

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

December 4, 1997

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FPSC - Records/Reporting

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

FROM: DIVISION OF APPEALS (CALDWELL) *OWC DB*
DIVISION OF COMMUNICATIONS (MOSES) *BIGALSKI*
DIVISION OF CONSUMER AFFAIRS (JOHNSON) *DURBIN*
DIVISION OF RESEARCH & REGULATORY REVIEW (LEWIS) *KDL /A*

RE: DOCKET NO. 970882-TI - PROPOSED RULE 25-24.845, F.A.C.,
CUSTOMER RELATIONS; RULES INCORPORATED AND PROPOSED
AMENDMENTS TO RULE 25-4.003, F.A.C., DEFINITIONS; RULE
25-4.110, F.A.C., CUSTOMER BILLING; RULE 25-4.118,
F.A.C., INTEREXCHANGE CARRIER SELECTION; RULE 25-24.490,
F.A.C., CUSTOMER RELATIONS; RULES INCORPORATED

AGENDA: DECEMBER 16, 1997 - REGULAR AGENDA - RULE PROPOSAL -
INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\970882TI.RCM

CASE BACKGROUND

Since the provision of long distance service became competitive, the Commission has received complaints about the unauthorized switching of a customer's long distance carrier from the carrier chosen by the customer or "slamming". In 1992, the Commission adopted rules which were intended to eliminate or reduce the level of slamming complaints in Florida. At that time, the Commission had received 195 complaints. However, beginning in 1995, the Commission saw a significant increase in complaints and in 1996, 2,393 justified complaints were filed with the Commission. These figures do not include complaints filed only with the telecommunications providers nor with the Federal Communications Commission (FCC).

On July 15, 1997, the State Attorney General's Office and the Citizens of the State of Florida by and through the Office of Public Counsel filed a joint petition for initiation of formal proceedings to investigate slamming with the Florida Public Service Commission. By Order No. PSC-97-1071-PCO-TI issued September 12,

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1997, the Commission granted the Petition. The Commission ordered the formal investigation to be a part of the rulemaking. To this end, rule development workshops were held by the Commissioners around the state taking sworn testimony of customers that were slammed. In addition, a full Commission rule hearing has been set for February 6, 1998, where testimony will be sworn and the witnesses may be cross-examined.

The FCC's Title 47, Parts 64.1100 and 64.1150, Code of Federal Regulations, provide more stringent change requirements than what is currently reflected in Commission Rule 25-4.118, Florida Administrative Code. In addition, the FCC has issued a Notice of Proposed Rulemaking through which it intends to amend its current rules.

In 1995, the legislature provided for competition in the local exchange market. In 1996, Congress passed the Telecommunications Act of 1996 which provided for the deregulation of the local and intra-LATA toll markets. With the deregulation of these markets the opportunity for slamming has increased as those markets will be vulnerable to the same types of practices.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission propose Rule 25-24.845, F.A.C., Customer Relations; Rules Incorporated and amendments to Rule 25-4.003, F.A.C., Definitions; Rule 25-4.110, F.A.C., Customer Billing; 25-4.118, F.A.C., Interexchange Carrier Selection; 25-24.490, Customer Relations; Rules Incorporated.

RECOMMENDATION: Yes, the Commission should propose the new Rule 25-24.845, F.A.C., and amendments to Rules 25-4.003, 25-4.110, 25-4.118, and 25-24.490, F.A.C.

STAFF ANALYSIS: Slamming is not only a problem in Florida, but one that is afflicting customers nationwide. Other states are also exploring this issue as well as the FCC. The problem is not limited to long distance service either. This Commission has examples of slamming complaints arising in the market for local exchange service. Staff expects slamming to increase in the local and local toll markets as competition emerges in those markets unless it is curbed.

A breakdown of the types of slamming complaints for 1995 and 1996 provide that 1,146 complaints resulted from Sweepstakes; 1,185 resulted from telemarketing; 262 resulted from Name to ANI mismatches; and 170 resulted from key punch errors. Other problems were from misleading letters of agency, but this type of complaint

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dropped from 326 in 1995 to 42 in 1996. New complaints include 800 service center problems, forgery, and other unexplained errors.

The proposed new rule and amendments are aimed at eliminating or reducing the opportunity a company may have to slam Florida customers. The proposed rule amendments and the new rule place new requirements on the local exchange companies, the alternative local exchange companies, and the interexchange companies regarding the circumstances under which changes may be made. The proposed rule amendments and new rule apply to local, "local toll" or intralATA, and toll service providers, each of whom must be certificated by the Commission.

The proposed amendments require the name of the company providing the service and its certificate number, the type of service provided, and a toll-free service number for each provider to be on each billing statement. This requirement will inform the customer who their provider is for each of the services. If the provider is not with whom they have contracted, the customer will know he has been slammed.

The customer must authorize the change. Changes to the preferred provider may only be made if at least one of the following four actions has occurred:

(1) The company has a signed letter of agency (LOA) that contains sufficient information to verify that the consumer is authorizing the change. The LOA must contain the customer's billing name, address, each telephone number to be changed, and optional verification data, e.g., customer's date of birth, social security, and driver license number.

(2) The company has received a consumer-initiated call, has obtained the consumer's consent and specific information listed in (1) above, has recorded the consent, and has recorded the number to be changed.

