

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Repeal of Rules 25-4.0041, F.A.C., Provision of Shared Tenant Services for Hire, and 25-24.557, F.A.C., Types of Shared Tenant Services Companies; and Proposed Amendment of Rules 25-24.555, and 25-24.560 through 25-24.585, F.A.C., Relating to Shared Tenant Services

DOCKET NO. 951522-TS  
ORDER NO. PSC-97-0834-FOF-TS  
ISSUED: July 11, 1997

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF ADOPTION OF RULES

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has repealed Rule 25-24.557 and has adopted the amendments to Rules 25-24.555 and 25-24.560 through 25-24.585, Florida Administrative Code, relating to shared tenant services with changes.

The rule amendments were filed with the Department of State on July 9, 1997 and will be effective on July 29, 1997. A copy of the rules as filed with the Secretary of State is attached to this Notice.

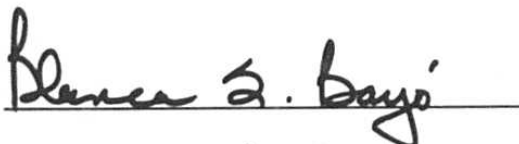
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REGISTRATION REPORTING

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By ORDER of the Florida Public Service Commission, this 11th  
day of July, 1997.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director  
Division of Records & Reporting

( S E A L )

DWC

PART XII SHARED TENANT SERVICES

25-24.555 Scope and Waiver.

~~25-24.557 Types of Shared Tenant Service Companies. (Repealed)~~

25-24.560 Terms and Definitions.

25-24.565 Certificate of Public Convenience and Necessity Required.

25-24.567 Application for Certificate.

25-24.568 Improper Use of a Certificate.

25-24.569 Application for Approval of ~~Sale, Assignment, or Transfer~~  
of Certificate.

25-24.572 Cancellation of a Certificate.

25-24.575 Shared Tenant Service Operations.

25-24.580 Airport Exemption. (No changes)

25-24.585 Records and Reports; Rules Incorporated.

25-24.555 Scope and Waiver.

(1) This part applies to persons or companies ~~other than~~  
~~local exchange telecommunications companies~~ who provide for sharing  
share or resale of resell local exchange telecommunications  
services defined in 25-24.560(10), F.A.C. ~~As provided by Rules~~  
~~25-4.002, 25-9.001, and 25-14.001, no provision of Chapters 25-4,~~  
~~25-9, or 25-14 shall apply to shared or resold local exchange~~  
~~telecommunications service except as provided by Rule 25-4.041 and~~  
~~this Part.~~

(2) To the extent these rules are inconsistent with provisions of Chapter 364, Florida Statutes, regarding shared tenant service, companies subject to this Part are exempted from such provisions or are subject to different requirements than otherwise prescribed for telecommunications companies under the authority of section 364.339, Florida Statutes.

(3) A shared tenant service company may petition for exemption from applicable portions of Chapter 364, Florida Statutes, or for application of different requirements than otherwise prescribed for telecommunications companies by Chapter 364, Florida Statutes, under the authority of section 364.339, Florida Statutes.

(4) A shared tenant service company may petition for a waiver of any provision of this part. The Commission may grant a waiver to the extent that it determines that it is in the public interest to do so. The Commission may grant the petition in whole or part and may impose reasonable alternative regulatory requirements on the petitioning company. In disposing of a petition, the Commission shall consider:

(a) The factors enumerated in section 364.339(~~4~~3), Florida Statutes;

(b) The extent to which competitive forces may serve the same function as, or prevent 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.

(5) Any statutory exemptions granted or rule waivers granted prior to the adoption of this rule are void, and to the extent not covered in this rule, must be renewed.

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.01, 364.339 F.S.

History--New 1-28-91, Amended 07-29-97.

25-24.557 Types of Shared Tenant Service Companies.

~~(1) For purposes of this Part, shared tenant service provided through a key system with seven or more lines or a Private Branch Exchange (PBX) constitutes a major shared tenant service company. Shared tenant service provided through a key system or hybrid system with six or fewer lines is determined to be a minor shared tenant service company.~~

~~(2) A company desiring a status change from a major shared tenant service company to a minor shared tenant service company shall apply to the Commission for approval of said status change. A company whose status changes from a minor shared tenant service company to a major shared tenant service company shall first submit~~

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~~an application on Form PSC/CMU 36 (1/91), entitled "Application Form for Authority to Provide Shared Tenant Service," in accordance with Rule 25-24.567.~~

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.01, 364.339 F.S.

History--New 1-28-91, Repealed 07-29-97.

25-24.560 Terms and Definitions.

For purposes of this Part, the ~~following~~ definitions for the following terms apply:

(1) "Alternative Access Vendor" (AAV) means any telecommunications company, as defined in section 364.447(6)(a), Florida Statutes ~~"Unaffiliated Entities" means those corporations, partnerships, proprietorships, or other groups that control less than 50 percent of the stock of the entity which claims to be affiliated.~~

(2) "Agent" means one authorized to act on behalf of another.

(3) "Alternative local exchange telecommunications company" (ALEC) means any company as defined in Section 364.02(1), Florida Statutes.

