

FLORIDA PUBLIC SERVICE COMMISSION  
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Tallahassee, Florida 32399-0850

MEMORANDUM

October 23, 1997

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FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS, AIDU) *W*  
DIVISION OF AUDITING & FINANCIAL ANALYSIS (CAUSSEAU) *W*  
DIVISION OF LEGAL SERVICES (PELLEGRINI) *W* *MB* *AP* *20* *1997*

RE: DOCKET NO. 960811-TI - APPLICATION FOR CERTIFICATE TO  
PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE BY  
HEALTH LIABILITY MANAGEMENT CORPORATION

AGENDA: November 4, 1997 - REGULAR AGENDA - DECISION PRIOR TO  
HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\960811R2.RCM

CASE BACKGROUND

On July 8, 1996, Health Liability Management Corporation (HLMC) filed an application for a Certificate of Public Convenience and Necessity to provide statewide interexchange telecommunications service. The application lacked information to support a finding of financial capability as required by Section 364.337(3), Florida Statutes. The statute provides that:

The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

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HLMC also failed to furnish documentation of registration with the Secretary of State, Division of Corporations, to conduct business within the State of Florida as required in Form PSC/CMU 31 (3/96), incorporated by reference in Rule 25-24.471(1), Florida Administrative Code. As a result, in Proposed Agency Action Order No. PSC-97-0741-FOF-TI, issued June 25, 1997, the Commission denied HLMC's application as not in the public interest. The Commission further instructed all certificated interexchange carriers in the State of Florida to deny or discontinue service to HLMC, pursuant to Rule 25-24.4701(3), Florida Administrative Code.

On July 21, 1997, HLMC filed a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code. Accordingly, this matter was set for an administrative hearing on October 22, 1997. The Commission issued Order No. PSC-97-0979-PCO-TI on August 14, 1997, establishing the procedure for the case.

Dr. Michael Weilert, 13738 Oxbow Road, Suite 100, Fort Myers, Florida 33905, is the company's chief executive officer. William B. Ellinger, Mitchell & Ellinger, P.A., 115 La Grange Avenue, La Plata, Maryland 20646, is counsel of record for the company in this proceeding.

Following the company's protest, staff made several efforts to make clear to Dr. Weilert and Mr. Ellinger what were the deficiencies in the company's application, indicating that if these deficiencies were rectified, staff would reevaluate the company's application and thereby possibly avoid the trouble and expense of a formal hearing. See, for example, staff's letter to Mr. Ellinger, with copy to Dr. Weilert, dated August 15, 1997, for example (Attachment 1). The company denied that its application was deficient and expressed a desire to proceed to hearing.

The procedural history of this case thus far is fraught with instances of the company's inability to comply with Commission orders and rules. First, staff noticed an issue identification workshop by teleconference for August 11, 1997. When staff checked with Dr. Weilert on August 8, 1997, to confirm the company's participation, he stated that he had not received timely notice and that, furthermore, he was otherwise engaged on the scheduled date. With the agreement of Dr. Weilert, the workshop was then rescheduled for August 22, 1997, again to be held by teleconference. At the appointed time, Mr. Ellinger joined the workshop, but Dr. Weilert did not. Unable to reach Dr. Weilert by

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telephone after more than an hour of trying, staff suspended the workshop. The workshop resumed on August 25, 1997, with everyone participating, and concluded successfully with the identification of four issues. See Attachment 2. Staff advised the company in great detail of the procedure that would be followed to resolve the company's protest.

In the workshop, staff reminded the company, not for the first time, that it had yet to file an appropriate proposed tariff, which is an essential part of an application for certification. The company agreed to file its proposed tariff by August 29, 1997. When it did not, the time for doing so was extended to September 12, 1997. See Attachment 3.

By Order No. PSC-97-0979-PCO-TI, HLMC was required to prefile its direct testimony on September 12, 1997. When the company failed to make the filing, staff agreed that the company could file by facsimile on September 17, 1997, a motion for extension of time until September 19, 1997, to file its testimony and tariff. It was expected that the company would follow up immediately with a hard copy of its motion. It did not. Nevertheless, the Prehearing Officer issued Order No. PSC-97-1089-PCO-TI on September 18, 1997, granting the motion, but sternly admonishing the company to adhere to the established procedural requirements. The order also required the company to file its proposed tariff by September 19, 1997.

The company failed to file either its prefiled direct testimony or its proposed tariff on September 19, 1997, and on September 22, 1997, it filed again by facsimile another motion for extension of time until September 22, 1997. On September 23, 1997, staff received a single copy of Dr. Weillert's direct testimony by facsimile. On September 24, 1997, staff received by overnight delivery service a hard copy of Dr. Weillert's testimony as well as a copy of the company's proposed tariff.

At that point, although the company had not raised any objection concerning the procedural schedule, staff decided that as initially established the schedule was perhaps too aggressive. The schedule had been established on an expedited basis to provide HLMC with a swift resolution of the problems attending its application. Therefore, in order to assure that the company and staff had sufficient time to prepare properly for the hearing, the Prehearing Officer issued Order No. 97-1198-PCO-TI on October 3, 1997,

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revising the order establishing procedure to reschedule the hearing for January 13, 1998. See Attachment 4. Under the revised procedure, the company was permitted until October 10, 1997, to properly file its direct testimony.

On September 28, 1997, staff wrote a letter to Mr. Ellinger, stating that the Prehearing Officer would be extending the hearing schedule and pointing out a number of matters that required the company's attention. See Attachment 6. In the letter, staff noted that the company had not filed its direct testimony or its proposed tariff in the manner required by Commission rule. Staff explained these requirements and attached to the letter the relevant Commission rules and materials. In addition, staff noted that the company had requested confidential treatment of certain portions of the materials it had submitted to the Commission, but that it failed to follow the steps prescribed by Commission rule to establish a claim of confidentiality. Again, staff explained those steps and attached the relevant Commission rules.<sup>1</sup> The company was permitted until October 24, 1997, to comply with these rules. As of the date of filing this recommendation, it has not done so.

The company failed to file its testimony or tariff on October 10, 1997. Typically, the company did not express in advance of the required date any hardship in preparing the filing that would cause it to miss the date. From conversations with Mr. Ellinger and Dr. Weillert on October 14 and 15, 1997, staff is left with the impression that the company ignored or misapprehended both the revised procedural order, Order No. PSC-97-1198-PCO-TI, and staff's letter of September 26, 1997.

It is the purpose of this recommendation to recommend to the Commission that it dismiss HLMC's petition for a hearing on the grounds that the company has shown a wilful disregard for the Commission's orders and rules.

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<sup>1</sup>Staff discussed the procedures relative to claims for confidential classification with Mr. Ellinger and Dr. Weillert on at least two earlier occasions. Following the first of these discussions, on September 5, 1997, staff wrote a letter to Mr. Ellinger setting out the requirements for confidential classification to assure that the company would be adequately informed. See Attachment 3. On September 19, 1997, staff forwarded copies of the relevant statute and rule to Dr. Weillert by facsimile. See Attachment 5.

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**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission dismiss Health Liability Management Corporation's petition for a formal administrative hearing on its application for certification as an interexchange telecommunications carrier and make Order No. PSC-97-0741-FOF-TI final and effective November 4, 1997, the date of the Commission's decision?

**RECOMMENDATION:** Yes. The Commission should dismiss Health Liability Management Corporation's petition for a formal administrative hearing on its application for certification as an interexchange telecommunications carrier and make Order No. PSC-97-0741-FOF-TI final and effective November 4, 1997, the date of the Commission's decision. (Pellegrini)

**STAFF ANALYSIS:** Rule 25-22.042, Florida Administrative Code, provides that:

The failure or refusal of a party to comply with any lawful order may be cause for dismissing the party from the proceeding. If a dismissal is entered against the party who has the burden of proof, the proceeding will be dismissed ....

As stated in the Case Background, HLMC has demonstrated a persistent inability to comply with Commission orders and rules. Staff believes the company's cumulative conduct amounts to a wilful disregard of or gross indifference to those orders and rules. Accordingly, staff believes that it is appropriate for the Commission to impose the sanction of dismissing without prejudice the company's petition for a formal administrative hearing on its application for certification as an interexchange telecommunications carrier.

Florida courts have recognized that dismissal of actions is appropriate for noncompliance with orders of the court. In Mercer v. Raine, 443 So.2d 944 (Fla. 1983), the Supreme Court of Florida said:

We agree that the striking of pleadings or entering a default for noncompliance with an

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order compelling discovery is the most severe of all sanctions which should be employed only in extreme circumstances. Hart v. Weaver, 364 So.2d 524 (Fla. 2d DCA 1978). A deliberate and contumacious disregard of the court's authority will justify application of this severest of sanctions, Swindle v. Reid, 242 So.2d 751 (Fla. 4th DCA 1970), as will bad faith, wilful disregard or gross indifference to an order of the court, or conduct which evinces deliberate callousness. Herold v. Computer Components Int'l, Inc., 252 So.2d 576 (Fla. 4th DCA 1971).

In Commonwealth Federal Savings and Loan Ass'n v. Tubero, 569 So.2d 1271, 1273 (Fla. 1990), the court explained that "[b]y insisting upon a finding of wilfulness, there will be the added assurance that the trial judge has made a conscious determination that the noncompliance was more than mere neglect or inadvertence."

Staff believes that HLMC's conduct throughout this proceeding, especially its failure to properly file its direct testimony and proposed tariff on October 10, 1997, cannot be described as "mere neglect or inadvertence." Indeed, staff took a number of extraordinary steps to give the company, who is represented by counsel, the necessary information and additional opportunities to rectify the deficiencies in the financial data that it submitted, the deficiencies in its claim for confidential classification of imprecisely identified materials, and the deficiencies in the filings of its prefiled direct testimony and proposed tariff. Compliance in any of these cases would have required nothing more than a simple effort that ought to have been well within the capability of a company of the apparent size of HLMC. The company's persistent inability to respond properly can only be ascribed to an attitude of wilfulness, deliberate disregard or gross indifference.

Staff, therefore, recommends that, pursuant to Rule 25-22.042, Florida Administrative Code, the Commission dismiss HLMC's petition for a formal administrative hearing on its application for certification as an interexchange telecommunications carrier. Furthermore, staff recommends that the Commission make Order No. PSC-97-0741-FOF-TI final and effective November 4, 1997.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. (Pellegrini)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, pursuant to Rule 25-22.042, Florida Administrative Code, the proceeding will be dismissed. With its protest of Order No. PSC-97-0741-FOF-TI, HLMC regained its status as applicant for certification and, in that status, continues to bear the burden of proof with respect to the requirements of Section 364.337(3), Florida Statutes. Thus, this docket should be closed.

STATE OF FLORIDA

CONFIDENTIAL

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



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(850) 413-6199

Public Service Commission

August 15, 1997

Mr. William B. Ellinger  
Mitchell and Ellinger, P.A.  
115 La Grange Avenue, No. 101  
La Plata, Maryland 20646

In Re: Docket No. 960811-TI - Application for certificate to provide interexchange telecommunications service by Health Liability Management Corporation

Dear Mr. Ellinger:

As you know, the Florida Public Service Commission has set Health Liability Management Corporation's protest of the Commission's Order No. PSC-97-0741-FOF-TI, issued June 25, 1997, for hearing on October 22, 1997. In that Order, the Commission denied the company's July 8, 1996, application for certification to provide intrastate interexchange telecommunications service in Florida. I am writing, however, to confirm my suggestion to both you and Dr. Weillert that even now the company has it within its control to avoid the trouble and expense of going to hearing.

CK \_\_\_\_\_ Thus far, the financial information that the company has  
FA \_\_\_\_\_ submitted to Commission staff has not been the sort of information  
\_\_\_\_\_ that is necessary for them to determine whether Health Liability  
\_\_\_\_\_ Management Corporation has the financial capability to provide  
\_\_\_\_\_ intrastate interexchange telecommunications service. You will not  
\_\_\_\_\_ that Section 363.337, Florida Statutes, requires that this  
\_\_\_\_\_ Commission grant a certificate of authority to provide intrastate  
\_\_\_\_\_ interexchange telecommunications service only upon a showing by the  
\_\_\_\_\_ applicant that it has "sufficient technical, financial, and  
\_\_\_\_\_ managerial capability to provide such service in the geographic  
\_\_\_\_\_ area proposed to be served." Because Commission staff could not  
\_\_\_\_\_ make a determination in favor of Health Liability Management  
\_\_\_\_\_ Corporation on the strength of the information the company has  
\_\_\_\_\_ submitted, they were left no choice but to recommend to the  
\_\_\_\_\_ Commission that the application be denied.

WAS \_\_\_\_\_  
OTH \_\_\_\_\_

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Mr. William B. Ellinger  
Page 2  
August 15, 1997

I can assure you that if the company were to furnish staff with the necessary information, they would be better able to assess the quality of its application. That information is the following, as a minimum:


- Health Liability Management Corporation financial statements for the most recent 3 years, including:
  - (i) balance sheet;
  - (ii) income statement; and
  - (iii) statement of retained earnings.

In reviewing the Health Liability Management Corporation Business Plan, I note that Part VIII, Financials, includes balance sheets, statements of operations, statements of changes in retained earnings, statements of cash flows, schedules of cost of sales and services and schedules of selling, general and administrative expenses, with accountant's review reports and notes for 1990-91, 1991-92, and 1992-93. The information for subsequent periods, however, is not of the same quality. If the company would submit the same information for 1993-94, 1994-95, 1995-96, and the six months ended June 30, 1997, as it submitted for the earlier periods, staff would then be able to appropriately determine whether the company has the financial capability to provide and maintain the requested service in the geographic area proposed to be served, as well as to meet lease or ownership obligations.

I would ask the company to submit the new information by August 29, 1997. If that presents a hardship, please let me know.

I thank you in advance for your attention to this matter and I look forward to receiving your positive response.

Sincerely,

  
Charles J. Pellegrini  
Staff Counsel

CJP:clp

cc: Dr. Michael Weilert

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ATTACHMENT 1  
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Mr. William B. Ellinger  
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August 15, 1997

Health Liability Management Corporation  
13738 Oxbow Road  
Ft. Myers, Florida 33905

STATE OF FLORIDA

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



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(850) 413-6199

**Public Service Commission**

September 4, 1997

William B. Ellinger, Esquire  
Mitchell and Ellinger, P.A.  
115 La Grange Ave. N. 101  
La Plata, MD 20646

RE Docket No 960811-TI

Dear Mr. Ellinger:

This letter is to confirm that in the workshop held on August 25, 1997, for the purpose of identifying the issues in Docket No. 960811-TI to be addressed at hearing on October 22, 1997, before the Commission, the following issues were preliminarily established:

- Issue 1: Does Health Liability Management Corporation have sufficient financial capability to provide interexchange telecommunications service, as required by Section 364.337(3), Florida Statutes?
- Issue 2: Does Health Liability Management Corporation have sufficient managerial capability to provide interexchange telecommunications service, as required by Section 364.337(3), Florida Statutes?
- Issue 3: Does Health Liability Management Corporation have sufficient technical capability to provide interexchange telecommunications service, as required by Section 364.337(3), Florida Statutes?

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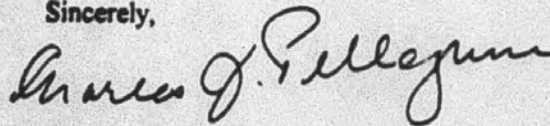
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William B. Ellinger  
Page 2  
September 4, 1997

Issue 4:       Should the Commission grant Health Liability  
Management Corporation a certificate to provide  
interexchange telecommunications service?

If you have questions concerning this or any other matter in this proceeding, do not hesitate  
to call.