(3) An independent, unaffiliated firm has verified the consumer's request. Upon obtaining the customer's consent to audio record, the information required to be obtained in (1) must be audio recorded.

(4) The company has received a consumer's change request and responds by mailing an information package which explains the changes, verifies information and requires a signed statement acknowledging the change. The information must also contain a notice that the customer may contact the Commission's Division of

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Consumer Affairs and provide the Commission's address and toll free number.

If any of these methods are followed, the Company will know (absent forgery or false statement on the recording) that it has a legitimate customer and the customer will know that he in fact will be switched to a different provider. The choice to switch providers will be a conscious one based upon full information.

A company may not combine the LOA with any inducement on the same document. This provision will prohibit sweepstakes where a person, by signing up for a free car or a shopping spree at a county fair, flea market or other function, also agrees to change his telecommunications service provider. Generally, the agreement to switch was printed in very small print and was not noticed by the customer when he signed the inducement. The proposed amendments will also prohibit the checks sent by companies to consumers where endorsement by the customer is agreement to switch service. The proposed amendments also prohibit inducements in writing or by telephone from being misleading or deceptive. The customer must know that he is switching to resold service of a particular provider if that is in fact the case.

Finally, if a person is slammed, charges for the change and all charges billed on behalf of the unauthorized provider for the first 90 days must be credited to the consumer. Upon notification by the consumer, the company must have the consumer switched back to his original provider or the provider of his choice. If the appropriate procedures are followed by the company, these refunds should not be necessary.

Authority: The Commission has authority for the proposed amendments to these rules under the sections of the Florida Statutes cited in the Specific Authority and Law Implemented section of the rule.

The Commission's jurisdiction appears broad over this type of illicit activity because the legislature has exempted telecommunications activities from other consumer protection statutes. For example, Section 501.059, Florida Statutes, relating to telephone solicitation provides for requirements a telephone solicitor must meet in order to consummate a sale. These requirements include identifying themselves by first and last name and on whose behalf they are calling, ability of consumers to be registered on a "no sales solicitation calls" list, and the contract made over the telephone must be reduced to writing and signed by the consumer. Section 501.059(3), (4), and (5). The merchant making a sale via telephone solicitation may not charge

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the customer's credit card until he receives the customer signed contract. Any violation may be prosecuted by the Department of Legal Affairs and a civil penalty shall not exceed \$10,000 per violation.

Section 501.059(5)(c), Florida Statutes, however, provides:

The provisions of this subsection do not apply to . . . sales transacted by companies or their wholly owned subsidiaries or agents, which companies are regulated by chapter 364

The Commission should provide for the way customers are solicited by telecommunications companies and their agent.

In addition, Section 501.201, Florida Statutes, also known as the "Florida Deception and Unfair Trade Practices Act" or "Little FTC Act," provides for consumer protection and the prosecution of deceptive and unfair trade practices by the Department of Legal Affairs under the Office of the Attorney General. Violation of the act can result in a civil penalty of not more than \$10,000 per violation. Section 501.2077, Florida Statutes, provides for violations involving senior citizens or handicapped persons may result in a civil penalty of not more than \$15,000 for each such violation and the penalties collected pursuant to this section must be deposited into the Department of Legal Affairs Consumer Frauds Trust Fund and allocated solely for the purpose of preparing and distributing consumer education materials, programs and seminars to benefit senior citizens and handicapped persons or to further enforcement efforts.

Section 502.212, Florida Statutes, however, provides that the Little FTC Act does not apply to:

(4) Any person or activity regulated under laws administered by . . . the Florida Public Service Commission

Again, it appears that the Legislature intended the Commission to utilize its authority to protect the customer who is harmed by actions of a telecommunications company. It appears, however, that these exemptions are for civil penalties, and should not preclude police enforcement of violations of a criminal nature such as forgery.

Statement of Estimated Regulatory Cost: The providers who filed cost information were primarily concerned with portions

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of the proposed rules that would make it difficult for them to standardize their marketing and billing procedures nationwide. For example, the proposed requirement to place the Florida certificate number on each bill was identified as having significant implementation costs and recurring costs by almost all of the providers who responded to staff's data request. Other proposed requirements identified as particularly costly by the respondents were: audio recording of inbound telephone calls from consumers and inclusion of specific Florida language in informational packages.

It is apparent that companies who choose to operate in Florida will face some additional costs to comply with the proposed rules (to the extent that they differ from federal rules or rules in other states). However, these compliance costs should be weighed against the costs of the present situation, so vividly described by customers at the recent public workshops (time consumers spent resolving unauthorized carrier changes is time taken away from more productive activities such as work and family care, and consumers were sometimes billed higher rates). Because Florida's large and diverse population of residential and business customers is highly sought after by telecommunications providers, our state may require the special protections outlined in the proposed rule.

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: No.

STAFF ANALYSIS: A request for hearing has been filed by the Office of Public Counsel and the Office of the Attorney General. A hearing before the full Commission has been set for February 6, 1998. If the request is withdrawn, unless comments or requests for hearing are filed by others, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

Attachments:

Proposed rule and rule amendments
Statement of economic regulatory cost

1
2 25-4.003 Definitions.

