

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

November 20, 1997

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10:45
FPSC - Records/Reporting

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

FROM: DIVISION OF APPEALS (CALDWELL) *one*
DIVISION OF COMMUNICATIONS (SHELPER) *DES*
DIVISION OF RESEARCH & REGULATORY REVIEW (LEWIS) *RTT* *colp d*

RE: DOCKET NO. 971453-TS - PROPOSED REPEAL OF RULE 25-4.0041,
F.A.C., PROVISION OF SHARED SERVICES FOR HIRE

AGENDA: DECEMBER 2, 1997 - REGULAR AGENDA - RULE PROPOSAL -
INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\971453TS.RCM

CASE BACKGROUND

Rule 25-4.0041, Florida Administrative Code, Provision of Shared Service for Hire, allows for the provision of shared tenant service (STS) upon a finding by the Commission that such service is in the public interest. The rule also prohibits the provision of shared wide area telephone service (WATS) for hire without a certificate of public convenience and necessity from the Commission. In 1995, the Florida Legislature found STS to be in the public interest, and the resulting changes to Chapter 364, Florida Statutes, eliminated the need for the Commission to make such a determination.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission repeal Rule 25-4.0041, Florida Administrative Code, Provision of Shared Service for Hire?

RECOMMENDATION: Yes. Rule 25-4.0041, F.A.C., Provision of Share Service for Hire, should be repealed.

STAFF ANALYSIS: In Docket No. 951522-TS, the Commission revised its rules relating to the provision of Shared Tenant Services to incorporate the changes of the Telecommunications Act of 1995. In that docket, all provisions relating to the regulation of the

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FPSC-RECORDS/REPORTING

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provision of STS were consolidated under Chapter 25-24, Part XII rendering this rule obsolete.

Economic Impact:

A determination of the regulatory impact was made. The repeal of the rule was not expected to result in any significant costs or adverse effects. The Florida Statutes do not require a Statement of Estimated Regulatory Costs (SERC) to be prepared when no lower cost regulatory alternative has been submitted. None has been submitted and staff is not aware of any reasonable alternative that would achieve the purpose of eliminating an obsolete rule. Finally, no significant additional costs or adverse impacts have been identified.

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

RECOMMENDATION: Yes.

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

1
2 25-4.0041 Provision of Shared Service for Hire.

3
4 ~~(1) The provision for hire of shared telephone service within a~~
5 ~~local calling area by other than the certificated local exchange~~
6 ~~company is prohibited except in those cases in which the Commission~~
7 ~~determines that no duplicative or competitive local exchange~~
8 ~~service is being provided.~~

9 ~~(2) The provision for hire of shared WATS Service shall be~~
10 ~~permitted only when the provider has been granted a certificate of~~
11 ~~public convenience and necessity by this Commission to do so.~~

12 ~~(3) The foregoing notwithstanding, until July 1, 1987, any person~~
13 ~~who is providing shared telephone service, is sharing telephone~~
14 ~~service or who has placed orders for shared telephone service on or~~
15 ~~before November 4, 1985 may continue to receive that service.~~
16 ~~Persons affected by this rule shall be notified by the local~~
17 ~~exchange companies of the content of the rule within 30 days from~~
18 ~~the effective date of this rule.~~

19
20 Specific Authority 350.127(2), 364.19 FS.

21 Law Implemented 364.02, 364.33, 364.335, 364.337, 364.345 FS.

22 History--New 12-22-85, Formerly 25-4.041, Amended 11-2-86, repealed

23 _____

24
25
CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

MEMORANDUM

October 15, 1997

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *1402 PO smc*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED REPEAL OF RULE 25-4.0041, F.A.C., PROVISION OF SHARED SERVICE FOR HIRE

Rule 25-4.0041, F.A.C., allows for the provision of shared tenant service (STS) upon a finding by the Commission that such service is in the public interest. In 1995, the Florida Legislature found STS to be in the public interest, and the resulting changes to Chapter 364, Florida Statutes, eliminated the need for the Commission to make such a determination. In addition, the existing rule has minimal effect on the regulation of shared tenant service, as the provision of STS has been regulated under Chapter 25-24, Part XII, F.A.C., since 1991.

The existing rule also prohibits the provision of shared wide area telephone service (WATS) for hire without a certificate of public convenience and necessity from this Commission. Eliminating this rule will not eliminate the requirement that providers of WATS service must obtain a certificate, as that requirement is preserved in Chapter 25-24, Part XII. Furthermore, the STS rules contained in Chapter 25-24, Part XII, were recently amended after an evidentiary hearing before the full Commission on January 14, 1997. During those proceedings no interested person took issue with the repeal of Rule 25-4.0041, F.A.C.

Repeal of the rule should not result in any significant costs or adverse effects. The Florida Statutes do not require a Statement of Estimated Regulatory Costs (SERC) to be prepared when no lower cost regulatory alternative has been submitted. No such alternative has been submitted, and staff is not aware of any reasonable alternative that would achieve the purpose of eliminating an obsolete rule. Since no significant additional costs or adverse impacts have been identified, there is no need for preparation of a SERC for the proposed rule repeal.

Please keep my name on the CASR.

KDL:tf/e-memo97

cc: Mary Andrews Bane
Richard Tudor, CMU
Ann Shelfer, CMU
Hurd Reeves, RRR