Sincerely,



Charles J. Pellegrini  
Staff Counsel

CJP/anr

STATE OF FLORIDA

Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
DIANE K. KJESLING  
JOE GARCIA



DIVISION OF LEGAL SERVICES  
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Public Service Commission

September 5, 1997

William B. Ellinger, Esquire  
Mitchell and Ellinger, P.A.  
115 La Grange Avenue N. 101  
La Plata, MD 20646

RE: Docket No. 960811-TI

VIA FACSIMILE

Dear Mr. Ellinger:

This letter is to confirm our telephone conversation this morning, concerning deficiencies in Health Liability Management Corporation's (HLMC's) filing. First, in response to a staff inquiry for additional financial information dated January 23, 1997, HLMC, on January 27, submitted its Business Plan October 1996. In a cover letter, HLMC made a claim for confidential treatment for some of the information contained in the plan. The information to be treated as though confidential was not, however, identified with necessary precision. We regard the plan to be information of the kind described in Section 364.183(1), Florida Statutes, and controlled by Rule 25-22.006(5), Florida Administrative Code. HLMC did not provide a copy of the plan with the information to be treated as though confidential highlighted and two copies with that information redacted for purposes of public inspection, as required by Rule 25-22.006(5)(a), Florida Administrative Code. As a consequence, sufficient grounds exist to deny confidential treatment, as provided in Rule 25-22.006(4)(e), Florida Administrative Code. Nevertheless, following consultation with the office of the prehearing officer, we will permit HLMC an opportunity to redress this deficiency. We will expect to receive the required copies no later than September 19, 1997.

I should note that presently Commission staff intends to introduce portions of the business plan into the evidentiary record in this proceeding. This will be established at the prehearing conference on October 9, 1997. HLMC should be prepared at that time to submit its justification for confidential treatment according to the requirements of Rule 25-22.006(4), Florida Administrative Code.

CK \_\_\_\_\_  
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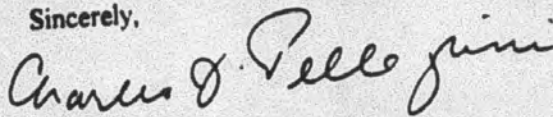
William B. Ellinger, Esquire  
Page 2  
September 5, 1997

Second, as of this date, HLMC has not filed its proposed tariff as required in Part 19 of the Application Form for Authority to Provide Interexchange Telecommunication Service within the State of Florida. This deficiency was brought to HLMC's attention most recently in the August 25, 1997, issue identification workshop. We will now require HLMC to file its proposed tariff no later than September 12, 1997.

Last, I would refer you once again to my letter dated August 15, 1997, concerning the insufficiency of the financial information thus far filed by HLMC.

If you have questions concerning these or any other matters in this proceeding, do not hesitate to call.

Sincerely,



Charles J. Pellegrini  
Staff Counsel

CJP/anr

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
certificate to provide  
interexchange telecommunications  
service by Health Liability  
Management Corporation.

DOCKET NO. 960811-TI  
ORDER NO. PSC-97-1198-PCO-TI  
ISSUED: October 3, 1997

DOCKET NO. 960811-TI  
DATE: OCTOBER 23, 1997

ORDER REVISING ORDER ESTABLISHING PROCEDURE

Order No. PSC-97-0979-PCO-TI, issued August 14, 1997, established controlling dates to govern this proceeding. The procedural schedule was established on an expedited basis to provide Health Liability Management Corporation a swift resolution to the problems attending its application for certification as an interexchange carrier. It now appears that the times established for filing testimony and conducting the hearing have not been sufficient to enable the company and staff to prepare appropriately for the hearing. Thus, the procedural dates and the hearing schedule in the case shall be revised as follows:

Staff's Direct Testimony and Exhibits	September 5, 1997
Petitioner's Direct Testimony and Exhibits	October 10, 1997
Staff's Rebuttal Testimony and Exhibits	October 31, 1997
Prehearing Statements	December 19, 1997
Prehearing Conference	January 5, 1998
Hearing	January 13, 1998
Posthearing filings	February 20, 1998

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ATTACHMENT 4  
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Discovery shall be completed by January 5, 1998. Except as modified herein, the previous order on procedure, Order No. PSC-97-0979-PCO-TI, is affirmed in all other respects.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Order No. PSC-97-0979-PCO-TI is hereby revised as set forth in the body of this Order. It is further

ORDERED that, except as modified herein, Order No. PSC-97-0979-PCO-MS is affirmed in all other respects.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 3rd day of October, 1997.

  
SUSAN F. CLARK, Commissioner and  
Prehearing Officer

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( S E A L )

CJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1)

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reconsideration within 10 days pursuant to Rule 25-22.030(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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ATTACHMENT 4  
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ATTACHMENT 5  
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TRANSMISSION VERIFICATION REPORT

TIME : 09/19/1997 09:30  
NAME : PUB SV COMM LEG SV  
FAX : 850-413-6250  
TEL : 850-413-6291

DATE, TIME	09/19 09:27
FAX NO./NAME	619416944843
DURATION	00:02:59
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RESULT	OK
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data necessary to ensure that a company's regulated rates do not subsidize the company's unregulated activities. Any reports required by this subsection shall be confidential and exempt from s. 119.07(1) to the extent that they qualify for such treatment pursuant to s. 364.183. History.—s. 21, ch. 8525, 1913; RGS 4413; CGL 6377; s. 3, ch. 76-166; s. 1, ch. 77-457; ss. 18, 32, ch. 80-36; s. 2, ch. 81-318; ss. 6, 7, ch. 89-163; ss. 22, 48, 49, ch. 90-244; s. 4, ch. 91-429; s. 547, ch. 95-148.

**364.183 Access to company records.—**

(1) The commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the commission's jurisdiction. The commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing. The commission may require a telecommunications company to file records, reports or other data directly related to matters within the commission's jurisdiction in the form specified by the commission and may require such company to retain such information for a designated period of time. Upon request of the company or other person, any records received by the commission which are claimed by the company or other person to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) Discovery in any docket or proceeding before the commission shall be in the manner provided for in Rule 1.280 of the Florida Rules of Civil Procedure. Upon a showing by a company or other person and a finding by the commission that discovery will require the disclosure of proprietary confidential business information, the commission shall issue an appropriate protective order designating the manner for handling such information during the course of the proceeding and for protecting such information from disclosure outside the proceeding. Such proprietary confidential business information shall be exempt from s. 119.07(1). Any records provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the commission and the Office of the Public Counsel and any other party subject to the public records law as confidential and shall be exempt from s. 119.07(1), pending a formal ruling on such request by the commission or the return of the records to the person providing the records. Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding shall be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record shall be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this subsection.

(3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

(4) Any finding by the commission that a record contains proprietary confidential business

information is effective for a period set by the commission not to exceed 18 months, unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. The commission shall order the return of a record containing proprietary confidential business information when such record is no longer necessary for the commission to conduct its business. At that time, the commission shall order any other person holding such record to return it to the person providing the record. Any record containing proprietary confidential business information which has not been returned at the conclusion of the period set pursuant to this subsection shall no longer be exempt from s. 119.07(1) unless the telecommunications company or affected person shows, and the commission finds, that the record continues to contain proprietary confidential business information. Upon such finding, the commission may extend the period for confidential treatment for a period not to exceed 18 months unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. During commission consideration of an extension, the record in question remains exempt from s. 119.07(1). The commission shall adopt rules to implement this subsection, which shall include notice to the telecommunications company or affected person regarding the expiration of confidential treatment.

History.--ss. 1, 5, ch. 82-51; ss. 6, 7, ch. 89-163; ss. 23, 48, 49, ch. 90-244; s. 4, ch. 91-429; s. 18, ch. 95-403; s. 167, ch. 96-406.

**364.185 Investigations and inspections; power of commission.--**

The commission or its duly authorized representatives may during all reasonable hours enter upon any premises occupied by any telecommunications company and may set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations, and tests and exercising any power conferred by this chapter, however, the telecommunications company shall be notified of and be represented at the making of such investigations, inspections, examinations, and tests. The requirement to provide prior notification and representation shall not be applicable to the onsite field inspection of equipment used to provide telecommunications services to the transient public, including the facilities of call aggregators.

History.--s. 26, ch. 80-36; s. 2, ch. 81-318; ss. 6, 7, ch. 89-163; ss. 24, 48, 49, ch. 90-244; s. 4, ch. 91-429.

**364.19 Telecommunications service contracts; regulation by commission.--**

The commission may regulate, by reasonable rules, the terms of telecommunications service contracts between telecommunications companies and their patrons.

History.--s. 19, ch. 6525, 1913; RGS 4411; CGL 6375; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 19, 32, ch. 80-36; s. 2, ch. 81-318; ss. 6, 7, ch. 89-163; ss. 25, 48, 49, ch. 90-244; s. 4, ch. 91-429.

**364.24 Penalty for making telephone message or customer account information known.--**

(1) Except as otherwise deemed by law, any officer or person in the employ of any telecommunications company, or any person in charge of any office, exchange, or place where messages or communications are sent, received, or heard by telephone, who shall disclose or make known to any person other than the person to whom the telephone message or communication is directed, or his or her duly authorized agent, partner, clerk, or some member of his or her family, any part of the contents of any message or communication sent, received, or heard by him or her, by telephone, by reason of the position he or she occupies or fills, without consent of the person sending or receiving such message or communication, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any officer or person in the employ of any telecommunications company shall not intentionally disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other process of court, or as otherwise allowed by law. Any person who violates any provision of this section commits a

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Chairman will rule on all such requests that the Division Director recommends be denied.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 8/20/84, formerly 25-22.08, Amended 7/11/86.

**25-22.006 Confidential Information.**

(1) Definitions.

(a) "Confidential Information" means material that has been determined, pursuant to this rule, to be proprietary confidential business information under Section 350.121, 364.183, 366.093, or 367.156, F.S.

(b) "Formal proceeding" means a proceeding docketed in the Commission's Division of Records and Reporting.

(c) "Inquiry" means an investigation pursuant to section 350.121, F.S. An inquiry is set in motion by the Commission Chairman, the Executive Director, or the General Counsel to evaluate a complaint, allegation, or develop information as a basis to initiate action on or dispose of any matter within the Commission's jurisdiction.

(d) "Material" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other recorded information regardless of physical form or characteristics.

(e) "Obtaining material" means receiving material pursuant to filing or taking physical control of material by removing the original material or a copy of it from the utility's or other person's premises. Obtaining material also means the extraction of data from material for inclusion in working papers or memoranda.

(2) Material obtained during an inquiry.

(a) All material obtained incident to an inquiry by the Commission, its staff, or any consultant employed by the Commission is exempt from the public access requirements of Section 119.07(1), F.S., and will be accorded stringent procedural safeguards against public disclosure during the pendency of the inquiry. When the Commission or its staff is requesting information incident to an inquiry, the source shall be informed in writing that the request is made incident to an inquiry.

(b) An inquiry will terminate 40 days after the transmittal of a notice of termination by the Division of Records and Reporting. This notice will be sent to all sources from whom material was obtained during the inquiry and will include a list of all materials obtained from the source during the inquiry and any portions of staff work papers, analyses, and reports containing materials obtained from the source during the inquiry. The notice will indicate whether the Commission intends to retain, destroy, or return the materials listed. A source may, within 30 days after issuance of the notice, file with the Division of Records and Reporting a written request that the material the Commission intends to retain be classified as confidential and exempt from Section 119.07(1), F.S. Requests filed in response to the notice of termination shall meet the same criteria and be processed in the same manner as other requests for confidential classification under subsection (4) of this rule. If no timely request for confidential classification is filed, confidentiality is waived and the material becomes subject to inspection and examination pursuant to Section 119.01 (7), F.S.

(3) Material obtained outside of an inquiry. Material obtained by the Commission or its staff outside of an inquiry shall be subject to inspection and examination pursuant to Section 119.07(1), F.S., unless the utility or other person requests that it be classified as confidential information.

(a) 1. If the utility or other person believes information requested by staff is confidential, the utility or other person may require that the staff request be in writing. Prior to the staff obtaining any material, a utility or other person may receive temporary exemption from Section 119.07(1), F.S., by filing a notice of intent to request confidential classification. The notice of intent to request confidential classification shall be filed with the Division of

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Records and Reporting and shall have appended thereto a copy of any written request for the material to which it relates. A copy of the notice shall be provided to the division requesting the material. To maintain continued confidential handling of the material the utility or other person must, within 21 days after the staff has obtained the material, file a request for confidential classification with the Division of Records and Reporting. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

2. In the case of material obtained by the Commission's auditors, the utility shall indicate on the document request Form PSC/APA 6 (2/95) whether the information is believed by the utility to be confidential. To maintain continued confidential handling of the material, the utility must, within 21 days after the audit exit conference or, if waived, the date the audit exit conference would have taken place, file a request for confidential classification with the Division of Records and Reporting. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

(b) When the material is obtained incident to a formal proceeding, the utility or other person requesting confidential classification shall also serve a copy or summary of its request on all parties of record and on Public Counsel. The summary shall describe the material in sufficient detail so as to reasonably inform the reader of the nature of the material. Any party to a formal proceeding may file an objection to the request for confidential classification within 14 days after service of the copy or summary.

(c) Requests for confidential classification, including motions for protective orders under Paragraph 6(a), and any objections filed in response thereto shall be ruled on expeditiously by the prehearing officer assigned to the docket. The Commission panel assigned to the case will hear any motion for reconsideration filed regarding the prehearing officer's ruling. If a request is received outside a docketed proceeding, the request itself will be docketed.

(d) All material that has been classified as confidential, for which a ruling on confidentiality is pending, is subject to a notice of intent to request confidential classification, or is subject to a claim of confidentiality as provided for in Section 364.183(1), F.S., shall be exempt from Section 119.07(1), F.S., and will be accorded stringent internal procedural safeguards against public disclosure. Any staff or consultant reports or work products containing confidential information extracted from material having been classified as confidential, or which has been claimed to be confidential or for which a ruling on confidentiality is pending, shall be handled in the same manner as the material so classified. The Commission shall have discretion to retain any confidential material in its possession. Upon the consent of the Department of State, the Commission may return or, after consulting with the source, destroy any material that is no longer needed.

(4) Requests for confidential classification of material shall be filed in writing with the Division of Records and Reporting. All such requests, including motions for protective orders based on confidentiality, shall be styled to clearly indicate on their face that confidentiality is being requested. The utility or other person shall file with the request one copy of the material for which confidential treatment is requested. On this copy, the specific information asserted to be confidential shall be highlighted. Along with the highlighted copy, the utility or other person shall file two or more edited copies as required by the type of proceeding, which will be made available for public inspection. In the edited copies, the specific information asserted to be confidential shall be blocked out by the use of an opaque marker or other masking device. The utility or other person shall identify the page and line at which the confidential material is found and shall correlate the page and line identified with the specific justification proffered in support of the classification of such material.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for

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which confidential classification is requested along with a field-by-field justification for the confidential classification.

(c) In the line-by-line or field-by-field justification for confidential classification, the utility or other person must demonstrate how the information asserted to be confidential qualifies as one of the statutory examples listed in section 364.183(3), 366.093(3), or 367.156(3), F.S. If no statutory example is applicable, then the utility or other person shall include a statement explaining how the ratemakers or the person's or utility's business operations will be harmed by disclosure.

(d) The request shall include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the utility or other person as private and has not been disclosed.

(e) The burden of proof shall be on the utility or other person to show that the material in question contains bona fide proprietary confidential business information. A request for confidential classification that fails to identify the material for which confidential classification is sought in sufficient detail to permit a reasoned analysis or which fails to provide the required justification for classification may be denied as insufficient on its face.

(f) The Division of Records and Reporting shall make available for public inspection a listing of daily filings with the Commission requesting confidentiality.

(g) The Commission shall have the discretion to modify the requirements of this subsection in order to alleviate the financial burden of entities qualifying as small businesses under section 288.702, F.S.