3 For the purpose of Chapter 25-4, the following definitions to the
4 following terms apply:

5 (1) "Access Line" or "Subscriber Line." The circuit or
6 channel between the demarcation point at the customer's premises
7 and the serving end or class 5 central office.

8 (2) "Alternative Local Exchange Telecommunications Company
9 (ALEC)." Any telecommunications company, as defined in Section
10 364.02(1), Florida Statutes.

11 (3)~~(2)~~ "Average Busy Season-Busy Hour Traffic." The average
12 traffic volume for the busy season busy hours.

13 (4)~~(3)~~ "Busy Hour." The continuous one-hour period of the day
14 during which the greatest volume of traffic is handled in the
15 office.

16 (5)~~(4)~~ "Busy Season." The calendar month or period of the
17 year (preferably 30 days but not to exceed 60 days) during which
18 the greatest volume of traffic is handled in the office.

19 (6)~~(5)~~ "Call." An attempted telephone message.

20 (7)~~(6)~~ "Central Office." A location where there is an
21 assembly of equipment that establishes the connections between
22 subscriber access lines, trunks, switched access circuits, private
23 line facilities, and special access facilities with the rest of the
24 telephone network.

25 (8)~~(7)~~ "Commission." The Florida Public Service Commission.

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~~struck-through~~ type are deletions from existing law.

1
2 ~~(9)-(8)~~ "Company," "Telecommunications Company," "Telephone
3
4 Company," or "Utility." These terms may be used interchangeably
5 herein and shall mean "telecommunications company" as defined in
6 Section 364.02(12), Florida Statutes.

7 ~~(10)-(9)~~ "Completed call." A call which has been switched
8 through an established path so that two-way conversation or data
9 transmission is possible.

10 ~~(11)-(10)~~ "Disconnect" or "Disconnection." The dissociation or
11 release of a circuit. In the case of a billable call, the end of
12 the billable time for the call whether intentionally terminated or
13 terminated due to a service interruption.

14 ~~(12)-(11)~~ "Drop or Service Wire." The connecting link that
15 extends from the local distribution service terminal to the
16 protector or telephone network interface device on the customer's
17 premises.

18 ~~(13)-(12)~~ "Exchange." The entire telephone plant and
19 facilities used in providing telephone service to subscribers
20 located in an exchange area. An exchange may include more than one
21 central office unit.

22 ~~(14)-(13)~~ "Exchange (Service) Area." The territory of a local
23 exchange company (LEC) within which local telephone service is
24 furnished at the exchange rates applicable within that area.
25

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2 (15)~~(14)~~ "Extended Area Service." A type of telephone service
3 whereby subscribers of a given exchange or area may complete calls
4 to, and receive messages from, one or more other exchanges or areas
5 without toll charges, or complete calls to one or more other
6 exchanges or areas without toll message charges.

7 (16)~~(15)~~ "Extension Station." An additional station connected
8 on the same circuit as the main station and subsidiary thereto.

9 (17)~~(16)~~ "Foreign Exchange Service." A classification of LEC
10 ~~local exchange telecommunications company~~ exchange service
11 furnished under tariff provisions whereby a subscriber may be
12 provided telephone service from an exchange other than the one from
13 which he would normally be served.

14 (18)~~(17)~~ "Intercept Service." A service arrangement provided
15 by the telecommunications company whereby calls placed to an
16 unequipped non-working, disconnected, or discontinued telephone
17 number are intercepted by operator, recorder, or audio response
18 computer and the calling party informed that the called telephone
19 number is not in service, has been disconnected, discontinued, or
20 changed to another number, or that calls are received by another
21 telephone. This service is also provided in certain central
22 offices and switching centers to inform the calling party of
23 conditions such as system blockages, inability of the system to
24 complete a call as dialed, no such office code, and all circuits
25 busy.

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2 ~~(19)~~~~(18)~~ "Interexchange Company (IXC)." Any
3 telecommunications company, as defined in Section 364.02(12),
4 Florida Statutes, which provides telecommunications
5 ~~telecommunication~~ service between local calling areas as those
6 areas are described in the approved tariffs of individual LECs
7 ~~local exchange companies~~. IXC ~~"Interexchange Company"~~ includes, but
8 is not limited to, MLDAs ~~Multiple Location Discount Aggregators~~
9 ~~(MLDA)~~ as defined in subsection (35) ~~(32)~~ of these definitions.

10 ~~(20)~~~~(19)~~ "Inter-office Call." A telephone call originating in
11 one central office but terminating in another central office, both
12 of which are in the same designated exchange area.

13 ~~(21)~~~~(20)~~ "Interstate Toll Message." Those toll messages which
14 do not originate and terminate within the same state.

15 ~~(22)~~~~(21)~~ "Intertoll Trunk." A line or circuit between two
16 toll offices, two end offices, or between an end office and toll
17 office, over which toll calls are passed.

18 ~~(23)~~~~(22)~~ "Intra-office Call." A telephone call originating
19 and terminating within the same central office.

20 ~~(24)~~~~(23)~~ "Intra-state Toll Message." Those toll messages
21 which originate and terminate within the same state.

22 ~~(25)~~~~(24)~~ "Invalid Number." A number comprised of an
23 unassigned area code number or a non-working central office code
24 (NXX).

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2 ~~(26)-(25)~~ "Large LEC." A ~~LEC local exchange telecommunications~~
3 company certificated by the Commission prior to July 1, 1995, that
4 had in excess of 100,000 access lines in service on July 1, 1995.

