florida Department of Revenue, and all parties that had attended any of the rule development workshops or otherwise expressed an interest in the proposed rules. At the time staff's data request was prepared 124 IXCs provided PPCS according to their tariff filings. However, there are likely many more IXCs operating nationwide whose prepaid calling cards could be used to place Florida intrastate calls and the proposed rules would require such companies to obtain certification in Florida. Although LECs and ALECs may provide PPCS, none of those responding indicated they are presently doing so.

**DIRECT COSTS TO THE AGENCY  
AND OTHER STATE OR LOCAL GOVERNMENT ENTITIES**

The Commission would experience costs associated with staff time spent on the following: processing requests for certification; processing and filing tariffs and price lists; evaluation and enforcement of service and disclosure standards; and, processing consumer complaints. However, in the absence of rules on prepaid calling services, staff has spent considerable time fielding questions from the industry regarding regulatory treatment, dealing with complaints from consumers, and participating in formal proceedings in an effort to resolve regulatory issues. Therefore, should the proposed rules become effective, the staff time spent on prepaid calling services may simply shift away from those issues associated with an unregulated industry and be spent instead on carrying out the provisions of the rules. Agency procedures and sufficient staff already exist for accomplishing the regulatory tasks associated with the proposed rules and there should be no further increased costs to the Commission. The Commission will receive annual regulatory assessment fees from each certified company based upon their gross operating revenues.

The Florida Department of Revenues (DOR) has determined that the retail sale of prepaid calling services is not taxable. Rather, prepaid calling services are subject to taxation when used. DOR believes the carrier providing the service is responsible for the collection and remittance of state tax for PPCS since it should be able to determine the calling area and duration of each call. Consequently, DOR believes that the proposed rules will be beneficial to the agency by aiding its collection efforts and allowing it to more effectively administer and enforce state tax laws on companies providing PPCS. DOR did not identify any costs resulting from the proposed rules. There should be no direct costs to other state or local government entities.

**ESTIMATED TRANSACTIONAL COSTS  
TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY**

The majority of respondents stated they were either already substantially in compliance with the proposed rules or expected they would experience very little costs to comply. The Telecommunications Resellers Association (a national trade association) also concluded no new regulatory costs were apparent in the proposed rules. Other respondents identified costs in several

areas including: certification; preparation and filing of tariffs and price lists; service standards and disclosure; and equipment and personnel.

#### **Certification**

Two IXCs estimated certification costs between \$250 and \$2,000 (cost of Commission's application fee plus costs of legal fees and corporate filings). The Commission presently requires payment of a \$250 application fee with all applications for IXC certification. All of the responding IXCs have already obtained a certificate.

#### **Tariffs and Price Lists**

Two companies estimated the costs of preparing and filing tariffs or price lists to be between \$500 and \$4,000 each time new rates must be filed with the Commission.

#### **Service Standards and Disclosure**

Five IXCs (American Telecom, Cable & Wireless, Inc., AT&T, MCI, and TrecCom, USA, Inc.) mentioned that being required to provide Florida-specific information would impose costs. American Telecom believes that additional costs of \$7,500 to \$10,000 per year would be generated as a result of the need to separate out Florida interstate traffic to comply with proposed Rule 25-24.930, FAC, Adequacy of Service. The proposed rule would require certain service standards to be met, such as 95 percent of all call attempts to the called party must be completed. Commission staff generally places interstate test calls to check that the service standards are being met. It does not appear that the rule necessitates that a company separate out Florida traffic if the company meets the proposed standards throughout its calling area.

American Telecom was also concerned that significant costs (not quantified) would be incurred if proposed Rule 25-24.920, FAC, Standards For Prepaid Calling Services and Consumer Disclosure, required it to disclose all rates in addition to its rates for Florida intrastate calls. Information provided during rule development workshops indicated that most companies use a uniform rate for both interstate and intrastate calls. If American Telecom chose to display only the rate for Florida intrastate calls on its cards or packaging, it would appear to comply with the proposed rule.

AT&T and Cable & Wireless, Inc. also had concerns about Florida-specific disclosure requirements. AT&T stated that changing its point-of-sale materials to include maximum charges per minute, Florida certificate name, refund policy and other required items would cost

approximately \$776,000, based upon its present 4,300 retail locations. Cable & Wireless, Inc. estimated a \$600,000 annual increase in packaging costs.