(h) A utility may petition the Commission for a waiver of the justification for particular sections of certain routinized filings. The Commission may require conditions to be met by the utility that may include, but not be limited to:

1. Filings which are routine, filed periodically, and which have been filed for a minimum of six months;
2. Information which has regularly been classified as confidential in the past; and
3. While the utility must identify material to be classified by line-by-line reference, the utility may cite to a previous order for justification. If the waiver is approved, the Commission will issue an order referencing the appropriate previous order stating the relevant justification. No party will be denied the opportunity to object to a request for confidentiality made pursuant to this sub-paragraph.

(5) Claim of confidential treatment pursuant to section 364.183(1), F.S.

(a) Telecommunications companies or other persons claiming confidential treatment for materials pursuant to section 364.183(1), F.S., shall file with the Division of Records and Reporting one copy of all such materials and include a cover letter stating that confidentiality is being claimed. The telecommunications company or other person also shall file one copy of the material on which the specific information claimed as confidential shall be highlighted. Along with the highlighted copy, the telecommunications company or other person shall file two edited copies which will be made available for public inspection. In the edited copies, the specific information claimed to be confidential shall be blocked out by the use of an opaque marker or other masking device.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidentiality is claimed, along with a field-by-field justification for the confidential classification.

(c) 1. The materials claimed to be confidential shall be kept confidential until returned to the provider pursuant to subsection (6)(d) of this rule, unless the materials will be used in a Commission proceeding or are the subject of a request pursuant to Section 119.07(1), F.S.

2. Any person may file a petition to inspect and examine any material which

has been claimed confidential pursuant to 364.183(1), F.S. A copy of the petition must be served on the affected telecommunications company or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings.

(6) Discovery.

(a) In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure outside the proceeding.

(b) The Commission's protective orders shall exempt proprietary confidential business information from section 119.07(1), F.S. While a request for a protective order is pending, the information asserted to be confidential shall also be exempt from section 119.07(1), F.S. Such exemption shall apply whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel.

(c) When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

(d) Confidential information which has not been entered into the official record of the proceeding shall be returned to the utility or person who provided the information no later than 60 days after the final order, unless the final order is appealed. If the final order is appealed, the confidential information which has not been made a part of the record shall be returned no later than 30 days after the decision on appeal.

(7)(a) Any person may file a petition to inspect and examine any material which the Commission has ruled exempt from s. 119.07(1), F.S., or which is exempted under paragraph 3(d) pending the Commission's ruling or as the result of the filing of a notice of intent to request confidentiality. A copy of the petition must be served on the affected utility or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings. Material obtained by the Commission in connection with an inquiry shall not be subject to requests for inspection and examination until after the inquiry is terminated.

(b) A finding of confidentiality notwithstanding, a source may consent to inspection or examination by any person. Such consent shall not constitute a waiver of confidentiality and only the person specified in the consent may inspect or examine the material. The Commission may be requested to issue a protective order to recognize the terms and conditions of the consent. All persons are urged to seek mutual agreement regarding access prior to bringing a controversy to the Commission.

(8) Use of confidential information during formal proceedings.

(a) The Commission may rely upon confidential information during a formal proceeding and such information, if otherwise admissible, will be received in evidence. In such event, reasonable precautions will be taken to segregate

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confidential information in the record and otherwise protect its integrity.  
(b) When information subject to a claim of confidentiality pursuant to Section 364.183(1) or a request is admitted into the evidentiary record of a hearing, if such information is not otherwise subject to a request for confidentiality filed with the Commission, the parties to the case and the Commission shall treat the information as confidential pending a ruling on the confidentiality of the information. To maintain continued confidentiality, the party to whom the information belongs shall file a request for confidential classification within 21 days of the conclusion of the hearing.

(c) When information subject to a claim of confidentiality pursuant to Section 364.183(1) or a request is contained in a party's brief or other post hearing filing filed with the Commission, the party filing such information shall notify the owner of the information at least three working days prior to the date that the filing will be made. To maintain continued confidential treatment, the party to whom the information belongs shall file, on the same date the brief or other post-hearing filing is filed, either a notice of intent to request confidentiality treatment pursuant to (b) of this subsection, a request for confidential treatment, or a statement that the information is already subject to a request for confidentiality that has been filed with the Commission and the date that the request was filed.

(9) Duration of Confidential Classification.

(a) Orders of the Commission granting confidential classification shall limit the duration of such classification to a period not exceeding 18 months. The Commission may approve a longer period if it finds, for good cause, that such longer period is necessary to protect the ratepayers or the business operations of the utility or affected person.

(b) When confidential information is no longer needed for the Commission to conduct its business, the Commission shall order all persons holding such information to return it to the utility or person providing the information.

(c) Confidential information not returned at the conclusion of the period established under paragraph (a) of this subsection, shall no longer be exempt from s. 119.07(1), F.S., unless the utility or affected person shows, and the Commission finds, that the information continues to be confidential. Upon such finding, the duration of confidential classification may be extended for a period of up to 18 months, or for a longer period if the Commission finds, for good cause, that such longer period is necessary to protect the business operations of the utility or affected person. While the Commission is considering an extension under this paragraph, the information in question shall remain exempt from s. 119.07(1), F.S.

(10) Judicial Review. When the Commission denies a request for confidential classification, the material will be kept confidential until the time for filing an appeal has expired. The utility or other person may request continued confidential treatment until judicial review is complete. The request shall be in writing and filed with the Division of Records and Reporting. The material will thereafter receive confidential treatment through completion of judicial review.  
Specific Authority: 350.127, F.S.  
Law Implemented: 350.121, 364.183, 366.093, 367.156, F.S.  
History: New 7/1/85, Amended 4/26/90, 4/21/96.

25-22.007 Reserved.

25-22.008 Practitioners.

(1) To practice law before the Commission, one must qualify either as a Class A or a Class B practitioner, however, self representation is not precluded by this rule. For the purposes of this rule:

(a) The Class A practitioner is licensed to practice law in the State of Florida or elsewhere in the United States.

(b) The Class B practitioner is licensed to practice before the Commission as provided by this rule.



STATE OF FLORIDA

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



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(850) 413-6199

**Public Service Commission**

September 26, 1997

William B. Ellinger, Esq.  
Mitchell & Ellinger, P.A.  
115 La Grange Avenue, Suite 101  
La Plata, MD 20646

Dear Mr. Ellinger:

The purpose of this letter is to document the present status of Health Liability Management Corporation's (HLMC's) application before this Commission for certification and to point out a number of matters that need the company's attention.

1. The procedural schedule was established in this proceeding on an expedited basis in order to provide HLMC a swift resolution to the problems attending its certification application. It now appears, however, that the times established for filing testimony and conducting the hearing may not have been sufficient for either the company or Commission staff to prepare properly for the hearing. Therefore, the Prehearing Officer will issue an order revising the procedural order to reflect the following controlling dates:

Staff's Direct Testimony and Exhibits	September 5, 1997
Petitioner's Direct Testimony and Exhibits	October 10, 1997
Staff's Rebuttal Testimony and Exhibits	October 31, 1997
Prehearing Statements	December 19, 1997
Prehearing Conference	January 5, 1998
Hearing	January 13, 1998
Briefs	February 13, 1998

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Discovery shall be completed by January 5, 1998. The Commission will consider staff's recommended disposition of HLMC's application at agenda conference on April 7, 1998.

2. On September 23, 1997, this office received a copy of the direct testimony of Dr. Michael Weilert by facsimile. The Commission does not accept documents transmitted by facsimile for filing; all such documents must be served by mail or hand delivery. On September 25, 1997, this office received a copy of Dr. Weilert's direct testimony by Airborne Express, together with an attachment entitled "Florida Public Service Commission Interexchange Carrier Application / HLMC / Connecting the World!!! / Health Liability Management Corporation" (HLMC Attachment). Order No. PSC-97-0979-PCO-TI (Attachment 1) requires an original and 15 copies of all testimony and exhibits to be filed with the Director, Division of Records and Reporting, by the close of business (5:00 pm) on the date due, now, for HLMC, October 10, 1997. Furthermore, testimony must be prepared in accordance with Rule 25-22.048, Florida Administrative Code (Attachment 2). This is also set forth in Order No. PSC-97-0979-PCO-TI.

3. In response to a staff inquiry for additional financial information dated January 23, 1997, HLMC, on January 27, 1997, submitted its Business Plan October 1996. In a cover letter, HLMC made a claim for confidential treatment for some of the information contained in the plan. The information to be treated as though confidential was not, however, identified with necessary precision. We regard the plan to be information of the kind described in Section 364.183(1), Florida Statutes, (Attachment 3) and controlled by Rule 25-22.006(5), Florida Administrative Code (Attachment 4). HLMC did not provide a copy of the plan with the information to be treated as though confidential highlighted and two copies with that information redacted for purposes of public inspection, as required by Rule 25-22.006(5)(a), Florida Administrative Code (Attachment 4). As a consequence, sufficient grounds exist to deny confidential treatment, as provided in Rule 25-22.006(4)(e), Florida Administrative Code (Attachment 4). Nevertheless, the Prehearing Officer finds it appropriate to permit HLMC a further, but last, opportunity to comply with this requirement no later than October 24, 1997, or the information will become unprotected public information.

I should note that presently Commission staff intends to introduce portions of HLMC's business plan into the evidentiary record in this proceeding. This will be established at the prehearing conference on January 5, 1998. If HLMC complies with the requirements of Rule 25-22.006(5)(a), Florida Administrative Code, for a claim of confidentiality, then HLMC should be prepared at the time of the prehearing conference to submit its justification for confidential treatment according to the requirements of Rule 25-22.006(4), Florida Administrative Code. The Commission has thus far treated the company's business plan as proprietary confidential business information. It will continue to treat the plan in this manner until a final ruling.

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4. In the HLMC Attachment, the company has enclosed what it describes as "Exhibit E: Applicant's tariff and advice letter (Rule 18(h))". If it is intended to satisfy the requirements of Part 19 of the Commission's "Application Form for Authority to Provide Interexchange Telecommunication Service within the State of Florida," it is not acceptable. The company's proposed tariff must be submitted in the format prescribed by Rule 25-24.485, Florida Administrative Code (Attachment 5). Although an Example Tariff and Check List for IXC Tariffs were furnished with the initial application materials, I have enclosed another set of these materials for your convenience (Attachments 6a and 6b).

I brought the absence of the company's proposed tariff in its application filing to the attention of you and Dr. Weilert in the August 25, 1997, issue identification workshop, receiving assurances that it would be filed by August 29, 1997. When it was not, the time for filing was extended to September 12, 1997. When that date was not met, the time for filing was extended still again to September 19, 1997 (Attachment 7). The company now must file its proposed tariff in the required manner no later than October 10, 1997.

5. Also in the HLMC Attachment, the company has enclosed what it describes as "Exhibit B: Applicant's financial information (Rule 17 and Rule 18(g))". This information substantiates that Applicant has more than \$25,000 available and unencumbered." Each of the three pages of this exhibit is labeled "CONFIDENTIAL CONFIDENTIAL" in the bottom margin. In order to preserve a claim of confidentiality for this information, the company must, however, comply as well with the requirements described in paragraph 3. The Commission will treat these materials in the same way as the materials in paragraph 3.

6. On September 17, 1997, HLMC submitted by facsimile a Motion to Extend Time for Filing Testimony. Although irregular, the motion was granted because it was expected that an original copy would be momentarily filed. As of this date, an original copy has not been filed with the Division of Records and Reporting. On September 22, 1997, HLMC submitted by facsimile a second Motion to Extend Time for Filing Testimony. This motion we will deem to be withdrawn.

7. I would like to comment on the procedural posture of this proceeding. Although this Commission denied HLMC's application for certification in Proposed Agency Action Order No. PSC-97-0741-FOF-TI on June 25, 1997, that order is of no force or effect as the result of HLMC's July 21, 1997, protest and petition for formal administrative hearing. HLMC retains the status of applicant for certification and, in that status, continues to bear the burden of proof in this proceeding that it is able to satisfy the requirements of Section 364.337(3), Florida Statutes (Attachment 8).

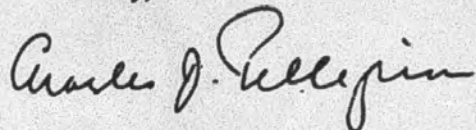
8. It is my understanding that you are counsel of record for HLMC in this proceeding. In light of that, I strongly urge you to advise the company that it must channel its inquiries to this Commission through your office, refraining from direct contacts with Commission staff. In the event of any attempt at direct contact, I have instructed Commission staff to state that they are

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required to refuse such contact. I believe you will agree with me that far fewer problems are likely to arise if this practice is followed. Indeed, I believe the company now understands that this practice best serves its interests.

Should you have questions or comments regarding anything in the foregoing, please do not hesitate to call.

Sincerely,



Charles J. Pellegrini  
Staff Counsel

CJP/anr  
Attachments

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
certificate to provide  
interexchange telecommunications  
service by Health Liability  
Management Corporation

DOCKET NO. 960811-T1  
ORDER NO. PSC-97-0979-PCO-T1  
ISSUED: August 14, 1997

DOCKET NO. 960811-T1  
DATE: OCTOBER 23, 1997

ORDER ESTABLISHING PROCEDURE

On July 8, 1996, Health Liability Management Corporation (HLMC or petitioner) filed an application for a Certificate of Public Convenience and Necessity to provide statewide interexchange telecommunications service. The application lacked the required financial information as required by Section 364.337(3), Florida Statutes. Further, HLMC failed to furnish the required documentation of registration with the Secretary of State, Division of Corporations, to conduct business within the State of Florida as required in FORM PSC/CPS 31 (3/96), which is incorporated by reference in Rule 25-24.471(1), Florida Administrative Code. As a result, in Proposed Agency Action Order No. PSC-97-0741-POF-T1, issued June 25, 1997, the Commission denied HLMC's application as not in the public interest. The Commission further instructed all certificated interexchange carriers in the State of Florida to deny or discontinue service to HLMC, pursuant to Rule 25-24.470(3), Florida Administrative Code.

On July 21, 1997, HLMC filed a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code. Accordingly, this matter is currently set for an administrative hearing.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission staff (staff) up to and during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules of this Commission.

DOCUMENT NUMBER DATE  
08230 AUG 16  
Fpsc-RECORDS/REPORTING

ATTACHMENT 6  
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#### Discovery

a. When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

b. The hearing in this docket is set for October 22, 1997. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by October 15, 1997. All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification. The discovery requests will be numbered sequentially within a set and any subsequent discovery requests will continue the sequential numbering system. Unless subsequently modified by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 75, and requests for production of documents, including all subparts, shall be limited to 75.

W  
O c. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be processed in accordance with Rule 25-22.006(3), Florida Administrative Code.

#### Diskette Filings

See Rule 25-22.028(1), Florida Administrative Code, for the requirements of filing on diskette for certain utilities.

#### Prefiled Testimony and Exhibits

Pursuant to Rule 25-22.048, Florida Administrative Code, each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 1/2 inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification at

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the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and fifteen copies of all testimony and exhibits shall be prefiled with the Director, Division of Records and Reporting by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

#### Prehearing Statement

Pursuant to Rule 25-22.038(3), Florida Administrative Code, a prehearing statement shall be required of all parties in this docket. Staff will also file a prehearing statement. The original and fifteen copies of each prehearing statement shall be prefiled with the Director of the Division of Records and Reporting by the close of business, which is 5:00 p.m., on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

(a) the name of all known witnesses that may be called by the party, and the subject matter of their testimony;

(b) a description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;

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- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;
- (f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (g) a statement of issues that have been stipulated to by the parties;
- (h) a statement of all pending motions or other matters the party seeks action upon; and
- (i) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

Prehearing Conference

A prehearing conference will be held in this docket at the Florida Public Service Commission, 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain

facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Document Identification

To facilitate the management of documents in this docket, exhibits will be numbered at the Prehearing Conference. Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the exhibit number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL  
J. Doe Exhibit No. \_\_\_\_\_  
Cost Studies for Minutes of Use by Time of Day

Controlling Dates

The following dates have been established to govern the key activities of this case.