5 ~~(27)-(26)~~ "Local Access and Transport Area (LATA)" or "Market
6 Area." A geographical area, which is loosely based on standard
7 metropolitan statistical areas (SMSAs), within which a ~~LEC local~~
8 ~~exchange company~~ may transport telecommunication signals.

9 ~~(28)-(27)~~ "Local Exchange Telecommunications Company (LEC)."
10 Any telecommunications company, as defined in Section 364.02(6),
11 Florida Statutes.

12 (29) "Local Provider (LP)." Any telecommunications company
13 providing local telecommunications service, excluding pay telephone
14 providers and call aggregators.

15 ~~(30)-(29)~~ "Local Service Area" or "Local Calling Area." The
16 area within which telephone service is furnished subscribers under
17 a specific schedule of rates and without toll charges. A ~~LEC's~~
18 ~~local exchange telecommunications company's~~ local service area may
19 include one or more exchange areas or portions of exchange areas.

20 (31) "Local Toll Provider (LTP)." Any telecommunications
21 company providing intraLATA or intramarket area long distance
22 telecommunications service.

23 ~~(32)-(29)~~ "Main Station." The principal telephone associated
24 with each service to which a telephone number is assigned and which

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2 is connected to the central office equipment by an individual or
3 party line circuit or channel.

4 (33)~~(30)~~ "Message." A completed telephone call.

5 (34)~~(31)~~ "Mileage Charge." A tariff charge for circuits and
6 channels connecting other services that are auxiliary to local
7 exchange service such as off premises extensions, foreign exchange
8 and foreign central office services, private line services, and tie
9 lines.

10 (35)~~(32)~~ "Multiple Location Discount Aggregator (MLDA)." An
11 entity that offers discounted long distance telecommunications
12 services from an underlying IXC ~~interexchange~~ company to
13 unaffiliated entities. An entity is a MLDA if one or more of the
14 following criteria applies:

15 (a) It collects fees related to interexchange
16 telecommunications services directly from subscribers,

17 (b) It bills for interexchange telecommunications services in
18 its own name,

19 (c) It is responsible for an end user's unpaid interexchange
20 telecommunications bill, or

21 (d) A customer's bill cannot be determined by applying the
22 tariff of the underlying IXC ~~interexchange~~ company to the
23 customer's individual usage.

24 (36)~~(33)~~ "Normal Working Days." The normal working days for
25 installation and construction shall be all days except Saturdays,

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Sundays, and holidays. The normal working days for repair service shall be all days except Sundays and holidays. Holidays shall be the days which are observed by each individual telephone utility.

(37)~~(34)~~ "Optional Calling Plan." An optional service furnished under tariff provisions which recognizes the need of some subscribers for extended area calling without imposing the cost on the entire body of subscribers.

(38)~~(35)~~ "Out of Service." The inability, as reported by the customer, to complete either incoming or outgoing calls over the subscriber's line. "Out of Service" shall not include:

(a) Service difficulties such as slow dial tone, circuits busy, or other network or switching capacity shortages;

(b) Interruptions caused by a negligent or willful act of the subscriber; and

(c) Situations in which a company suspends or terminates service because of nonpayment of bills, unlawful or improper use of facilities or service, or any other reason set forth in approved tariffs or Commission rules.

(39)~~(36)~~ "Outside Plant." The telephone equipment and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between the central office and subscribers' locations or between central offices of the same or different exchanges.

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2 (40)~~(37)~~ "Pay Telephone Service Company." Any
3 telecommunications company ~~that, other than a Local Exchange~~
4 ~~Company, which~~ provides pay telephone service as defined in Section
5 364.3375, Florida Statutes.

6 ~~(38) "Primary Interexchange Company." The pre-subscribed toll~~
7 ~~service provider for a subscriber.~~

8 (41)~~(39)~~ "Service Objective." A quality of service which is
9 desirable to be achieved under normal conditions.

10 (42)~~(40)~~ "Service Standard." A level of service which a
11 telecommunications company, under normal conditions, is expected to
12 meet in its certificated territory as representative of adequate
13 services.

14 (43)~~(41)~~ "Small LEC." A LEC ~~local exchange telecommunications~~
15 ~~company~~ certificated by the Commission prior to July 1, 1995, which
16 had fewer than 100,000 access lines in service on July 1, 1995.

17 (44)~~(42)~~ "Station." A telephone instrument consisting of a
18 transmitter, receiver, and associated apparatus so connected as to
19 permit sending or receiving telephone messages.

20 (45)~~(43)~~ "Subscriber" or "Customer." These terms may be used
21 interchangeably herein and shall mean any person, firm,
22 partnership, corporation, municipality, cooperative organization,
23 or governmental agency supplied with communication service by a
24 telecommunications company.

25 (46)~~(44)~~ "Subscriber Line." See "Access Line."

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2 ~~(47)-(45)~~ "Switching Center." Location at which telephone
3 traffic, either local or toll, is switched or connected from one
4 circuit or line to another. A local switching center may be
5 comprised of several central office units.

6 ~~(48)-(46)~~ "Toll Connecting Trunk." A trunk which connects a
7 local central office with its toll operating office.