(4) "Company" means a shared tenant service company.

~~(5)-(4)~~ "Interexchange Company" (IXC) means any telecommunications company, as defined in section 364.02(67), Florida Statutes, which provides telecommunication service between

exchange areas as those areas are described in the approved tariffs of individual local exchange companies.

~~(5) "Key System" means a multi line system in which the user can select a specific line for outgoing communications by pressing the button associated with that line on the phone.~~

(6) "Local Exchange Telecommunications Company" LEC means any telecommunications company, as defined in section 364.02(67), Florida Statutes, ~~which provides telecommunication service within exchange areas as those areas are described in the approved tariffs of the telecommunications company.~~

(7) "Local Service Area" or "Local Calling Area" means the area within which telecommunications service is furnished to subscribers under a specific schedule of exchange rates and within which calls may be completed without toll charges. A local service area may include one or more exchange areas or portions of exchange areas.

(8) "Pay telephone service company" means any telecommunications company, as defined in section 364.02(67), Florida Statutes, other than a Local Exchange Company, which provides pay telephone service as defined in section 364.335(3), Florida Statutes.

(9) "Private Branch Exchange" (PBX) ~~or "PBX"~~ means a system in which trunk lines connect a telephone company central office to

a switching system which directs incoming calls to the appropriate user.

(10) "Shared tenant service" (STS) as defined in section 364.339(1), Florida Statutes, means the provision of service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to ~~commercial~~ tenants ~~within a single building~~ by an entity other than an existing local exchange telecommunications company.

(11) "Tenant" means any person entitled to occupy a premises under a rental or lease agreement.

~~(11) "Single building" means one structure under one roof.~~

(12) "Unaffiliated Entities" means those corporations, partnerships, proprietorships, or other groups that control less than 50 percent of the stock of the entity which claims to be affiliated.

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.33, 364.335, 364.339 F.S.

History--New 1-28-91, Amended 07-29-97.

25-24.565 Certificate of Public Convenience and Necessity Required.

(1) No person shall provide shared tenant service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may



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deposits or payment for services be collected, until the effective date of a certificate, if granted. However, acquisition of equipment and facilities, as well as advertising and other promotional activities, may begin prior to the effective date of the certificate at the applicant's risk that it may not be granted. In any customer contracts for advertisements prior to certification, the applicant must advise the customer that certification has not and may never be granted.

(2) On or after January 1, 1996, STS providers with certificates granted prior to January 1, 1996, are authorized to provide shared tenant service statewide to tenants as defined in 25-24.560(10), F.A.C.

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.33, 364.335, 364.339 F.S.

History--New 1-28-91, Amended 07-29-97.

25-24.567 Application for Certificate.

(1) An applicant desiring to provide shared tenant service shall submit an application on Commission Form PSC/CMU 37 (07/97)(4/91), which is incorporated into this rule by reference. Form PSC/CMU 37 (07/97)(4/91), entitled "Application Form for Authority to Provide Shared Tenant Service," may be obtained by contacting the Commission's Division of Communications. A non-refundable ~~An~~ application fee of \$100.00 must accompany the filing

of all applications. ~~This is a non-refundable fee to cover the costs of processing the application, and it has no relevance on the approval or denial of a certificate.~~

(2) An original and six ~~twelve (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.

(4) Any shared tenant service authority ~~previously granted or~~ granted hereafter is subject to the following:

(a) Shared tenant authority granted to all companies is on a statewide ~~location-by-location~~ basis and is restricted to ~~commercial~~ tenants as defined in Section 25-24.560(10), F.A.C. in a single building.

(b) Each shared tenant service applicant shall ~~agree to:~~

1. Advise all customers of its current rates and conditions for resold local exchange service and its quality of service standards.

2. Inform each customer in advance of agreement to provide service, that the Florida Public Service Commission will not set rates or regulate the service quality standards.

(c) A certificate to provide shared tenant service does not carry with it the authority to provide alternative local exchange telecommunication, alternative access vendor, interexchange or pay

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telephone service. A separate application must be made for such authority.

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.33, 364.335, 364.339, 364.345 F.S.

History--New 1-28-91, Amended 5-8-91, 11-20-91, 07-29-97.

25-24.568 Improper Use of a Certificate.

No certificate of public convenience and necessity authorizing shared tenant service may be ~~sold~~, assigned or transferred by the holder to another without prior Commission approval. No certificate shall be used as collateral for any purpose.

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.33, 364.335, 364.339, 364.345 F.S.

History--New 1-28-91, Amended 07-29-97.

25-24.569 Application for Approval of ~~Sale~~, Assignment, or Transfer of Certificate.

(1) A company desiring to obtain a certificate by ~~sale~~, assignment or transfer from the holder thereof shall submit an application jointly with the certificate holder on Commission Form PSC/CMU 37 (07/97)~~(4/91)~~, which is incorporated into this rule by reference. Form PSC/CMU 37 (07/97)~~(4/91)~~ is entitled "Application Form for Authority to Provide Shared Tenant Service Within the State of Florida," ~~and became effective January 28, 1991.~~" The

application form may be obtained by contacting the Commission's Division of Communications.