- |   |                    |
|---|--------------------|
| 1) Staff's direct testimony and exhibits      | August 29, 1997    |
| 2) Petitioner's direct testimony and exhibits | September 12, 1997 |
| 3) Rebuttal testimony and exhibits            | September 26, 1997 |
| 4) Prehearing Statements                      | October 3, 1997    |
| 5) Prehearing Conference                      | October 9, 1997    |
| 6) Hearing                                    | October 22, 1997   |
| 7) Briefs                                     | November 26, 1997  |

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Use of Confidential Information At Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.103, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.103(4), Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven day requirement described above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the

Commissioners, subject to execution of any appropriate protective agreement with the owner of the material. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

Post-Hearing Procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

Based upon the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.



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By ORDER of Commissioner Susan F. Clark, as Prehearing Officer,  
this 14th day of August, 1997.

  
SUSAN F. CLARK, Commissioner  
and Prehearing Officer

( S E A L )

CJP

**NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW**

6 The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility.

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A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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**25-22.048 Evidence.**

(1) Oral evidence shall be taken only on oath or affirmation.  
(2) Each party shall have the right: to present evidence relevant to the issues; to cross-examine opposing witnesses; to impeach any witness in accordance with § 90.608, F.S., regardless of which party first call that witness to testify; and to rebut the evidence presented against it.

(3) Any relevant evidence shall be admitted if it is the sort of evidence which is normally admissible in civil trials in Florida or which reasonably prudent persons are accustomed to relying upon in the conduct of their affairs. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Irrelevant and unduly repetitious evidence may be excluded.

(4)(a) Evidence may be submitted in the form of written testimony. Such testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, and a sufficient left margin to allow for binding. A presiding officer may require all parties to prefile testimony and shall provide reasonable notice to the parties of the date testimony shall be prefiled. This rule shall not limit the presentation of reports or written analyses, where reasonable.

(b) Upon providing copies of written testimony to all parties of record, a witness may enter that testimony into the record as though read, at which time the witness shall become subject to cross-examination and his or her testimony shall become subject to evidentiary rules set out in subsection (3) of this rule.

*Specific Authority 120.53 FS.  
Law Implemented 120.53 FS, 120.57(1)(b)4., 120.58(1)(b), 387.121(1)(g) FS.  
History--New 12-21-81, Formerly 25-22.48.*

FL-STAT-AN - FSA § 364.183, Access to company records

----- Excerpt from page 35316 follows -----  
West's F.S.A. § 364.183

WEST'S FLORIDA STATUTES ANNOTATED  
TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES  
CHAPTER 364. TELECOMMUNICATIONS COMPANIES  
PART I. GENERAL PROVISIONS

Current through End of 1996 2nd Reg. Sess.

364.183. Access to company records

(1) The commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the commission's jurisdiction. The commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing. The commission may require a telecommunications company to file records, reports or other data directly related to matters within the commission's jurisdiction in the form specified by the commission and may require such company to retain such information for a designated period of time. Upon request of the company or other person, any records received by the commission which are claimed by the company or other person to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) and > s. 24(a), Art. I of the State Constitution.

(2) Discovery in any docket or proceeding before the commission shall be in the manner provided for in > Rule 1.280 of the Florida Rules of Civil Procedure. Upon a showing by a company or other person and a finding by the commission that discovery will require the disclosure of proprietary confidential business information, the commission shall issue an appropriate protective order designating the manner for handling such information during the course of the proceeding and for protecting such information from disclosure outside the proceeding. Such proprietary confidential business information shall be exempt from s. 119.07(1). Any records provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the commission and the Office of the Public Counsel and any other party subject to the public records law as confidential and shall be exempt from s. 119.07(1), pending a formal ruling on such request by the commission or the return of the records to the person providing the records. Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding shall be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record shall be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this subsection.

----- Excerpt from page 35317 follows -----

(3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or

responsibilities.

(4) Any finding by the commission that a record contains proprietary confidential business information is effective for a period set by the commission not to exceed 18 months, unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. The commission shall order the return of a record containing proprietary confidential business information when such record is no longer necessary for the commission to conduct its business. At that time, the commission shall order any other person holding such record to return it to the person providing the record. Any record containing proprietary confidential business information which has not been returned at the conclusion of the period set pursuant to this subsection shall no longer be exempt from s. 119.07(1) unless the telecommunications company or affected person shows, and the commission finds, that the record continues to contain proprietary confidential business information. Upon such finding, the commission may extend the period for confidential treatment for a period not to exceed 18 months unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. During commission consideration of an extension, the record in question remains exempt from s. 119.07(1). The commission shall adopt rules to implement this subsection, which shall include notice to the telecommunications company or affected person regarding the expiration of confidential treatment.

> CR01

CREDIT(S)

1997 Electronic Update

> CR01 Laws 1992, c. 82-51, § 1, eff. March 19, 1982. Amended by Laws 1990, c. 90-244, § 23, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 18, eff. July 1, 1995; Laws 1996, c. 96-406, § 167, eff. July 3, 1996.

<<For additional credits, if any, see Historical Note field.>>  
----- Excerpt from page 35318 follows -----

#### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

1997 Electronic Update

Prior Provisions for Legislative Review of Regulatory Statutes:  
Laws 1982, c. 82-51, § 5, provided for the repeal of provisions designated as this section in Fla.St.1982, Supp. and review by the legislature pursuant to the Regulatory Sunset Act.

Section 5 of Laws 1982, c. 82-51, provides that provisions of that law amending Florida Statutes Chapter 364 are to be repealed on October 1, 1989, and to be reviewed by the legislature pursuant to § 11.61, the Regulatory Sunset Act.

Laws 1989, c. 89-163, § 8, provides:

"The exemption from > s. 119.07(1), Florida Statutes, provided in s. 364.183, Florida Statutes, shall not be subject to review pursuant to the Open Government Sunset Review Act."

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**25-22.006 Confidential Information.**

**(1) Definitions.**

(a) "Confidential Information" means material that has been determined, pursuant to this rule, to be proprietary confidential business information under Section 350.121, 364.183, 366.093, or 367.156, F.S.

(b) "Formal proceeding" means a proceeding docketed in the Commission's Division of Records and Reporting.

(c) "Inquiry" means an investigation pursuant to Section 350.121, F.S. An inquiry is set in motion by the Commission Chairman, the Executive Director, or the General Counsel to evaluate a complaint, allegation, or develop information as a basis to initiate action on or dispose of any matter within the Commission's jurisdiction.

(d) "Material" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other recorded information regardless of physical form or characteristics.

(e) "Obtaining material" means receiving material pursuant to filing or taking physical control of material by removing the original material or a copy of it from the utility's or other person's premises. Obtaining material also means the extraction of data from material for inclusion in working papers or memoranda.

**(2) Material obtained during an inquiry.**

(a) All material obtained incident to an inquiry by the Commission, its staff, or any consultant employed by the Commission is exempt from the public access requirements of Section 119.07(1), F.S., and will be accorded stringent procedural safeguards against public disclosure during the pendency of the inquiry. When the Commission or its staff is requesting information incident to an inquiry, the source shall be informed in writing that the request is made incident to an inquiry.

(b) An inquiry will terminate 40 days after the transmittal of a notice of termination by the Division of Records and Reporting. This notice will be sent to all sources from whom material was obtained during the inquiry and will include a list of all materials obtained from the source during the inquiry and any portions of staff work papers, analyses, and reports containing materials obtained from the source during the inquiry. The notice will indicate whether the Commission intends to retain, destroy, or return the materials listed. A source may, within 30 days after issuance of the notice, file with the Division of Records and Reporting a written request that the material the Commission intends to retain be classified as confidential and exempt from Section 119.07(1), F.S. Requests filed in response to the notice of termination shall meet the same criteria and be processed in the same manner as other requests for confidential classification under Subsection (4) of this rule. If no timely request for confidential classification is filed, confidentiality is waived and the material becomes subject to inspection and examination pursuant to Section 119.01(7), F.S.

**(3) Material obtained outside of an inquiry.** Material obtained by the Commission or its staff outside of an inquiry shall be subject to inspection and examination pursuant to Section 119.07(1), F.S., unless the utility or other person requests that it be classified as confidential information.

(a)1. If the utility or other person believes information requested by staff is confidential, the utility or other person may require that the staff request be in writing. Prior to the staff obtaining any material, a utility or other person may receive temporary exemption from Section 119.07(1), F.S., by filing a notice of intent to request confidential classification. The notice of intent to request confidential classification shall be filed with the Division of Records and Reporting and shall have appended thereto a copy of any written request for the material to which it relates. A copy of the notice shall be provided to the division requesting the material. To maintain continued confidential handling of the material the utility or other person must, within 21 days after the staff has obtained the material, file a request for confidential classification with the Division of Records and Reporting. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

2. In the case of material obtained by the Commission's auditors, the utility shall indicate on

the document request Form PSC/AFA 6 (2/95) whether the information is believed by the utility to be confidential. To maintain continued confidential handling of the material, the utility must, within 21 days after the audit exit conference or, if waived, the date the audit exit conference would have taken place, file a request for confidential classification with the Division of Records and Reporting. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

(b) When the material is obtained incident to a formal proceeding, the utility or other person requesting confidential classification shall also serve a copy or summary of its request on all parties of record and on Public Counsel. The summary shall describe the material in sufficient detail so as to reasonably inform the reader of the nature of the material. Any party to a formal proceeding may file an objection to the request for confidential classification within 14 days after service of the copy or summary.

(c) Requests for confidential classification, including motions for protective orders under Paragraph (6)(a), and any objections filed in response thereto shall be ruled on expeditiously by the prehearing officer assigned to the docket. The Commission panel assigned to the case will hear any motion for reconsideration filed regarding the prehearing officer's ruling. If a request is received outside a docketed proceeding, the request itself will be docketed.

(d) All material that has been classified as confidential, for which a ruling on confidentiality is pending, is subject to a notice of intent to request confidential classification, or is subject to a claim of confidentiality as provided for in Section 364.183(1), F.S., shall be exempt from Section 119.07(1), F.S., and will be accorded stringent internal procedural safeguards against public disclosure. Any staff or consultant reports or work products containing confidential information extracted from material having been classified as confidential, or which has been claimed to be confidential or for which a ruling on confidentiality is pending, shall be handled in the same manner as the material so classified. The Commission shall have discretion to retain any confidential material in its possession. Upon the consent of the Department of State, the Commission may return or, after consulting with the source, destroy any material that is no longer needed.

(4) Requests for confidential classification.

(a) A request for confidential classification of material shall be filed in writing with the Division of Records and Reporting. All such requests, including motions for protective orders based on confidentiality, shall be styled to clearly indicate on their face that confidentiality is being requested. The utility or other person shall file with the request one copy of the material for which confidential treatment is requested. On this copy, the specific information asserted to be confidential shall be highlighted. Along with the highlighted copy, the utility or other person shall file two or more edited copies as required by the type of proceeding, which will be made available for public inspection. In the edited copies, the specific information asserted to be confidential shall be blocked out by the use of an opaque marker or other masking device. The utility or other person shall identify the page and line at which the confidential material is found and shall correlate the page and line identified with the specific justification proffered in support of the classification of such material.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidential classification is requested along with a field-by-field justification for the confidential classification.

(c) In the line-by-line or field-by-field justification for confidential classification, the utility or other person must demonstrate how the information asserted to be confidential qualifies as one of the statutory examples listed in Section 364.183(3), 366.093(3), or 367.156(3), F.S. If no statutory example is applicable, then the utility or other person shall include a statement explaining how the ratepayers or the person's or utility's business operations will be harmed by disclosure.

(d) The request shall include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the utility or other person as private and has not been disclosed.

(e) The burden of proof shall be on the utility or other person to show that the material in question contains bona fide proprietary confidential business information. A request for confidential classification that fails to identify the material for which confidential classification is sought in sufficient detail to permit a reasoned analysis or which fails to provide the required justification for classification may be denied as insufficient on its face.

(f) The Division of Records and Reporting shall make available for public inspection a listing of daily filings with the Commission requesting confidentiality.

(g) The Commission shall have the discretion to modify the requirements of this subsection in order to alleviate the financial burden of entities qualifying as small businesses under Section 288.702, F.S.

(h) A utility may petition the Commission for a waiver of the justification for particular sections of certain routinized for filings. The Commission may require conditions to be met by the utility that may include, but not be limited to:

1. Filings which are routine, filed periodically, and which have been filed for a minimum of six months;

2. Information which has regularly been classified as confidential in the past; and

3. While the utility must identify material to be classified by line-by-line reference, the utility may cite to a previous order for justification.

If the waiver is approved, the Commission will issue an order referencing the appropriate previous order stating the relevant justification. No party will be denied the opportunity to object to a request for confidentiality made pursuant to this sub-paragraph.

(5) Claim of confidential treatment pursuant to Section 364.183(1), F.S.

(a) Telecommunications companies or other persons claiming confidential treatment for materials pursuant to Section 364.183(1), F.S., shall file with the Division of Records and Reporting one copy of all such materials and include a cover letter stating that confidentiality is being claimed. The telecommunications company or other person also shall file one copy of the material on which the specific information claimed as confidential shall be highlighted. Along with the highlighted copy, the telecommunications company or other person shall file two edited copies which will be made available for public inspection. In the edited copies, the specific information claimed to be confidential shall be blocked out by the use of an opaque marker or other masking device.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidentiality is claimed, along with a field-by-field justification for the confidential classification.

(c)1. The materials claimed to be confidential shall be kept confidential until returned to the provider pursuant to Paragraph (6)(d) of this rule, unless the materials will be used in a Commission proceeding or are the subject of a request pursuant to Section 119.07(1), F.S.

2. Any person may file a petition to inspect and examine any material which has been claimed confidential pursuant to Section 364.183(1), F.S. A copy of the petition must be served on the affected telecommunications company or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings.

(6) Discovery.

(a) In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure outside the proceeding.

(b) The Commission's protective orders shall exempt proprietary confidential business information from Section 119.07(1), F.S. While a request for a protective order is pending, the

information asserted to be confidential shall also be exempt from Section 119.07(1), F.S. Such exemption shall apply whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel.

(c) When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from Section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under Paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

(d) Confidential information which has not been entered into the official record of the proceeding shall be returned to the utility or person who provided the information no later than 60 days after the final order, unless the final order is appealed. If the final order is appealed, the confidential information which has not been made a part of the record shall be returned no later than 30 days after the decision on appeal.

(7)(a) Any person may file a petition to inspect and examine any material which the Commission has ruled exempt from Section 119.07(1), F.S., or which is exempted under Paragraph (3)(d) pending the Commission's ruling or as the result of the filing of a notice of intent to request confidentiality. A copy of the petition must be served on the affected utility or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings. Material obtained by the Commission in connection with an inquiry shall not be subject to requests for inspection and examination until after the inquiry is terminated.

(b) A finding of confidentiality notwithstanding, a source may consent to inspection or examination by any person. Such consent shall not constitute a waiver of confidentiality and only the person specified in the consent may inspect or examine the material. The Commission may be requested to issue a protective order to recognize the terms and conditions of the consent. All persons are urged to seek mutual agreement regarding access prior to bringing a controversy to the Commission.

(8) Use of confidential information during formal proceedings.

(a) The Commission may rely upon confidential information during a formal proceeding and such information, if otherwise admissible, will be received in evidence. In such event, reasonable precautions will be taken to segregate confidential information in the record and otherwise protect its integrity.