The costs associated with providing Florida-specific information would be passed on to Florida consumers according to Cable & Wireless, Inc. and MCI. MCI has designed its cards for use in every state and said that it would cost the company between \$50,000 and \$100,000 to alter its cards and/or packaging for Florida-specific rate disclosure.

TresCom USA, Inc. stated the requirement to place rate information on cards and/or packaging each time its rates change would add costs of from \$.05 to \$.32 per card and printing costs would increase approximately \$.02 per card due to the need for separate orders for various rate tables. TresCom USA, Inc. also stated the costs of storage and inventory would increase in order to maintain a separate inventory for each rate table though it did not quantify these costs.

#### **Equipment and Personnel**

Though the majority of respondents believed existing equipment and personnel would be sufficient to comply with the proposed rules, four companies expected to incur costs in these areas. Atlas Audiotex, Inc. estimated annual securing costs for live operators to be \$49,920. The company also included costs for monitoring, licensing, legal fees, and per call expenses in its recurring costs which were estimated to be \$70,596 per year. The company estimated it would incur fixed cost of \$35,540 for equipment and programming enhancements. RSL COM USA, Inc. stated it would experience costs of \$2,000 for programming. In addition, RSL COM USA, Inc. estimated an annual salary cost for one additional staff person to be \$31,250 and equipment costs of \$4,000. MCI said it would cost \$10,000 to revise its data system and train employees to provide MCI's Florida certificate number. Cable & Wireless, also said it would incur training costs though the costs could not be quantified at this time.

#### **Other**

One company (Vartec Telecom, Inc.) mentioned that passage of the proposed rules might cause it to incur costs associated with service evaluations performed by Commission staff. Related costs would depend upon the number and duration of calls and how often such evaluations are conducted.

Both AT&T and MCI stated that the interpretation of the proposed rules would determine whether costs would occur in certain areas. For example, AT&T estimated annual compliance costs

of \$156,000 if it were held liable for complying with refund requirements when it acts only as the network provider for a certified company. MCI's concern is whether the Commission intends for the proposed rules to regulate dual-use cards and single-number termination cards in the same manner as other PPCS. If so, MCI stated its costs to comply with the proposed rule would increase.

In summary, while the majority of respondents estimated insignificant or no costs to comply with the proposed rules, others described the costs of complying with rate disclosure and other Florida-specific information as significant and urged the Commission to adopt rules that would allow prepaid calling service offerings to remain consistent nationwide.

**IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES**

Of the fourteen DCSs responding to staff's data request, only one (Cellular World, Inc.) stated that it qualified as a small business as defined in Section 288.703(1), Florida Statutes. Cellular World, Inc. indicated that its only cost would be \$2,500 to \$4,000 for preparing and filing a tariff. However, the company also stated it may realize benefits from the proposed rules since the number of dispendable companies in the business may be reduced. No direct impact on small cities or small counties is foreseen.

**REASONABLE ALTERNATIVE METHODS**

Five interexchange carriers (AT&T, Cable & Wireless, Inc., LDDS WorldCom, MCI, and TrecCom USA, Inc.) suggested alternative methods of accomplishing some of the requirements of the proposed rules. Though not presently certified to provide telecommunications services in Florida, Cox Communications, Inc. also provided alternative methods.

**Rule 28-24.915, FAC, Tariffs and Price Lists**

AT&T believes the rule should specify that "each company's tariff or price list, as applicable, shall set forth the rates and charges for prepaid calling services" to clarify that a separate tariff for prepaid services is not required if the company already lists prepaid services in its current tariffs. Requiring a separate tariff would impose an additional unquantified regulatory cost, according to AT&T. Making this clarification would avoid additional costs for those companies that already have tariffs on file and would not appear to compromise the intent of the proposed rule, which is to require all companies offering PPCS to disclose their rates in tariffs or price lists.

**Rule 25-24.920, FAC, Standards for Prepaid Calling Services and Consumer Disclosure**

AT&T believes the rule should be amended to allow use of registered d/b/a names on prepaid cards and point-of-sale material. The purpose of requiring the "Florida certificated name" to be displayed is so that Commission staff can easily identify the provider for complaint resolution and enforcement purposes. As AT&T points out, another section of the proposed rules (25-24.910) requires the name on the card to be identical to the name in which the certificate is issued and states that if a d/b/a is used it must be registered with the Florida Division of Corporations and appear on the company's Florida certificate. If proposed Rule 25-24.920(1)(a), FAC, is clarified to either reference 25-24.910, FAC, or specify that either the Florida certificated name or d/b/a name be listed on the card, the purpose of the rule would still be met.