(2) An original and six ~~twelve (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, 364.339, 364.345 F.S.

History--New 1-28-91, Amended 11-20-91, 07-29-97.

25-24.572 Cancellation of a Certificate.

(1) The Commission may cancel a company'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; or

(c) Violation of Florida Statutes; ~~or~~

~~(d) Failure to provide service for a period of six (6) months.~~

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing. Cancellation of a certificate shall be ordered subject to the holder providing the following information ~~and shall provide the following with its request:~~

(a) ~~The original certificate.~~

~~(b)~~ Statement of intent and date to pay Regulatory Assessment Fee.

~~(b)(e)~~ Statement of why the certificate is proposed to be cancelled.

~~(c)(d)~~ Proof of individual customer notice regarding discontinuance of service.

~~(d)(e)~~ Statement on treatment of customer deposits and final bills.

~~(3) Cancellation of a certificate shall be ordered subject to the holder providing the information required by Subsection (2).~~

Specific Authority: 350.127(2) F.S.

Law Implemented: 350.113, 350.127(1), 364.285, 364.339, 364.345 F.S.

History--New 1-28-91, Amended 07-29-97.

25-24.575 Shared Tenant Service Operations.

(1) All shared tenant service providers shall allow the carrier of last resort of local exchange telecommunication services

~~companies~~ direct access to tenants who desire local service from the carrier of last resort of local exchange telecommunication services company instead of the shared tenant service provider.

(2) Each shared tenant service provider shall allow ~~direct~~ access to a provider of local exchange telecommunication services company "zero" operators for emergencies and for line verification purposes ~~toll service~~.

(3) Each shared tenant service provider shall allow ~~direct~~ access to 911 service where available.

(4) Each shared tenant service provider shall provide offer ~~unrestricted~~ access via 800, 888, 10XXX, or 950, where available, to all locally available interexchange companies.

(5) Shared tenant service providers shall be subject to the following conditions when operating in a rate base, rate of return local exchange company's service area, as provided in Chapter 364.052(2), F.S.

(a) Where two (2) or more buildings are served by the same private branch exchange (PBX), the trunks serving each building shall be separately partitioned.

(b)(6) Shared tenant service customers in one building shall not access or use the trunks partitioned for another building.

~~(7) Shared tenant service shall be provided to commercial tenants in a single building.~~

(c)(8) Shared tenant service shall be limited to a total of 250 inward, outward, and combinational trunks per private branch exchange (PBX).

(d)(9) Shared tenant service providers shall not be allowed to:

~~(a) Provide shared WATS unless a separate certificate is granted pursuant to Rule 25-24.470.~~

1.(b) Establish dedicated facilities (provide lines) direct to an interexchange company's point of presence (POP).

2.(e) Construct facilities for interconnecting other shared tenant service locations.

3.(d) Allow intercommunication between unaffiliated ~~commercial~~ entities.

(6)(10) The carrier of last resort of local exchange telecommunication services ~~LEC~~ must be able to gain access to all facilities up to the demarcation point of the tenant's premises, and retain responsibility for provision and maintenance of the network up to that point.

(7)(11) The carrier of last resort of local exchange telecommunication services shall use ~~if the LEC uses~~ the STS provider's or the STS building owner's cable, if made available, to

gain access to the tenant. The carrier of last resort of local exchange telecommunication services, ~~the LEC~~ shall be required to provide reasonable compensation. Such compensation shall not exceed the amount it would have cost the carrier of last resort of local exchange telecommunication services ~~LEC~~ to serve the tenant through installation of its own cable. This cost must be calculated on a pro rata basis.

~~(8)-(12)~~ In those circumstances where the STS provider and landlord of a building are not the same, the STS provider shall obtain and guarantee the permission of the building owner to allow direct access by the carrier of last resort of local exchange telecommunication services ~~LEC~~ to any tenant upon the tenant's request. ~~This will be a condition of certification.~~

Specific Authority: 350.127(2) F.S.

Law Implemented: 364.03, 364.035, 364.337, 364.339, 364.345 F.S.

History--New 1-28-91, Amended 07-29-97.

25-24.585 Records and Reports; Rules Incorporated.

(1) The following rules are incorporated herein by reference and apply to shared tenant service companies:

SECTION	TITLE	PORTIONS
		NOT APPLICABLE
25-4.019	Records and Reports in General	<u>ALL NONE</u>



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25-4.020 Location and Preservation  
of Records (2) ~~1 and 3~~

25-4.043 Response to Commission  
Staff Inquiries ALL NONE

25-4.0161 Regulatory Assessment  
Fees; Telecommunication  
Companies ALL NONE

(2) Each shared tenant service company shall file with the Commission's Division of Communications updated information for the following items within ten ~~10~~ days after either such change occurs.

(a) The mailing address of the certificate holder.

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

Specific Authority: 350.127(2) F.S.

Law Implemented: 350.113, 364.016, 364.17, 364.18, 364.183, 364.185, 364.339 F.S.

History--New 1-28-91, Amended 12-29-91, 11-13-95, 07-29-97.