(b) When information subject to a claim of confidentiality pursuant to Section 364.183(1) or a request is admitted into the evidentiary record of a hearing, if such information is not otherwise subject to a request for confidentiality filed with the Commission, the parties to the case and the Commission shall treat the information as confidential pending a ruling on the confidentiality of the information. To maintain continued confidentiality, the party to whom the information belongs shall file a request for confidential classification within 21 days of the conclusion of the hearing.

(c) When information subject to a claim of confidentiality pursuant to Section 364.183(1) or a request is contained in a party's brief or other post hearing filing filed with the Commission, the party filing such information shall notify the owner of the information at least three working days prior to the date that the filing will be made. To maintain continued confidential treatment, the party to whom the information belongs shall file, on the same date the brief or other post-hearing filing is filed, either a notice of intent to request confidentiality pursuant to Paragraph (b) of this subsection, a request for confidential treatment, or a statement that the information is already subject to a request for confidentiality that has been filed with the Commission and the date that the request was filed.

(9) Duration of Confidential Classification.

(a) Orders of the Commission granting confidential classification shall limit the duration of



such classification to a period not exceeding 18 months. The Commission may approve a longer period if it finds, for good cause, that such longer period is necessary to protect the ratepayers or the business operations of the utility or affected person.

(b) When confidential information is no longer needed for the Commission to conduct its business, the Commission shall order all persons holding such information to return it to the utility or person providing the information.

(c) Confidential information not returned at the conclusion of the period established under Paragraph (a) of this subsection, shall no longer be exempt from Section 119.07(1), F.S., unless the utility or affected person shows, and the Commission finds, that the information continues to be confidential. Upon such finding, the duration of confidential classification may be extended for a period of up to 18 months, or for a longer period if the Commission finds, for good cause, that such longer period is necessary to protect the business operations of the utility or affected person. While the Commission is considering an extension under this paragraph, the information in question shall remain exempt from Section 119.07(1), F.S.

(10) Judicial Review. When the Commission denies a request for confidential classification, the material will be kept confidential until the time for filing an appeal has expired. The utility or other person may request continued confidential treatment until judicial review is complete. The request shall be in writing and filed with the Division of Records and Reporting. The material will thereafter receive confidential treatment through completion of judicial review.

*Specific Authority 350.127 FS*

*Law Implemented 350.121, 364.183, 366.093, 367.156 FS*

*History--New 7-1-85, Formerly 25-22.06, Amended 4-26-90, 4-21-96*

**25-24.485 Tariffs.**

All tariffs must be filed with the Commission, using the following guidelines, before becoming effective.

(1) General.

(a) Each company shall maintain on file with the Commission tariffs which set forth all of the rates and charges for customer services, the different services available to subscribers and the conditions and circumstances under which service will be furnished. Interexchange carriers are authorized to provide services to other certificated telephone companies by individually negotiated contract rates in addition to filing and providing those services to end users pursuant to tariffs. When an interexchange carrier chooses to utilize such individually negotiated contract rates for services to other certificated telephone companies, and in any other instances in which the Commission has authorized contract rates for specific offerings, the conditions under which such contracts may be offered shall be clearly stated in the company's tariff but the contracts themselves need not be part of the tariff. The contracts must, however, be available for Commission review. The tariff shall not include charges for customer premises equipment.

(b) Each Company shall provide support to accompany any proposed changes as outlined in subsection (4).

(c) The tariff will be Florida-specific and all rates, charges, and service descriptions shall be for intrastate usage, unless interstate rates are necessary to compute the intrastate portion of a customer's monthly bill; then, the interstate rates, charges, and service descriptions shall also be quoted in the tariff to the extent necessary to compute the intrastate portion of a customer's bill.

(d) The tariff must be clearly expressed in simple words, sentences and paragraphs. It must avoid unnecessarily long, complicated or obscure phrases or acronyms so that the customer will understand that for which he is contracting.

(e) The tariff shall be written in a manner such that service will be provided on a non-discriminatory basis. No public statement of service quality, rates, or service offerings or billings should be misleading or differ from those stated in the tariff.

(f) A printed notice shall be kept posted by each company in a public and conspicuous place in each office where application for service may be made stating that its tariff and standard contract and agreement forms are on file at that office and are open to examination by any person. The Company will also make available a list of the exchanges it serves.

(g) All proposed changes to the existing tariff shall be directed to the Director of the Division of Communications, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0866. A filing must be received by the Division of Communications before 5:00 p.m. of a normal Commission workday in order for it to be "filed" on that day.

(h) All tariff changes shall be submitted to the Commission in quadruplicate in the form prescribed herein. After the effective date, one copy stamped "received" will be returned to the company, which shall be the notice to the company that the filing has been received and is on file. If acknowledgement of the filing at the time of receipt is desired, the letter of transmittal shall be sent in duplicate with a request that the duplicate be returned.

(i) Companies shall charge only the rates contained in their tariff. If a company desires to charge rates or charges at a lower level than is contained in an existing tariff and wishes to charge those lower rates only temporarily and afterwards return to the existing tariff level, it may, instead of filing two tariff revisions to decrease and then later increase the rate, file a single tariff change reflecting the conditions of the temporary tariff change. Such tariff provision shall include the heading "Promotion," and shall state the specific tariff charges to be reduced, the temporary level of charges, a description of the customers who would be eligible for the decrease, the conditions under which customers would receive a decrease, and the beginning and ending dates of the reduction. The tariff page(s) describing the terms and rates of the temporary reduction shall immediately precede the permanent tariff pages for the service in the same section of the tariff.

(j) The requirements of the following subsections shall apply on a prospective basis from the effective date of this rule. Existing tariffs on the effective date of this rule need not be amended

to comply with the following except upon Commission staff request.

(2) Effective Date.

(a) The initial tariff will become effective on the effective date of the required Certificate of Public Convenience and Necessity, unless the company requests a later effective date.

(b) For all companies, changes to an existing tariff will become effective on the day following the day it is filed with the Division of Communications unless the company requests a later effective date, or the Commission suspends or denies the filing prior to the effective date.

(3) Format.

(a) All tariffs filed shall be submitted in loose leaf form on 8 1/2" x 11" sheets, typewritten on a good grade of white three hole paper of durable quality, using one side of the paper only. All copies must be clear and legible. Sufficient margin shall be allowed on each sheet for a left-hand binding edge so that when the tariff book is open all printed matter will be in view.

(b) Every sheet in the tariff shall be numbered.

(c) Each sheet shall bear the name of the Company in the upper left-hand corner of the sheet.

(d) Each initially approved sheet in the tariff shall be marked "Original Sheet" in the upper right-hand corner of the sheet. As an example: Original Sheet No. 1, or Original Sheet No. 5.2.

(e) Revised sheets in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the sheet(s) it replaces. As an example:

First Revised Sheet No. 1  
Cancels Original Sheet No. 1

or

Fourth Revised Sheet No. 5.2,  
Cancels Third Revised Sheet Nos. 5.2, 5.3 and Second Revised Sheet 5.4

(f) On the bottom of each sheet shall appear the name and title of the issuing officer of the Company. To the right of the issuing officer's name there shall appear "Effective: \_\_\_\_\_".

(g) In general, the filed tariffs of the companies shall contain the following in the order listed:

1. Title Page. The title page shall adequately identify the volume as the tariff, filed by the particular company with the Florida Public Service Commission, governing the sale of the specific company service provided, and shall be sheet number 1.

2. Table of Contents and Index. All tariffs shall have a Table of Contents identifying the page location of each section in the tariff. In tariffs of less than 30 sheets, the table of contents may serve as subject index for the entire volume. In tariffs of 30 sheets or more, each section will also be individually indexed by subject.

3. Symbols Used in Tariff Filings. The following symbols will be used in any proposed change to the existing tariff in the manner described herein. The symbols will appear in the right hand margin of each sheet on the same line(s) to which any change has been made. If three or more consecutive lines are affected, it shall be sufficient to place one symbol on the first and last lines of the group affected and a vertical line drawn connecting the two symbols. In all such cases the pair of symbols will be the same. In the event more than one type of change occurs on the same line, two or more types of symbols denoting the changes shall be placed next to each other on the affected line. The following are the only letters allowed to denote the following types of change:

D -- Delete or Discontinue

I -- Change Resulting In An Increase to A Customer's Bill

M -- Moved from Another Tariff Location

N -- New

R -- Change Resulting In A Reduction To A Customer Bill

T -- Change in Text or Regulation but No Change to Rate or Charge

4. Technical Terms and Abbreviations. This section shall contain full and concise information as to the meaning of all technical and special terms and abbreviations used in the tariff.

5. Rules and Regulations. This section shall include all rules, regulations, practices.

exceptions and conditions made or observed relative to the Company service furnished, which are general and apply to all or many of the services offered. It shall contain the Company's credit rating requirements and its deposit requirements. If a general regulation does not apply to a particular service, that fact should be clearly stated.

6. Description of Service Offered.

a. This section shall contain a description of how a billable call is timed, when timing begins and ends, and the method used to make this determination.

b. This section shall also contain a description of how distance is measured for toll rating purposes and the formula used to compute it, as well as what points are used for origination and termination with respect to calculation of the distance between them.

c. This section shall contain a statement of the minimum call completion rate a subscriber can expect to encounter during the IXC's busy hour, expressed as a percentage, computed by dividing the number of calls completed by the number of calls attempted. The stated call completion rate for end-to-end Feature Group C & D service shall not be less than 90 percent.

d. This section shall detail all relevant information which pertains to a particular type of service, and will be subdivided into subsections for each type of service offered.

7. Rates. All standard rate schedules, rates and charges for all services, and other data necessary to compute the customers' monthly bills for intrastate service shall be placed in this section. If more than one type of service is offered, all information pertaining to an individual service shall be grouped together or clearly cross-referenced.

(4) Information to Accompany Tariff Filings.

(a) A letter of transmittal shall accompany each filing, which lists the sheets (by sheet number and revision level) being transmitted and gives a brief description of all changes included therein and the reasons for the changes.

(b) Along with each tariff filing the Company shall include four (4) copies of the tariff pages which contain proposed changes as they will appear in the approved tariff.

*Specific Authority 350.127(2) FS.*

*Law Implemented 364.03, 364.035, 364.04, 364.05, 364.057, 364.08, 364.09, 364.10, 364.14, 364.337 FS.*

*History--New 2-23-87, Amended 11-19-89, 11-21-95, 3-13-96*

# FLORIDA PUBLIC SERVICE COMMISSION

Division of Communications  
Bureau of Service Evaluation

## EXAMPLE TARIFF

### INTEREXCHANGE TELECOMMUNICATIONS SERVICE

Florida Public Service Commission  
Division of Communications  
Bureau of Service Evaluation  
2540 Shumard Oak Blvd.  
Gunter Building  
Tallahassee, Florida 32399-0850

THE ATTACHED ROGUS TARIFF IS INTENDED AS A GUIDE TO HELP NON-AOS IXC COMPANIES FILE THEIR INITIAL TARIFFS WITH THE FLORIDA PUBLIC SERVICE COMMISSION. WHILE INTENDED TO BE A USEFUL TOOL, NON-AOS IXC COMPANIES MAY BE REQUIRED BY THE COMMISSION TO INCLUDE SUBJECT MATTER NOT MENTIONED WITHIN THE ROGUS TARIFF.

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 2

CHECK SHEET

The sheets listed below, which are inclusive of this tariff, are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date of the bottom of this page.

SHEET	REVISION	SHEET	REVISION
		26	Original
1	Original	27	Original
2	Original	28	Original
3	Original	29	Original
4	Original	30	Original
5	Original	31	Original
6	Original	32	Original
7	Original	33	Original
8	Original	34	Original
9	Original		
10	Original		
11	Original		
12	Original		
13	Original		
14	Original		
15	Original		
16	Original		
17	Original		
18	Original		
19	Original		
20	Original		
21	Original		
22	Original		
23	Original		
24	Original		
25	Original		

ISSUED: March 21, 1997

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

EFFECTIVE: \_\_\_\_\_

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 1

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TITLE SHEET

FLORIDA TELECOMMUNICATIONS TARIFF

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services provided by Bogus LD, Inc., with principal offices at 101 East Monet Street, Tallahassee, FL 32301. This tariff applies for services furnished within the state of Florida. This tariff is on file with the Florida Public Service Commission, and copies may be inspected, during normal business hours, at the Company's principal place of business.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301



BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 3

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 4

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 5

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SYMBOLS SHEET

PLEASE INCLUDE THE FOLLOWING LIST OF SYMBOLS VERBATIM

The following are the only symbols used for the purposes indicated below:

- D - Delete Or Discontinue
- I - Change Resulting In An Increase To A Customer's Bill
- M - Moved From Another Tariff Location
- N - New
- R - Change Resulting In A Reduction To A Customer's Bill
- T - Change in Text Or Regulation But No Change In Rate Or Charge

---

ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 6

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TARIFF FORMAT SHEETS

A. Sheet Numbering - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.

B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the FPSC. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc, the FPSC follows in their tariff approval process, the most current sheet number on file with the Commission is not always the tariff page in effect. Consult the Check Sheet for the sheet currently in effect.

C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

- 2.
- 2.1.
- 2.1.1.
- 2.1.1.A.
- 2.1.1.A.1.
- 2.1.1.A.1.(a).
- 2.1.1.A.1.(a).I.
- 2.1.1.A.1.(a).I.(1).
- 2.1.1.A.1.(a).I.(1).(1).

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ISSUED: March 21, 1997

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

EFFECTIVE: \_\_\_\_\_

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 7

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**TARIFF FORMAT SHEETS**

**PLEASE INCLUDE A COPY OF THIS PAGE AS IT WILL HELP THE READER TO UNDERSTAND THE TARIFF FORMAT.**

D. Check Sheets - When a tariff filing is made with the FPSC, an updated check sheet accompanies the tariff filing. The check sheet lists the sheets contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the FPSC.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 8

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**SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS**

**YOU CAN USE THESE AND/OR ANY OTHER DEFINITIONS YOU WISH: JUST REMEMBER TO DEFINE HERE ANY UNUSUAL OR UNIQUE TERMINOLOGY USED IN THE BODY OF YOUR TARIFF.**

**Access Line** - An arrangement which connects the customer's location to the Company's network switching center.

**Authorization Code** - A numerical code, one or more of which are available to a customer to enable him/her to access the carrier, and which are used by the carrier both to prevent unauthorized access to its facilities and to identify the customer for billing purposes.

**Company or Carrier** - Bogus LD, Inc. d/b/a I. M. Bogus

**Customer** - the person, firm, corporation or other entity which orders service and is responsible for payment of charges due and compliance with the Company's tariff regulations.

**Day Rate Period** - From 8:00 AM up to but not including 5:00 PM local time Monday through Friday.

**Evening Rate Period** - From 5:00 PM up to but not including 11:00 PM local time Sunday through Friday.

**Holidays** - The Company's recognized holidays are New Year's Day, Martin Luther King, Jr. Day, Presidents Day, Ground Hog Day, St. Patrick's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.

**Night/Weekend Rate Period** - From 11:00 PM up to but not including 8:00 AM Sunday through Friday, and 8:00 AM Saturday up to but not including 5:00 PM Sunday.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 9

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**SECTION 2 - RULES AND REGULATIONS**

**INCLUDE IN THIS SECTION ALL OF THE RULES AND REGULATIONS YOU WANT TO INCLUDE - LIMITATIONS, LIABILITIES, RESTORATION OF SERVICE, INTERRUPTION OF SERVICE, MAINTENANCE, BILLING PERIODS, REFUNDS/CREDITS, RESPONSIBILITIES OF THE CUSTOMER, FREQUENCY RESTRICTIONS, CANCELLATIONS, CPE, NON PAYMENT, ETC. THE FOLLOWING SUBSECTIONS DEALING WITH DEPOSITS AND ADVANCE PAYMENTS WILL BE IN THIS SECTION. RULE 25-24.490(3) FORBIDS COLLECTION OF ANY DEPOSITS, AND ANY ADVANCE PAYMENTS IN EXCESS OF ONE MONTH'S ESTIMATED CHARGES WITHOUT POSTING AN APPROPRIATE BOND OR OBTAINING A WAIVER OF THIS RULE. IF YOU DO NOT HAVE A BOND OR WAIVER YOU MUST STATE IN THIS SECTION SOMETHING TO THE EFFECT OF THE FOLLOWING:**

**2.1 Undertaking of Bogus LD, Inc.**

The Company's services and facilities are furnished for communications originating at specified points within the state of Florida under terms of this tariff.