8 ~~(49)-(47)~~ "Toll Message." A completed telephone call between
9 stations in different exchanges for which message toll charges are
10 applicable.

11 (50) "Toll Provider (TP)." Any telecommunications company
12 providing interLATA long distance telecommunications service.

13 ~~(51)-(48)~~ "Traffic Study." The process of recording usage
14 measurements which can be translated into required quantities of
15 equipment.

16 ~~(52)-(49)~~ "Trouble Report." Any oral or written report from a
17 subscriber or user of telephone service to the telephone company
18 indicating improper function or defective conditions with respect
19 to the operation of telephone facilities over which the telephone
20 company has control.

21 ~~(53)-(50)~~ "Trunk." A communication channel between central
22 office units or entities, or private branch exchanges.

23 ~~(54)-(51)~~ "Valid Number." A number for a specific telephone
24 terminal in an assigned area code and working central office which
25

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2 is equipped to ring and connect a calling party to such terminal
3 number.

4 Specific Authority 350.127(2) F.S.

5 Law Implemented 364.01, 364.02, 364.32, 364.335, 364.337 F.S.

6 History: Revised 12/1/68, Amended 3/31/76, formerly 25-4.03,
7 Amended 2/23/87, 3/4/92, 12/21/93, 3/10/96,_____.

8
9 25-4.110 Customer Billing for Local Exchange Telecommunications
10 Companies.

11 (1) Each company shall issue bills monthly. Each bill shall
12 show the delinquent date, set forth a clear listing of all charges
13 due and payable, and contain the following statement:

14 "Written itemization of local billing available upon request."

15 (a) Each LEC ~~local exchange company~~ shall provide an itemized
16 bill for local service:

17 1. With the first bill rendered after local exchange service
18 to a customer is initiated or changed; and

19 2. To every customer at least once each twelve months.

20 (b) The annual itemized bill shall be accompanied by a bill
21 stuffer which explains the itemization and advises the customer to
22 verify the items and charges on the itemized bill. This bill
23 stuffer shall be submitted to the Commission's Division of
24 Communications for prior approval. The itemized bill provided to
25 residential customers and to business customers with less than 10

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2 access lines per service location shall be in easily understood
3 language. The itemized bill provided to business customers with 10
4 or more access lines per service location may be stated in service
5 order code, provided that it contains a statement that, upon
6 request, an easily understood translation is available in written
7 form without charge. An itemized bill shall include, but not be
8 limited to the following information, separately stated:

- 9 1. Number and types of access lines;
10 2. Charges for access to the system, by type of line;
11 3. Touch tone service charges;
12 4. Charges for custom calling features, separated by feature;
13 5. Unlisted number charges;
14 6. Local directory assistance charges;
15 7. Other tariff charges; and
16 8. Other nontariffed, regulated charges contained in the bill.

17 (c) Each bill rendered by a local exchange company shall:

- 18 1. Separately state the following items:
19 a. Any discount or penalty, if applicable;
20 b. Past due balance;
21 c. Unregulated charges, identified as unregulated;
22 d. Long-distance charges, if included in the bill;
23 e. Franchise fee, if applicable; and
24 f. Taxes, as applicable on purchases of local and long
25 distance service; and

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2 2. Contain a statement that nonpayment of regulated charges
3 may result in discontinuance of service and that the customer may
4 contact the business office (at a stated number) to determine the
5 amount of regulated charges in the bill.

6 (2) Each company shall make appropriate adjustments or refunds
7 where the subscriber's service is interrupted by other than the
8 subscriber's negligent or willful act, and remains out of order in
9 excess of 24 hours after the subscriber notifies the company of the
10 interruption. The refund to the subscriber shall be the pro rata
11 part of the month's charge for the period of days and that portion
12 of the service and facilities rendered useless or inoperative;
13 except that the refund shall not be applicable for the time that
14 the company stands ready to repair the service and the subscriber
15 does not provide access to the company for such restoration work.
16 The refund may be accomplished by a credit on a subsequent bill for
17 telephone service.

18 (3) (a) Bills shall not be considered delinquent prior to the
19 expiration of 15 days from the date of mailing or delivery by the
20 utility. However, the company may demand immediate payment under
21 the following circumstances:

- 22 1. Where service is terminated or abandoned;
23 2. Where toll service is two times greater than the
24 subscriber's average usage as reflected on the monthly bills for
25 the three months prior to the current bill, or, in the case of a

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2 new customer who has been receiving service for less than four
3 months, where the toll service is twice the estimated monthly toll
4 service; or

5 3. Where the company has reason to believe that a business
6 subscriber is about to go out of business or that bankruptcy is
7 imminent for that subscriber.

8 (b) The demand for immediate payment shall be accompanied by
9 a bill which itemizes the charges for which payment is demanded,
10 or, if the demand is made orally, an itemized bill shall be mailed
11 or delivered to the customer within three days after the demand is
12 made.

13 (c) If the company cannot present an itemized bill, it may
14 present a summarized bill which includes the customer's name and
15 address and the total amount due. However, a customer may refuse
16 to make payment until an itemized bill is presented. The company
17 shall inform the customer that he may refuse payment until an
18 itemized bill is presented.