The remainder of suggested alternatives deal with the disclosure. AT&T recommends that the maximum charge per minute not be required on cards, packaging, or point-of-sale material when the card is marked with the number of minutes provided. Cox Communications (Cox) also believes that since the company may change rates in its tariff or price list on short notice, requiring the company to place the maximum charge per minute on the card or packaging may ultimately be of little value to the consumer. Cox suggests that notification regarding maximum prices be limited to cards that are sold on a "dollar value" basis. TruCom USA, Inc. suggested printing the value of the card only and requiring customers to call a toll free number to obtain rates.

LDDS WorldCom suggests eliminating the requirement proposed in 25-24.920(7), FAC, that "the billing increment shall not exceed one minute." As reflected in its Florida tariff, LDDS WorldCom currently charges 2 units (minutes) for directory assistance from any state and opposes rules that would require it to customize its FCCS offerings specifically for Florida.

MCI suggests that service and disclosure requirements be standardized and consistent nationwide in order to lower costs. MCI and Cable & Wireless, Inc., both suggested that making disclosure information available through customer service or via an automated response menu would be a less burdensome and more economical way of informing consumers. AT&T also cited the possibility of varying state requirements and suggested that it was unnecessary to require the refund policy to be printed on cards or packaging as long as the provider's policy complied with the proposed rule.

The companies' suggestions regarding disclosures all require the consumer to take another step (i.e. calling a toll free number) beyond simply reading what is available on the card, within the package, or at the point of sale. The alternative methods suggested would not accomplish the objective of informing the consumer as quickly and completely as the proposed rules.

Finally, Cable & Wireless wanted another option for advising customers of the expiration date on a card. Cable & Wireless believes announcing the expiration date of the card on the voice prompt, after the consumer enters their PIN number, should be an additional option. The company states having this option would allow it to change the expiration date upon customer request or cancel cards a customer reports lost or stolen. Cable & Wireless suggests the following alternative language be substituted for Proposed Rule 25-24.925(10), FAC:

Cards without a specific expiration period printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the first use, or if recharged, from the date of the last recharge; or as announced via a voice prompt. Company may de-activate the cards prior to originally programmed expiration date at any time, upon request by the Customer, or if the company suspects fraud, or upon Order by a court, or a government agency.

The purpose of having the proposed rule require that cards remain active for one year from date of first use or last recharge is to provide standardization within the industry and make it easier for consumers to make informed purchases. Allowing the expiration date to be based only upon what is announced via a voice prompt would not achieve the purpose of the proposed rule. Also, deactivation of cards based upon a company suspicion of fraud is vague, difficult to verify, and may encourage abuse since PFCs are generally paid for in advance.

#### **25-24.925, FAC, Refunds**

AT&T would like the proposed rule to clarify that the obligation of a network provider is limited to its customers and does not extend to end user customers of providers that purchase network time from AT&T for provision of PFCs. AT&T said making this clarification would reduce its annual compliance cost by \$156,000. The intent of the proposed rule is to protect the consumer from financial loss resulting from events outside his control, such as a card that no longer works because a retailer has failed to pay for services it has purchased from an underlying network provider. A second intent is to identify the conditions under which a consumer is entitled to a refund. Whether a company offers PFCs as a network provider or a retailer, its refund policy must

comply with proposed Rule 25-24.925, FAC. Clarification does not appear to be needed to fulfill the intentions of the proposed rule.

**25-24.935, FAC, Discontinuance of Service**

Both AT&T and LDDS WorldCom strongly suggest that the rule specify that network providers are not liable for failure or default of a carrier purchasing network time and access for resale. Underlying carriers may at times have to disconnect a reseller, according to LDDS WorldCom. The proposed rule holds a PPCS company responsible for ensuring, either through its contracts with its distributors or marketing agents, or other means, that cards remain usable for one year if unused service remains on the card and no expiration date is printed on the card. The purpose of proposed Rule 25-24.935, FAC, is to establish a uniform product that can be counted on to work for a given period of time, regardless of how the product is distributed or marketed. Since the Commission may not have regulatory authority over the entity that is distributing or marketing the card, the proposed rule makes PPCS companies responsible for providing a working card through their contracts with distributors or marketing agents or other means. Removing this responsibility from facilities-based providers would not achieve the purpose of the proposed rule.

**KDL:tf/e-ppcs**