The Company installs, operates, and maintains the communications services provided herein in accordance with the terms and conditions set forth under this tariff. It may act as the customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the customer, to allow connection of a customer's location to the Company's network. The customer shall be responsible for all charges due for such service arrangement.

The Company's services and facilities are provided on a monthly basis unless ordered on a longer term basis, and are available twenty-four hours per day, seven days per week.

**2.2 Limitations**

- 2.2.1 Service is offered subject to the availability of facilities and provisions of this tariff.
- 2.2.2 The Company reserves the right to discontinue furnishing service, or limit the use of service necessitated by conditions beyond its control, or when the customer is using service in violation of the law or the provisions of this tariff.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 10

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**SECTION 2 - RULES AND REGULATIONS**

- 2.2.3 All facilities provided under this tariff are directly controlled by the Company and the customer may not transfer or assign the use of service or facilities, except with the express written consent of the Company. Such transfer or assignment shall only apply where there is no interruption of the use or location of the service or facilities.
- 2.2.4 Refusal or Discontinuance of Service by Company
- As applicable, the company may refuse or discontinue telephone service under the following conditions provided that, unless otherwise stated, the customer shall be given notice and allowed a reasonable time to comply with any rule or remedy and deficiency:
- 2.2.4.A For noncompliance with or violation of any state or municipal law, ordinance, or regulation pertaining to telephone service.
- 2.2.4.B For the use of telephone service for any other property or purpose than that described in the application.
- 2.2.4.C For failure or refusal to provide the company with a deposit to insure payment of bills in accordance with the company's regulations.
- 2.2.4.D For neglect or refusal to provide reasonable access to the company for the purpose of inspection and maintenance of equipment owned by the Company.
- 2.2.4.E For noncompliance with or violation of the Commission's regulations or the Company's rules and regulations on file with the Commission, provided 5 working days' written notice is given before termination.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301



BOGUS LD. INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 11

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**SECTION 2 - RULES AND REGULATIONS**

**2.2 Limitations (Cont.)**

- 2.2.4.F For nonpayment of bills for telephone service, including the telecommunications access system surcharge provided that suspension or termination of service shall not be made without 5 working days written notice to the customer, except in extreme cases. The written notice shall be separate and apart from the regular monthly bill for service. The Company shall not, however, refuse or discontinue service for nonpayment of a dishonored check service imposed by the Company. The Company shall not discontinue service to any customer for the initial nonpayment of the current bill on a day the company's business office is closed or on a day preceding a day the business office is closed.
- 2.2.4.G Without notice in the event of customer use of equipment in such manner as to adversely affect the Company's equipment or the Company's service to others.
- 2.2.4.H Without notice in the event of hazardous conditions or tampering with the equipment furnished and owned by the Company.
- 2.2.4.I Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of service, the Company may, before restoring service, require the customer to make, at his own expense, all changes in facilities or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the loss in revenues resulting from such fraudulent use.
- 2.2.4.J In case of refusal to establish service, or whenever service is discontinued, the Company shall notify the applicant or customer in writing of the reason for such refusal or discontinuance.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 12

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SECTION 2 - RULES AND REGULATIONS

2.2 Limitations (Cont.)

2.2.4.K Service shall be initiated or restored when the cause for refusal or discontinuance has been satisfactorily adjusted.

2.2.5 Initiation and Continuance of Service

The following shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer:

2.2.5.A Delinquency in payment for service by a previous occupant of the premises, unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer shall benefit from such new service.

2.2.5.B Delinquency in payment for separate telephone service for another customer in the same residence.

2.2.5.C Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residence service or vice versa.

2.2.5.D Failure to pay for service rendered by the Company which is not regulated by the Commission.

2.2.5.E Failure to pay the bill of another customer as guarantor thereof.

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ISSUED: March 21, 1997

by:

I. M. Bogus, President  
101 East Monst Street  
Tallahassee, FL 32301

EFFECTIVE: \_\_\_\_\_

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 13

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SECTION 2 - RULES AND REGULATIONS

2.2 Limitations (Cont.)

- 2.2.5.F Failure to pay a dishonored check service charge imposed by the Company.
- 2.2.6 When a service has been discontinued for proper cause, the Company may charge a reasonable fee to defray the cost of restoring service, provided such charge is set out in its approved tariff on file with the Commission. See Section 3.4 for rate related information.
- 2.2.7 Prior written permission from the Company is required before any assignment or transfer. All regulations and conditions contained in this tariff shall apply to all such permitted assignees or transferees, as well as all conditions for service.

2.3 Liabilities of the Company

- 2.3.1 The Company's liability for damages arising out of mistakes, interruptions, omissions, delays, errors, or defects in the transmission occurring in the course of furnishing service or facilities, and not caused by the negligence of its employees or its agents, in no event shall exceed an amount equivalent to the proportionate charge to the customer for the period during which the aforementioned faults in transmission occur.
- 2.3.2 The Company shall be indemnified and held harmless by the customer against:
- (A) Claims for libel, slander, or infringement of copyright arising out of the material, data, information, or other content transmitted over the Company's facilities.
- (B) All other claims arising out of any act or omission of the customer in connection with any service or facility provided by the Company.

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 14

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SECTION 2 - RULES AND REGULATIONS

2.4 Interruption of Service

- 2.4.1 Credit allowance for the interruption of service which is not due to the Company's testing, adjusting, negligence of the customer, or to the failure of equipment provided by the customer, are subject to the general liability provisions set forth in 2.3.1 herein. It shall be the obligation of the customer to notify the Company immediately of any interruption in service for which a credit allowance is desired. Before giving such notice, the customer shall ascertain that the trouble is not being caused by any equipment furnished by the customer and connected to the Company's facilities. No refund or credit will be made for the time that the Company stands ready to repair the service and the the subscriber does not provide access to the Company for such restoration work.
- 2.4.2 No credit shall be allowed for an interruption of a continuous duration of less than twenty-four hours after the subscriber notifies the Company.
- 2.4.3 The customer shall be credited for an interruption of more than twenty-four hours as follows:
- Credit Formula:
- Credit = A/B x C
- "A" - outage time in hours  
"B" - 720 hours  
"C" - total monthly charge for affected facility

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

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**SECTION 2 - RULES AND REGULATIONS**

**2.5 Deposits**

The Company does not require a deposit from the customer.

**2.6 Advance Payments**

For customers whom the Company feels an advance payment is necessary, the Company reserves the right to collect an amount not to exceed one (1) month's estimated charges as an advance payment for service. This will be applied against the next month's charges and if necessary a new advance payment will be collected for the next month.

**2.7 Taxes**

All state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates.

**IF YOU CHARGE OTHER THAN THE TARIFFED RATE FOR ANY OF YOUR SERVICES TO EMPLOYEES AS A BENEFIT, YOU MUST STATE THE COMPLETE DETAILS IN THIS SECTION.**

**2.8 Employee Concessions**

Any employee of the Company in good standing for three months or longer may receive any of the Company's services 20% below the tariffed rate.

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by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

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**SECTION 2 - RULES AND REGULATIONS**

**Sections 2.9 and 2.10 shown immediately below applies only to OSP companies provided to call aggregator locations (Hotels and Motels).**

**2.9 Conditions Governing Operator Service**

The Company shall identify itself as "I. M. Bogus", audibly and distinctly, to the end user at the beginning of each telephone call and again before the billed party incurs any charge for the call.

**2.10 Special Conditions Governing Operator Services**

- 1) Billing increment cannot exceed 1 minute.
- 2) Surcharge charged by the hotel must be collected at the time of check out.
- 3) Intra and InterLATA Intrastate Rates for Operator Services are Capped at the time of day AT&T rate. IntraLATA Intrastate rates are capped at applicable LEC rate.
- 4) All 0- intraLATA calls are routed to the local telecommunications provider.

Each customer subscribing to the Company's operator services must disclose the following information for both intra and interLATA intrastate services to transient end users by displaying the following information requirements on stickers or tent cards provided by the Company.

- 1) Company name - I. M. Bogus
- 2) All OSP Operator Service Rates
- 3) IntraLATA and InterLATA Service Rates - dial 1-800-XXX-XXXX or any operator at 9+0 for long distance rates.
- 4) Billing Procedures - all operator services and long distance rates will be billed to the end user through your local telephone company or to your credit card.

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2.10 Special Conditions Governing Operator Services (Continued)

- 5) IntraLATA and interLATA dialing instructions.
- 6) Instructions on how to reach emergency services.
- 7) Toll free number for customer service.
- 8) Instructions for how to access other OSPs.
- 9) Amount of any surcharge for local and long distance calls billed and collected by the call aggregator.

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**SECTION 2 - RULES AND REGULATIONS**

The Company provides a tent card for OSP calls.

An example of the Company's tent card is provided below:

.....  
Bogus Motel  
101 Bogus Boulevard  
Tallahassee, Florida 32312  
(850) 531-0097

**TELEPHONE DIALING INSTRUCTIONS**

Front Desk.....Dial 0  
Room to Room.....Dial Room Number Desired  
Local Calls.....9 + Number (\$.50 Surcharge)  
Local Exchange Company Operator..9 + 0  
  
Long Distance Calls.....8 + 1 + Area Code + Number (\$.50 Surcharge)  
Toll-Free Calls.....9 + 1 + 800 + Number  
Long Distance Calling Cards .....8 + 0 + Area Code + Number  
Operator Assisted.....After the tone, enter your  
calling card number or stay  
on the line for operator  
assistance.  
  
International Calls.....8 + 011 + Country Code  
+ City Code + Number  
  
Emergency calls.....9 + 911

Operator services provided by I.M. Bogus. All 0 - intraLATA calls are routed to the local telecommunications provider. To access the long distance carrier of your choice, dial the access code provided by that carrier or contact the carrier for more information. If you desire your call to be made by a carrier other than I.M. Bogus, you may do so by dialing 9 + 10XXX. For specific rates please turn card over.  
.....

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**SECTION 2 - RULES AND REGULATIONS**

**BACK SIDE OF TENT CARD**

.....  
**Rate Information**

To access the long distance carrier of your choice, dial the access code provided by that carrier or contact the carrier for more information. For specific intraLATA, interLATA, or interstate rates, dial an I. M. Bogus operator, or customer service at 1-800-IMB-OGUS.

**Billing Procedure**

Operator Service Calls will be billed through the Local Telephone Company or Credit Card Company designated by the caller. Bogus LD, Inc.'s calls will be identified by name.

I.M. Bogus  
101 East Monet Street  
Tallahassee, FL 32301

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101 East Monet Street  
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BOGUS LD, INC.  
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**SECTION 3 - DESCRIPTION OF SERVICE**

**THE FOLLOWING MUST BE INCLUDED IN THIS SECTION: HOW CALLS ARE TIMED, CALCULATION OF DISTANCE (INCLUDING FORMULA), MINIMUM CALL COMPLETION RATE, AND DESCRIPTIONS OF EACH SERVICE YOU ARE OFFERING. PLEASE REFER TO SECTION 25-24.485 (3) (a)(6) OF THE FPSC RULES GOVERNING INTEREXCHANGE CARRIERS FOR SPECIFIC REQUIREMENTS AND USE THE FOLLOWING FOR FORMAT REFERENCE.**

**3.1 Timing of Calls**

**3.1.1 When Billing Charges Begin and End For Phone Calls**

The customer's long distance usage charge is based on the actual usage of the Company's network. Usage begins when the called party picks up the receiver, (i.e. When 2 way communication, often referred to as "conversation time" is possible.). When the called party picks up is determined by hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. When software answer supervision is employed, up to 60 seconds of ringing is allowed before it is billed as usage of the network. A call is terminated when the calling or called party hangs up.

**3.1.2 Billing Increments**

Unless otherwise specified in this tariff, the minimum call duration for billing purposes is 1 minute for a connected call and calls beyond 1 minute are billed in 1 minute increments.

**3.1.3 Per Call Billing Charges**

Billing will be rounded up to the nearest penny for each call. In no instance shall the rounded rates exceed the OSP rate cap.

**3.1.4 Uncompleted Calls**

There shall be no charges for uncompleted calls.

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**SECTION 3 - DESCRIPTION OF SERVICE**

**3.2 Billing of Calls**

**3.2.1 Billing Payments and Adjustments**

All charges due by the subscriber are payable at any agency duly authorized to receive such payments. Any objection to billed charges should be promptly reported to the Company. Adjustments to customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate.

**3.2.2 Sale of Telecommunications Services to Uncertificated IXCs Prohibited**

Customers reselling or rebilling telecommunications services must have a Certificate of Public Convenience and Necessity as an interexchange carrier from the Florida Public Service Commission.

**3.3 Payment of Calls**

**3.3.1 Late Payment Charges**

Interest charges of 1 1/2% per month will be assessed on all past due balances.

**3.3.2 Return Check Charges**

A return check charge of \$25.00, if the face value of the check does not exceed \$50.00; \$30.00, if the face value is more than \$50.00 but does not exceed \$300.00; \$40.00, if the face value is more than \$300.00.; or 5 percent, whichever is greater, will be assessed for checks returned for insufficient funds.

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SECTION 3 - DESCRIPTION OF SERVICE

3.4 Restoration of Service

A reconnection fee of \$25.00 per occurrence is charged when service is re-established for customers who have been disconnected for non-payment.

THIS WILL SATISFY THE RULE REQUIRING THIS SECTION. HOWEVER, IF YOU WISH TO PROVIDE AN EXAMPLE OF THIS CALCULATION, FEEL FREE TO DO SO.

3.5 Calculation of Distance

Usage charges for all mileage sensitive products are based on the airline distance between rate centers associated with the originating and terminating points of the call.

The airline mileage between rate centers is determined by applying the formula below to the vertical and horizontal coordinates associated with the rate centers involved. The Company uses the rate centers that are produced by Bell Communications Research in the NPA-NXX V & H Coordinates Tape and Bell's NECA Tariff No. 4.

FORMULA:

The square  
root of: 
$$\frac{(V1 - V2)^2 + (H1 - H2)^2}{10}$$

3.6 Minimum Call Completion Rate

A customer can expect a call completion rate [EXPRESSED AS A PERCENTAGE] (number of calls completed / number of calls attempted) of not less than 90% during peak use periods for all FG D services ("1+" dialing).

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**SECTION 3 - DESCRIPTION OF SERVICE**

Sections 3.7.1 and 3.7.2 shown immediately below applies only to OSP companies provided to call aggregator locations (Hotels and Motels).

**3.7 Service Offerings**

**3.7.1 Bogus InterLATA Operator Services**

Bogus InterLATA operator service rates are for InterLATA operator services offered by the Company. These rates include time and distance sensitive rates as well as surcharges.

**3.7.2 Bogus IntraLATA Operator Services**

Bogus IntraLATA operator service rates are for IntraLATA operator services offered by the Company. These rates include time and distance sensitive rates as well as surcharges.

**3.7.3 Bogus 1+ Dialing**

The customer utilizes "1+" dialing, or "10XXX" dialing followed by "1+10 digits" for interLATA toll calls, or dials "10XXX" followed by "1 + 7 digits" or "1 + 10 digits" for intraLATA toll calls.