19 (4) Each telephone company shall include a bill insert
20 advising each subscriber of the directory closing date and of the
21 subscriber's opportunity to correct any error or make changes as
22 the subscriber deems necessary in advance of the closing date. It
23 shall also state that at no additional charge and upon the request
24 of any residential subscriber, the exchange company shall list an
25 additional first name or initial under the same address, telephone

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2 number, and surname of the subscriber. The ~~Such~~ notice shall be
3 included in the billing cycle closest to 60 days preceding the
4 directory closing date.

5 (5) Annually, each telephone company shall include a bill
6 insert advising each residential subscriber of the option to have
7 the subscriber's name placed on the "No Sales Solicitation" list
8 maintained by the Department of Agriculture and Consumer Services,
9 Division of Consumer Services, and the 800 number to contact to
10 receive more information.

11 (6) Where any undercharge in billing of a customer is the
12 result of a company mistake, the company may not backbill in excess
13 of 12 months. Nor may the company recover in a ratemaking
14 proceeding, any lost revenue which inures to the company's
15 detriment on account of this provision.

16 (7) Franchise fees and municipal telecommunications taxes.

17 (a) When a municipality charges a company any franchise fee,
18 or municipal telecommunications tax authorized by Section 166.231,
19 Florida Statutes, the company may collect that fee only from its
20 subscribers receiving service within that municipality. When a
21 county charges a company any franchise fee, the company may collect
22 that fee only from its subscribers receiving service within that
23 county.

24 (b) A company may not incorporate any franchise fee or
25 municipal telecommunications tax into its other rates for service.

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1
2 (c) This subsection shall not be construed as granting a
3 municipality or county the authority to charge a franchise fee or
4 municipal telecommunications tax. This subsection only specifies
5 the method of collection of a franchise fee, if a municipality or
6 county, having authority to do so, charges a franchise fee or
7 municipal telecommunications tax.

8 (8) (a) When a company elects to add the Gross Receipts Tax
9 onto the customer's bill as a separately stated component of that
10 bill, the company must first remove from the tariffed rates any
11 embedded provisions for the Gross Receipts Tax.

12 (b) If the tariffed rates in effect have a provision for gross
13 receipts tax, the rates must be reduced by an amount equal to the
14 gross receipts tax liability imposed by Chapter 203, Florida
15 Statutes, thereby rendering the customer's bill unaffected by the
16 election to add the Gross Receipts Tax as a separately stated tax.

17 (c) This subsection shall not be construed as a mandate to
18 elect to separately state the Gross Receipts Tax. This subsection
19 only specifies the method of applying such an election.

20 (d) All services sold to another telecommunications vendor,
21 provided that the applicable rules of the Department of Revenue are
22 satisfied, must be reduced by an amount equal to the gross receipts
23 tax liability imposed by Chapter 203, Florida Statutes, unless
24 those services have been adjusted by some other Commission action.

25

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2 (e) When a nonrate base regulated telecommunications company
3 exercises the option of adding the gross receipts tax as a
4 separately stated component on the customer's bill then that
5 company must file a tariff indicating such.

6 (9) Each LEC ~~local-exchange-company~~ shall apply partial
7 payment of an end user/customer bill first towards satisfying any
8 unpaid regulated charges. The remaining portion of the payment, if
9 any, shall be applied to nonregulated charges.

10 (10) After January 1, 1998, all bills produced shall clearly
11 and conspicuously display the following information for each
12 service billed in regard to each company claiming to be the
13 customer's presubscribed provider for local, local toll, or toll
14 service:

15 (a) The name of the certificated company and its certificate
16 number;

17 (b) Type of service provided, i.e., local, local toll, or
18 toll; and

19 (c) A toll-free customer service number.

20 (11)~~(10)~~ This section applies to LECs ~~local-exchange-companies~~
21 ~~and interexchange carriers~~ that provide transmission services or
22 bill and collect on behalf of Pay Per Call providers. Pay Per Call
23 services are defined as switched telecommunications services
24 between locations within the State of Florida which permit
25 communications between an end use customer and an information

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1
2 provider's program at a per call charge to the end user/customer.
3 Pay Per Call services include 976 services provided by the LECs
4 ~~local exchange companies~~ and 900 services provided by IXCs
5 ~~interexchange carriers~~.

6 (a) Charges for Pay Per Call service (900 or 976) shall be
7 segregated from charges for regular long distance or local charges
8 by appearing separately under a heading that reads as follows:
9 "Pay Per Call (900 or 976) nonregulated charges." The following
10 information shall be clearly and conspicuously disclosed on each
11 section of the bill containing Pay Per Call service (900 or 976)
12 charges:

13 1. Nonpayment of Pay Per Call service (900 or 976) charges
14 will not result in disconnection of local service;

15 2. End users/customers can obtain free blocking of Pay Per
16 Call service (900 or 976) from the LEC ~~local exchange telephone~~
17 ~~company~~;

18 3. The local or toll-free number the end user/customer can
19 call to dispute charges;

20 4. ~~The With 900 service,~~ the name of the IXC ~~interexchange~~
21 ~~carrier~~ providing 900 service; and

22 5. The Pay Per Call service (900 or 976) program name.