**3.7.4 Bogus Travel Cards**

The Customer utilizes an 11 digit "800" access number established by the Company to access a terminal. Upon receiving a voice prompt, the Customer uses push button dialing to enter an identification code assigned by the Company, followed by the ten digit number of the called party.

**3.7.5 Bogus 800 Service (Toll-Free)**

This service is a direct access, incoming only, usage sensitive WATS offering. This is a service whereby a Customer can be billed at reduced rates for calls to his premises.

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SECTION 3 - DESCRIPTION OF SERVICE

3.7.6 Bogus Prepaid Telephone Calling Cards

This service permits use of Bogus Prepaid Telephone Calling Cards for placing long distance calls. Customers may purchase Bogus Prepaid Telephone Calling Cards at a variety of retail outlets or through other distribution channels. Bogus Prepaid Telephone Calling Cards are available in face values of five, ten, twenty-five and fifty dollars. The Bogus Prepaid Telephone Calling Card Service is accessed using the Company's toll-free number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code, and then to enter the terminating telephone number. The Company's processor tracks the call duration on a real time basis to determine the number of Telecom Units consumed, the total consumed Telecom Units for each call, which includes applicable taxes, is deducted from the remaining Telecom Unit balance on the Customer's Bogus Prepaid Telephone Calling Card.

All calls must be charged against a Bogus Prepaid Telephone Calling Card that has a sufficient Telecom Unit balance. A Customer's call will be interrupted with an announcement when the balance is about to be depleted. Such announcement will occur when five minutes and when two minutes remain before the balance will be depleted, based upon the terminating location of the call.

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**SECTION 3 - DESCRIPTION OF SERVICE**

A card will expire 12 months from the date of purchase, or the date of the last recharge, whichever is later.

A credit allowance for the Bogus Prepaid Telephone Calling Card Service is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. A Customer may be granted credit for reaching a wrong number. To receive proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the Bogus Prepaid Telephone Calling Card and furnish the called number, the trouble experienced (e.g. cut-off, noisy circuit, reached wrong number, etc.), and the approximate time that the call was placed.

When a call charged to a card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one Telecom Unit.

Credit allowances for calls pursuant to the Bogus Prepaid Card Service do not apply for interruptions that are due to the failure of power, equipment or systems not provided by the Company.

Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company.

The Company will block all calls beginning with the NPA "900" calls, NXX "976" calls, therefore such calls can not be completed.

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SECTION 4 - RATES

REMEMBER TO INCLUDE INTRASTATE RATES ONLY - DO NOT INCLUDE INTERSTATE RATES UNLESS THE CUSTOMER NEEDS THEM TO CALCULATE THE INTRASTATE PORTION OF HIS/HER BILL.

THE RATES IMMEDIATELY BELOW REFLECT THE CURRENT OSP RATE CAP FOR OPERATOR SERVICES. OSP COMPANIES PURSUANT TO COMMISSION ORDER NO. 22243 CANNOT CHARGE MORE THAN AT&T RATES FOR OPERATOR SERVICES. IF YOU ARE UNABLE TO BILL TO THE NEAREST ONE-HUNDRED OF A CENT PER MINUTE, YOU SHOULD BILL YOUR RATES SO THAT IN NO INSTANCE WHERE THE RATES HAVE BEEN ROUNDED ARE THERE RATES ABOVE THE OSP RATE CAP.

4.1 Bogus Maximum OSP Rate Cap For InterLATA Operator Dialing, Person-To-Person, or Real Time Rated for Operator Station/Person-To-Person Billed to a Credit/Charge Card

Miles	Day		Eve.		Night/Weekend	
	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD' MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE
0-10	\$ .2000	\$ .2000	\$ .1500	\$ .1500	\$ .1200	\$ .1200
11-22	.2200	.2200	.1700	.1700	.1300	.1300
23-55	.2500	.2500	.1900	.1900	.1400	.1400
56-124	.2700	.2700	.1900	.1900	.1500	.1500
125-292	.2800	.2800	.1900	.1900	.1600	.1600
293-430	.2800	.2800	.2000	.2000	.1600	.1600
431-624	.2800	.2800	.2100	.2100	.1600	.1600

\* See Section 4.4 For Additional InterLATA Surcharges

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Tallahassee, FL 32301



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**SECTION 4 - RATES**

4.2 Bogus Maximum OSP Rate Cap For Customer or Operator Dialed InterLATA Operator Service Calls Billed to the Operator Service Provider or Local Exchange Company's Calling Card

Miles	Day		Eve.		Night/Weekend	
	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE
0-10	\$.2500	\$.2500	\$.2500	\$.2500	\$.2500	\$.2500
11-22	.2500	.2500	.2500	.2500	.2500	.2500
23-55	.2500	.2500	.2500	.2500	.2500	.2500
56-124	.2500	.2500	.2500	.2500	.2500	.2500
125-292	.2500	.2500	.2500	.2500	.2500	.2500
293-430	.2500	.2500	.2500	.2500	.2500	.2500
431-624	.2500	.2500	.2500	.2500	.2500	.2500

\* See Section 4.4 For Additional InterLATA Surcharges

4.3 Bogus Maximum OSP Rate Cap For InterLATA Operator Station and Person-To-Person Sent Paid Coin Calls

Miles	Day		Evening		Night/Weekend	
	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE
0-10	\$.6000	\$.2000	\$.4500	\$.1500	\$.3600	\$.1200
11-22	.6600	.2200	.5100	.1700	.3900	.1300
23-55	.7500	.2500	.5700	.1900	.4200	.1400
56-124	.8100	.2700	.5700	.1900	.4500	.1500
125-292	.8400	.2800	.5700	.1900	.4800	.1600
293-430	.8400	.2800	.6000	.2000	.4800	.1600
431-624	.8400	.2800	.6300	.2100	.4800	.1600

\* See Section 4.4 For Additional InterLATA Surcharges

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SECTION 4 - RATES

4.4 OSP InterLATA Rate Cap Surcharges

	Billed To The Operator Service Provider	Billed To Local Exchange Co. Calling Card	Commercial Credit/Charge Charge Card
Customer Dialed Calling Card Station			
Customer Dialed/Automated Customer Dialed and Operator Assisted	\$0.60	\$0.95	\$1.50
Customer Dialed-Operator Must Assist	\$2.25	\$2.25	\$2.25
Operator Dialed Calling Card	\$0.60 \$2.25	\$0.95 \$2.25	\$1.50 \$2.25
Collect (Station To Station) Billed To Third Number(Station To Station)		\$2.25	
Sent Paid-Non Coin(Station To Station)		\$2.35	
Sent Paid Coin (Station To Station)		\$2.30	
Person To Person		\$2.05 \$4.90	
	Customer- Dialed Called Number	Operator- Dialed Called Number	
Operator Dialed Surcharge	\$0.85	\$1.15	

\* See Section 4.8 For Additional IntraLATA Surcharges

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**SECTION 4 - RATES**

THE RATES IMMEDIATELY BELOW REFLECT THE CURRENT OSP RATE CAP FOR OPERATOR SERVICES. OSP COMPANIES PURSUANT TO COMMISSION ORDER NO. 22243 CANNOT CHARGE MORE THAN ATT RATES FOR OPERATOR SERVICES. IF YOU ARE UNABLE TO BILL TO THE NEAREST ONE-HUNDRED OF A CENT PER MINUTE, YOU SHOULD BILL YOUR RATES SO THAT IN NO INSTANCE WHERE THE RATES HAVE BEEN ROUNDED ARE THERE RATES ABOVE THE OSP RATE CAP.

4.5 Bogus Maximum OSP Rate Cap For IntraLATA Operator Dialing, Person-To-Person, or Real Time Rated for Operator Station/Person-To-Person Billed to a Credit/Charge Card

Miles	Day		Evening		Night/Weekend	
	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD' MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE
0-10	\$.1800	\$.1800	\$.1300	\$.1300	\$.1100	\$.1100
11-22	.2000	.2000	.1500	.1500	.1200	.1200
23-55	.2300	.2300	.1700	.1700	.1300	.1300
56-124	.2500	.2500	.1700	.1700	.1400	.1400
125-292	.2600	.2600	.1800	.1800	.1400	.1400

\* See Section 4.8 For Additional IntraLATA Surcharges

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**SECTION 4 - RATES**

**4.6 Bogus Maximum OSP Rate Cap For Customer or Operator Dialed IntraLATA Operator Service Calls Billed To The Operator Service Provider Or A Local Exchange Company Calling Card**

Miles	Day		Eve.		Night/Weekend	
	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD' MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE
0-10	\$.2400	\$.2400	\$.2400	\$.2400	\$.2400	\$.2400
11-22	.2400	.2400	.2400	.2400	.2400	.2400
23-55	.2400	.2400	.2400	.2400	.2400	.2400
56-124	.2400	.2400	.2400	.2400	.2400	.2400
125-292	.2400	.2400	.2400	.2400	.2400	.2400

**4.7 Bogus Maximum OSP Rate Cap For IntraLATA Operator Station and Person-To-Person Sent Paid Coin Calls**

Miles	Day		Eve.		Night/Weekend	
	INITIAL MINUTE	EACH ADD'L MINUTE	INITIAL MINUTE	EACH ADD' MINUTE	INITIAL MINUTE	EACH ADD'L MINUTE
0-10	\$.5400	\$.1800	\$.3900	\$.1300	\$.3300	\$.1100
11-22	.6000	.2000	.4500	.1500	.3600	.1200
23-55	.6900	.2300	.5100	.1700	.3900	.1300
56-124	.7500	.2500	.5100	.1700	.4200	.1400
125-292	.7800	.2600	.5400	.1800	.4200	.1400

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SECTION 4 - RATES

4.8 QSP InterLATA Rate Cap Surcharges

Customer Dialed Calling Card Station	Billed To The Operator Service Provider	Billed To Local Exchange Co. Calling Card	Commercial Credit/Charge Card
Customer Dialed/Automated	\$0.60	\$0.95	\$1.10
Customer Dialed and Operator Assisted	\$1.10	\$1.10	\$1.10
Customer Dialed-Operator Must Assist	\$0.60	\$0.95	\$1.10
Operator Dialed Calling Card	\$1.10	\$1.10	\$1.10
Collect (Station To Station)		\$1.10	
Billed To Third Number(Station To Station)		\$1.10	
Sent Paid-Non Coin(Station To Station)		\$1.10	
Sent Paid Coin (Station To Station)		\$1.10	
Person To Person		\$2.98	

	Customer-Dialed Called Number	Operator-Dialed Called Number
Operator Dialed Surcharge	\$0.75	\$0.75

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SECTION 4 - RATES

Sections 4.9, 4.10, 4.11 And 4.12 Are Examples-No Rate Cap Applies

4.9 Bogus 1+ Dialing

DAY		EVENING		NIGHT	
1st 18 Sec. (\$)	Add'l 6 Sec. (\$)	1st 18 Sec. (\$)	Add'l 6 Sec. (\$)	1st 18 Sec. (\$)	Add'l 6 Sec. (\$)
InterLATA .069	.023	.060	.020	.045	.015
IntraLATA .051	.017	.048	.016	.042	.014

Installation Fee: \$5  
Monthly recurring charge: \$10

SECTION 4 - RATES

4.10 Bogus Travel Cards

DAY		EVENING		NIGHT	
1st 18 Sec. (\$)	Add'l 6 Sec. (\$)	1st 18 Sec. (\$)	Add'l 6 Sec. (\$)	1st 18 Sec. (\$)	Add'l 6 Sec. (\$)

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Tallahassee, FL 32301

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InterLATA					
.069	.023	.060	.020	.045	.015
IntraLATA					
.051	.017	.048	.016	.042	.014

Monthly recurring charge: \$5  
 A surcharge of \$.35 will apply per call.

**4.11 Bogus 800 Service**

DAY		EVENING		NIGHT	
1st 18 Sec. (\$)	Add'l 6 Sec. (\$)	1st 18 Sec. (\$)	Add'l 6 Sec. (\$)	1st 18 Sec. (\$)	Add'l 6 Sec. (\$)
InterLATA .069	.023	.060	.020	.045	.015
IntraLATA .051	.017	.048	.016	.042	.014

Installation Fee: none  
 Monthly recurring charge: \$20

**SECTION 4 - RATES**

**4.12 Prepaid Calling Cards**

Prepaid Calling Cards are available in \$5.00, \$10.00, \$25.00, and \$50.00 Unit denominations. There are no surcharges for this service. Billing increments for the initial and additional minutes are one minute. Prepaid Calling Cards may be recharged in \$1.00 increments (minimum \$5.00). Prices are inclusive of taxes and apply twenty-four hours per day, seven

ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
 101 East Monet Street  
 Tallahassee, FL 32301

BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 34

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days per week.

Price Per Telecom Unit (Telecom Units are in 1 minute increments for all intrastate calls.)

\$.25

4.13 Special Promotions

IF YOU WANT TO OFFER SPECIAL PROMOTIONS YOU WILL HAVE TO PUT IN A SECTION EQUIVALENT TO THE ONE BELOW. PLEASE REFER TO RULE NUMBER (25-24.485(1)(4).

The company will, from time to time, offer special promotions to its customers waiving certain charges. These promotions will be approved by the FPSC with specific starting and ending dates.

SECTION 4 - RATES

4.14 Special Rates For The Handicapped

4.14.1 Directory Assistance

There shall be no charge for up to fifty calls per billing

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ISSUED: March 21, 1997

EFFECTIVE: \_\_\_\_\_

by:

I. M. Bogus, President  
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Tallahassee, FL 32301



BOGUS LD, INC.  
D/B/A I. M. BOGUS

Florida Tariff No. 1  
Original Sheet 35

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cycle from lines or trunks serving individuals with disabilities. The Company shall charge the prevailing tariff rates for every call in excess of 50 within a billing cycle.

4.14.2

Hearing and Speech Impaired Persons

Intrastate toll message rates for TDD users shall be evening rates for daytime calls and night rates for evening and night calls.

4.14.3

Telecommunications Relay Service

For intrastate toll calls received from the relay service, the Company will, when billing relay calls, discount relay service calls by 50 percent of the otherwise applicable rate for a voice nonrelay call except that where either the calling or called party indicates that either party is both hearing or visually impaired, the call shall be discounted 60 percent off of the otherwise applicable rate for a voice nonrelay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge.

---

ISSUED: March 21, 1997

by:

I. M. Bogus, President  
101 East Monet Street  
Tallahassee, FL 32301

EFFECTIVE: \_\_\_\_\_

# FLORIDA PUBLIC SERVICE COMMISSION

Division of Communications  
Bureau of Service Evaluation

## CHECK LIST FOR IXC TARIFFS

## INTEREXCHANGE TELECOMMUNICATIONS SERVICE

Florida Public Service Commission  
Division of Communications  
Bureau of Service Evaluation  
2540 Shumard Oak Blvd.  
Gunter Building  
Tallahassee, Florida 32399-0850

NOTE : THIS CHECK LIST FOR IXC TARIFFS OF NON-AGS COMPANIES SHOULD NOT BE RETURNED TO THE FLORIDA PUBLIC SERVICE COMMISSION. THE CHECK LIST FOR IXC TARIFFS IS DISTRIBUTED TO IXCS TO PROVIDE THEM WITH A BETTER UNDERSTANDING OF WHAT THE FPSC WILL LOOK FOR WHEN REVIEWING A NEW AGS TARIFF. THE IXC CHECK LIST IS USED AS A GUIDE TO ASSIST THE FLORIDA PUBLIC SERVICE COMMISSION ANALYSTS REVIEW NEW TARIFFS OF IXCS WHICH ARE NOT AGS COMPANIES. HOWEVER, THE IXC CHECK LIST IS NOT INTENDED TO BE AN ALL-INCLUSIVE CHECK LIST FOR ALL IXC TARIFFS. THE ANALYST REVIEWING A NEW IXC TARIFF MAY ASK FOR CHANGES TO THE TARIFF WHICH ARE NOT MENTIONED IN THE IXC CHECK LIST.

CHECK LIST FOR IXC TARIFFS

GENERAL REQUIREMENTS

1. Are all sheets correctly numbered, with the company name in the upper left hand corner?
2. Is the space for effective date (lower right hand corner) blank?
3. Is the name, title and complete business address of the company officer responsible for the tariff listed at the bottom of each tariff sheet?
4. Does the tariff checksheet have all the pages listed?
5. Does the tariff contain a Table of Contents page?
6. Does a tariff with 30 or more sheets, contain an index?
7. D, I, M, N, R and T are the only approved symbols, are they correctly defined?
8. Is there a "Tariff Format" page which discusses Sheet Numbering, Sheet Revision Numbers, Paragraph Numbering Sequence and Checksheets?

Section 1

9. Is there a "Section 1 - Technical Terms and Abbreviations" which includes such terms as day, evening, night/weekend, holidays and the trade names of the long distance services the Company seeks to market?

Section 2

10. Is there a "Section 2 - Rules and Regulations?"
11. Does Section 2 include:
- a. Undertaking of the Company.
  - b. Limitations of service.
  - c. Liabilities of the Company.
  - d. Interruption of service.
  - e. Deposit requirements - (If the Company requires customer deposits, has the Company posted a bond or had the bond requirement waived. Note: IXC's requesting to get a waiver of the bond requirement should be advised that it may delay approval of their IXC certification.)
  - f. Advance payments - the Company is allowed to collect an amount not to exceed one month's estimated charges as an advance payment for service. This amount must be credited back to the end user in the next months bill but not recollected.
  - g. Taxes - the Company should mention all state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates.
  - h. Customer requirements for specific services, if needed. (For example, if a service is available to only those customers who sign a service agreement and file a credit application, those conditions for receiving that specific service should be stated in the tariff.)
  - i. Employee Concessions.
  - j. Billing procedures - how will calls be billed to the end user and who is the billing agent. The end user must be billed directly for private line services. (The following tariff language must be included if the IXC offers Private line services: "Dedicated access circuits may be provided and billed by the local exchange company (LEC). Dedicated access channels may be purchased from carriers other than the LEC only in accordance with FPSC rules or if the special access channel in jurisdictionally interstate. Charges for the dedicated access channel are determined by the access provider.")

Section 3

12. Is there a "Section 3 - Description of Services"?
13. Does Section 3 include:
- a. Timing of calls.
    - (1) When does a call begin and end? (Should begin when two way communication is possible and should be terminated when either party hangs up; see suggested language for timing of calls at the end of this check list.)
    - (2) How timing is performed? (this section usually discusses Hardware Answer Supervision and Software Answer Supervision)
    - (3) No charge for uncompleted calls.
  - b. What increments are billed.
  - c. How is rounding performed for billing purposes?
  - d. Calculation of distance. (May refer to ATT-C's V&H Coord.)
  - e. Formula for calculating distance of call.
  - f. Minimum call completion rate. (Should be less than 10% blocking if FG D.)
  - g. The subsections for services should contain a complete description of each service and how it is offered.

Section 4

14. Is there a "Section 4 - Rates"?
15. Does Section 4 include:
- a. All rate and charges per service.
  - b. Connection and minimum monthly charges. (Some IXCs have connection and minimum monthly charges, others don't. When an IXC has such charges it should be in their tariff.)
  - c. All data necessary for computing customer's intrastate bill. Terms for discounts. The discounts should specify if they are offered by location, by billing account or by access line. The discounts should also specify if interstate usage is also used in determining effective discount. An example of the discount should be provided.

- d. Late payment charge, if IXC has such charge it must be in tariff.
- e. Return check charge, if IXC has such charge it must be in tariff - a fee of "\$20.00 or 5% of the amount of the check, whichever is greater" is the maximum amount allowed by law.
- f. Restoration of service charges, if the IXC has such charge it must be in tariff.
- g. Any special promotions should state that the promotion will be approved by the FPSC. The promotion should include exactly what charges are being reduced or waived, who is eligible, what customers have to do to be eligible, and starting and ending date of promotion. Individual customers may not receive such reduced rates more than 90 days per 12 month period.
- h. The hearing impaired rule requirement which discounts day calls to evening rates and evening calls to night rates.\*
- i. A statement that there will be no charge for the first 50 directory assistance calls made per billing cycle from lines or trunks serving individuals with disabilities.\*
- j. Contain tariff language covering the Deaf Relay Rule?\*

Analyst's Comments Regarding Tariff

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\* Sample of tariff language is attached.

**Timing of Calls**

Timing for all calls begins when the called party answers the call (i.e. when two way communications are established.) Answer detection is based on standard industry answer detection methods, including hardware and software answer detection. Chargeable time for all calls ends when one of the parties disconnects from the call. There are no billing charges applied for incomplete calls.

**Discounts for Hearing Impaired Customers**

Intrastate toll message rates for TDD users, which is communicated using a telecommunications device for the deaf (TDD) by properly certified business establishments or individuals equipped with TDDs for communications with hearing or speech impaired persons, shall be evening rates for daytime calls and night rates for evening and night calls.

**Directory Assistance Charges for Handicapped Persons**

Pursuant to Florida Public Service Commission Rules and regulations Bogus LD, Inc. will not charge for the first 50 directory assistance calls made each month by a handicapped person.

Operation of Telecommunications Relay Service

Intrastate toll calls received from the relay service, each local exchange and interexchange telecommunications company billing relay call will be discounted by 50 percent of the applicable rate for a voice nonrelay call except that where either the calling or called party indicates that either party is both hearing and visually impaired, the call will be discounted 60 percent off the applicable rate for voice nonrelay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge.

IXC Rules For Special Rates For Handicapped Customers

Sometimes IXCs are reluctant to offer discount rates for special groups without specific justification. In such cases it is sometimes helpful citing the exact rule requiring IXCs to offer the discount.

Below are Sections of the Florida Rules concerning handicapped hearing/speech impaired persons and discounts on toll calls using the telecommunications relay service.

Section 25-4.115 (3) (a) Directory Assistance says "There shall be no charge for up to fifty calls per billing cycle from lines or trunks serving individuals with disabilities. See subpart (2)(a) of this rule for the definition of "disability". The interexchange carrier shall charge the prevailing tariff rates for every call in excess of 50 within a billing cycle."

Section 25-4.079 (4) Hearing/Speech Impaired Persons says "Intrastate toll message rates for TDD users shall be evening rates for daytime calls and night rates for evening and night calls. These discounts shall be offered by all interexchange carriers and LECs."

Section 25-4.160 (1) Operation of Telecommunications Relay Service says "For intrastate toll calls received from the relay service, each local exchange and interexchange telecommunications company billing relay calls shall discount relay service calls by 50 percent off of the otherwise applicable rate for a voice nonrelay call except that where either the calling or called party indicates that either party is both hearing and visually impaired, the call shall be discounted 60 percent off of the otherwise applicable rate for a voice nonrelay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge. In the case of a tariff which includes either a discount based on number of minutes or the purchase of minutes in blocks, the discount shall be calculated by discounting the minutes of relay use before the tariffed rate is applied."

### IntralATA Traffic

Types of intralATA traffic which must be handled by the LEC are as follows:

1. 0-

Types of intralATA traffic which can be handled by an IXC are as follows:

1. 0+

2. 1+

1. 950

2. 800

3. 10XXX

Note: 0+ and 1+ not available for IXCs to handle until the LECs are technically capable of providing (i.e. late 1995-beginning of 1996)

### Rate Caps From Pay Phones

The rate caps from pay telephones are as follows:

1. Sent-paid local call - up to \$.25.
2. 1+ intralATA toll call - LEC MTS time-of-day rate, plus up to \$1.00.
3. 0+ intralATA toll call - LEC MTS time-of-day rate, plus operator service charges, plus mandatory \$.25 set use fee.
4. 0- intralATA toll call - LEC MTS time-of-day rate, plus operator service charges, plus mandatory \$.25 up to \$1.00.
5. 1+ interLATA toll call - AT&T MTS time-of-day rate, plus up to \$1.00.
6. 0+ interLATA toll call - AT&T MTS time-of-day rate, plus operator service charges, plus optional \$.25 set use fee.
7. 0- interLATA toll call - AT&T MTS time-of-day rate, plus operator service charges, plus optional \$.25 set use fee.
8. 0+ local calls - up to \$.25, plus operator services, plus \$.25 set use fee.
9. 0- local calls - up to \$.25, plus operator services, plus \$.25 set use fee.

### Special Note

Rates for confinement facilities are the same as above except that up to \$1.00 may be charged for local calls placed from confinement facilities when using a debit card system.



State of Florida



## Public Service Commission

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

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DATE: September 26, 1997  
TO: Parties of Record in Docket No. 960811-TI and Other Order Recipients  
FROM: Blanca S. Bayó, Director of Records and Reporting *BSB*  
RE: Order No. PSC-97-1089-PCO-TI

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Order No. PSC-97-1089-PCO-TI Granting Motion to Extend Time for Filing Testimony and Tariff Requirements was issued September 18, 1997. Because an incomplete version of the order was inadvertently placed in my division's computer library to use in issuing the order, parties did not receive the final, correct version of this order. I have attached a complete and correct version of the order to this memorandum. You should replace the copy of the order you currently hold with the attached copy.

Please feel free to call me if you have questions regarding this matter.

BSB/kf  
Attachment  
cc: Charlie Pellegrini

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
certificate to provide  
interexchange telecommunications  
service by Health Liability  
Management Corporation.

DOCKET NO. 960811-TI  
ORDER NO. PSC-97-1089-PCO-TI  
ISSUED: September 18, 1997

ORDER GRANTING MOTION TO EXTEND TIME  
FOR FILING TESTIMONY AND TARIFF REQUIREMENTS

By Order No. PSC-97-0979-PCO-TI, issued August 14, 1997, this matter has been set for a formal administrative hearing on October 22, 1997. The Order establishes September 12, 1997, as the date to prefile petitioner's direct testimony and exhibits. By letter dated September 5, 1997, Health Liability Management Corporation (HLMC) was permitted until September 12, 1997, to file its proposed tariff.

On September 17, 1997, HLMC filed a Motion to Extend Time for Filing Testimony and Tariff Requirements. The company requests that it be permitted until September 19, 1997, to file its direct testimony and proposed tariff. The company explains that its president, Dr. Michael Weilert, is preparing these materials himself, and that he has experienced difficulties in gathering some of the necessary information.

HLMC's request is hereby granted. HLMC shall file its direct testimony and exhibits no later than September 19, 1997. Accordingly, rebuttal testimony and exhibits shall be filed no later than September 30, 1997. HLMC shall also file its proposed tariff no later than September 19, 1997. Order No. PSC-97-0979-PCO-TI is affirmed in all other respects.

This failure of HLMC to observe the requirements of this Commission is the latest in a series of similar failures. The company is urged to take whatever steps are necessary to make certain it is the last.

Based upon the foregoing, it is, therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Health Liability Management Corporation's Motion to Extend Time for Filing Testimony and Tariff Requirements is granted. It is further

ORDER NO. PSC-97-1089-PCO-TI  
DOCKET NO. 960811-TI  
PAGE 2

ORDERED that rebuttal testimony and exhibits shall be filed no later than September 30, 1997. It is further

ORDERED that Order No. PSC-97-0979-PCO-TI is affirmed in all other respects.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 18th day of September, 1997.

  
SUSAN F. CLARK, Commissioner and  
Prehearing Officer

( S E A L )

CJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060,

DOCKET NO. 960811-TI  
DATE: OCTOBER 23, 1997

ATTACHMENT 6  
Page 68 of 70

ORDER NO. PSC-97-1089-PCO-TI  
DOCKET NO. 960811-TI  
PAGE 3

Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

FL-STAT-AN - FSA § 364.337, Alternate local exchange telecommunications companies; intrastate interexchange telecommunications services; certification

----- Excerpt from page 35350 follows -----  
West's F.S.A. § 364.337

WEST'S FLORIDA STATUTES ANNOTATED  
TITLE XXVII. RAILROADS AND OTHER REGULATED UTILITIES  
CHAPTER 364. TELECOMMUNICATIONS COMPANIES  
PART I. GENERAL PROVISIONS

Current through End of 1996 2nd. Reg. Sess.

364.337. Alternate local exchange telecommunications companies; intrastate interexchange telecommunications services; certification

(1) Upon this act becoming a law, a party may file an application for a certificate as an alternative local exchange telecommunications company before January 1, 1996, and the commission shall conduct its review of the application and take all actions necessary to process the application. However, an application shall become effective no sooner than January 1, 1996. The commission shall grant a certificate of authority to provide alternative local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. In no event may an alternative local exchange telecommunications company offer basic local telecommunications services within the territory served by a company subject to s. 364.052 prior to January 1, 2001, unless the small local exchange telecommunications company elects to be regulated under s. 364.051 or provides cable television programming services directly or as video dial tone applications authorized under > 47 U.S.C. s. 214, except as provided for in compliance with part II. It is the intent of the Legislature that the commission act expeditiously to grant certificates of authority under this section and that the grant of certificates not be affected by the application of any criteria other than that specifically enumerated in this subsection.

(2) Rules adopted by the commission governing the provision of alternative local exchange telecommunications service shall be consistent with s. 364.01. The basic local telecommunications service provided by an alternative local exchange telecommunications company must include access to operator services, "911" services, and relay services for the hearing impaired. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed. A certificated alternative local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest. In no event shall alternative local exchange telecommunications companies be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.3381.

----- Excerpt from page 35351 follows -----  
(3) The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

(4) Rules adopted by the commission governing the provision of intrastate interexchange telecommunications service shall be consistent with s. 364.01. A certificated intrastate interexchange telecommunications company may petition the commission for a waiver for some or all of the requirements of this chapter, except s. 364.16, s. 364.335(3), or subsection (5). The commission may grant such petition if determined to be in the public interest. In no event shall intrastate interexchange telecommunications companies be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, 364.183(1), and 364.3381.

(5) The commission shall have continuing regulatory oversight over the provision of basic local exchange telecommunications service provided by a certificated alternative local exchange telecommunications company or a certificated alternative access vendor for purposes of establishing reasonable service quality criteria, assuring resolution of service complaints, and ensuring the fair treatment of all telecommunications providers in the telecommunications marketplace.

(6) (a) The Legislature finds the provision of alternative access vendor services to be in the public interest, and the commission may authorize the provision of such service. For the

purposes of this section, effective January 1, 1996, "alternative access vendor services" means the provision of private line service between an entity and facilities at another location, whether owned by the entity or an unaffiliated entity or access service between an end-user and an interexchange carrier by other than a local exchange telecommunications company. For purposes of this chapter, "private line service" means any dedicated point-to-point or point-to-multipoint service for the transmission of any public telecommunications service.

(b) No person shall provide alternative access vendor services without first obtaining a certificate from the commission. Any certificated alternative access vendor as of the date this act becomes a law wishing to provide alternative local exchange telecommunications service in addition to the services authorized in its certificate may do so, effective January 1, 1996, upon furnishing written notice to the commission.

(7) Each amount paid by an interexchange telecommunications company or a pay telephone company to a telecommunications company providing local service for use of the local network shall be deducted from gross operating revenues for purposes of determining the amount of the regulatory fee assessed the interexchange telecommunications company pursuant to s. 350.113 or s. 364.336.

----- Excerpt from page 35352 follows -----

> CR01

CREDIT(S)

1997 Electronic Update

> CR01 Added by Laws 1982, c. 82-51, § 4, eff. March 19, 1982. Amended by Laws 1984, c. 84-83, § 1, eff. July 1, 1984; Laws 1985, c. 85-81, § 30, eff. July 30, 1985; Laws 1990, c. 90-244, § 34, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 23, eff. July 1, 1995.

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