23 (b) Pay Per Call Service (900 and 976) Billing. LECs and IXCs
24 ~~Local exchange companies and interexchange carriers~~ who have a
25 tariff or contractual relationship with a Pay Per Call (900 or 976)

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1
2 provider shall not provide Pay Per Call transmission service or
3 billing services, unless the provider does each of the following:
4 1. Provides a preamble to the program which states the per
5 minute and total minimum charges for the Pay Per Call service (900
6 and 976); child's parental notification requirement is announced on
7 preambles for all programs where there is a potential for minors to
8 be attracted to the program; child's parental notification
9 requirement in any preamble to a program targeted to children must
10 be in language easily understandable to children; and programs that
11 do not exceed \$3.00 in total charges may omit the preamble, except
12 as provided in Section (11)~~(10)~~(b)3.;
13 2. Provides an 18-second billing grace period in which the end
14 user/customer can disconnect the call without incurring a charge;
15 from the time the call is answered at the Pay Per Call provider's
16 premises, the preamble message must be no longer than 15 seconds.
17 The program may allow an end user/customer to affirmatively bypass
18 a preamble;
19 3. Provides on each program promotion targeted at children
20 (defined as younger than 18 years of age) clear and conspicuous
21 notification, in language understandable to children, of the
22 requirement to obtain parental permission before placing or
23 continuing with the call. The parental consent notification shall
24 appear prominently in all advertising and promotional materials,
25 and in the program preamble. Children's programs shall not have

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1
2 rates in excess of \$5.00 per call and shall not include the
3 enticement of a gift or premium;

4 4. Promotes its services without the use of an autodialer or
5 broadcasting of tones that dial a Pay Per Call (900 and 976)
6 number;

7 5. Prominently discloses the additional cost per minute or per
8 call for any other telephone number that an end user/customer is
9 referred to either directly or indirectly;

10 6. In all advertising and promotional materials, displays
11 charges immediately above, below, or next to the Pay Per Call
12 number, in type size that can be seen as clearly and conspicuously
13 at a glance as the Pay Per Call number. Broadcast television
14 advertising charges, in Arabic numerals, must be shown on the
15 screen for the same duration as the Pay Per Call number is shown,
16 each time the Pay Per Call number is shown. Oral representations
17 shall be equally as clear;

18 7. Provides on Pay Per Call services that involve sales of
19 products or merchandise clear preamble notification of the price
20 that will be incurred if the end user/customer stays on the line,
21 and a local or toll free number for consumer complaints; and

22 8. Meets internal standards established by the LEC or IXC
23 ~~local exchange company or the interexchange carrier~~ as defined in
24 the applicable tariffs or contractual agreement between the LEC and
25 the IXC; or between the LEC/IXC and the Pay Per Call (900 or 976)

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2 provider which when violated, would result in the termination of a
3 transmission or billing arrangement.

4 (c) Pay Per Call (900 and 976) Blocking. Each LEC ~~local~~
5 ~~exchange company~~ shall provide blocking where technically feasible
6 of Pay Per Call service (900 and 976), at the request of the end
7 user/customer at no charge. Each LEC or IXC ~~local exchange company~~
8 ~~or interexchange carrier~~ must implement a bill adjustment tracking
9 system to aid its efforts in adjusting and sustaining Pay Per Call
10 charges. The LEC or IXC ~~carrier~~ will adjust the first bill
11 containing Pay Per Call charges upon the enduser's/ customer's
12 stated lack of knowledge that Pay Per Call service (900 and 976)
13 has a charge. A second adjustment will be made if necessary to
14 reflect calls billed in the following month which were placed prior
15 to the Pay Per Call service inquiry. At the time the charge is
16 removed, the end user/customer may agree to free blocking of Pay
17 Per Call service (900 and 976).

18 (d) Dispute resolution for Pay Per Call service (900 and 976).
19 Charges for Pay Per Call service (900 and 976) shall be
20 automatically adjusted upon complaint that:

21 1. The end user/customer did not receive a price
22 advertisement, the price of the call was misrepresented to the
23 consumer, or the price advertisement received by the consumer was
24 false, misleading, or deceptive;

25
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1
2 2. The end user/customer was misled, deceived, or confused by
3 the Pay Per Call (900 or 976) advertisement;

4 3. The Pay Per Call (900 or 976) program was incomplete,
5 garbled, or of such quality as to render it inaudible or
6 unintelligible, or the end user/customer was disconnected or cut
7 off from the service;

8 4. The Pay Per Call (900 and/or 976) service provided
9 out-of-date information; or

10 5. The end user/customer terminated the call during the
11 preamble described in 25-4.110(11)(10)(b)2., but was charged for
12 the Pay Per Call service (900 or 976).

13 (e) If the end user/customer refuses to pay a disputed Pay Per
14 Call service (900 or 976) charge which is subsequently determined
15 by the LEC to be valid, the LEC or IXC may implement Pay Per Call
16 (900 and 976) blocking on that line.

17 (f) Credit and Collection. LECs and IXCs ~~Local exchange~~
18 ~~companies and interexchange carriers~~ billing Pay Per Call (900 and
19 976) charges to an end user/customer in Florida shall not:

20 1. Collect or attempt to collect Pay Per Call service (900 or
21 976) charges which are being disputed or which have been removed
22 from an end user's/customer's bill; or

23 2. Report the end user/customer to a credit bureau or
24 collection agency solely for non-payment of Pay Per Call (900 or
25 976) charges.

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1
2 (g) LECs and IXCs ~~Local exchange companies and interexchange~~
3 ~~carriers~~ billing Pay Per Call service (900 and 976) charges to end
4 users/customers in Florida shall implement safeguards to prevent
5 the disconnection of phone service for non-payment of Pay Per Call
6 (900 or 976) charges.

7 Specific Authority 350.127 F.S.

8 Law Implemented 364.17, 350.113, 364.03, 364.04, 364.05, 364.19,
9 F.S.

10 History: New 12/1/68, Amended 3/31/76, 12/31/78, 1/17/79,
11 7/28/81, 9/8/81, 5/3/82, 11/21/82, 4/13/86, 10/30/86, 11/28/89,
12 3/31/91, 11/11/91, 3/10/96, _____.

13
14 25-4.118 Local, Local Toll, or Toll Provider Interexchange Carrier
15 Selection.

16 (1) The provider ~~primary interexchange company (PIC)~~ of a
17 customer shall not be changed without the customer's authorization.
18 A LEC ~~local exchange company (LEG)~~ shall accept a provider PIC
19 change requests by telephone call or letter directly from its
20 customers; or

21 (2) A LEC shall ~~also~~ accept a PIC change requests from a
22 certificated LP or IXC ~~interexchange company (IXG)~~ acting on behalf
23 of the customer. A certificated LP or IXC ~~certified IXG that will~~
24 ~~be billing customers in its name~~ shall may submit a PIC change
25 request, ~~other than a customer initiated PIC change, directly or~~

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1
2 ~~through another IXG, to a LEC~~ only if it has first certified to the
3 LEC that at least one of the following actions has occurred ~~prior~~
4 ~~to the PIC change request:~~

5 (a) the company IXG has a letter of agency (LOA), as described
6 in (3), on hand a ballot or letter from the customer requesting the
7 such change;

8 (b) the company has received a customer-initiated call, and
9 has obtained the following:

10 1. The customer's consent to record the requested change;

11 2. An audio recording of the information set forth in (3)a,
12 through e.; and

13 3. A recording of the originating telephone number on which
14 the provider is to be changed via automatic number identification,
15 ~~the customer initiates a call to an automated 800 number and~~
16 ~~through a sequence of prompts, confirms the customer's requested~~
17 ~~change; or~~

18 (c) An independent, unaffiliated firm has verified the
19 customer's requested change by obtaining the following:

20 1. The customer's consent to record the requested change and

21 2. An Audio recording of the information stated in subsection
22 (3)a, through e, is verified through a qualified, independent firm
23 which is unaffiliated with the company claiming the subscriber any
24 IXG; or

25

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1
2 (d) The company ~~the IXG~~ has received a customer's change
3 ~~customer request, to change his PIC~~ and has responded within three
4 ~~days by mailing of an informational package that shall include the~~
5 following: includes a prepaid, returnable postcard and an
6 ~~additional 14 days have past before the IXG submits the PIC change~~
7 ~~to the LEC. The information package should contain any information~~
8 ~~required by Rule 25 4.110(3).~~

9 1. A notice that the information is being sent to confirm that
10 a telemarketer obtained a customer's request to change the
11 customer's telecommunications provider;

12 2. A description of any terms, conditions, or charges that
13 will be incurred;

14 3. The name, address, and telephone number of both the
15 customer and the soliciting company;

16 4. A postcard which the customer can use to confirm a change
17 request;

18 5. A clear statement that the customer's local, local toll, or
19 toll provider will be changed to the soliciting company only if the
20 customer signs and returns the postcard confirming the change; and

21 6. A notice that the customer may contact by writing the
22 Commission's Division of Consumer Affairs 2540 Shumard Oak
23 Boulevard, Tallahassee, Florida 32399-0850 or calling, toll-free
24 (TDD & Voice) 1-800-342-3552 for consumer complaints.

25

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2 The soliciting company shall submit the change request to the
3 LP only if it has first received the postcard that must be signed
4 by the customer.

5 ~~(3)(a)~~ The ~~LOA~~ ~~ballot or letter~~ submitted to the ~~interexchange~~
6 company requesting a provider PIG change shall include, ~~but not be~~
7 ~~limited to,~~ the following information (each shall be separately
8 stated):

9 (a) 1- Customer's billing name, phone/account number and
10 address, and each telephone number to be changed;

11 (b) Statement clearly identifying the certificated name of the
12 provider 2- Company and the service to which the customer wishes to
13 subscribe, whether or not it uses the facilities of another
14 company;

15 ~~(c)3-~~ Statement that the person requesting the change is
16 authorized to request the PIG change; ~~and~~

17 (d) Statement that the customer's change request will apply
18 only to the number on the request and there must only be one
19 presubscribed local, one presubscribed local toll, and one
20 presubscribed toll provider for each number;

21 (e) Statement that the LEC may charge a fee for each provider
22 change;

23 (f) 4- Customer's signature, and a statement that the
24 customer's signature or endorsement on the document will result in
25 a change of the customer's provider.

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2 The soliciting company's provider change fee statement, as
3 described in (e) above, shall be legible, printed in boldface at
4 least as large as any other text on the page, and located directly
5 above the signature line.

6 The soliciting company's provider change statement, as
7 described in (f) above, shall be legible, printed in boldface at
8 least as large as any other text on the page, and located directly
9 below the signature line.

10 ~~(b) Every written document by means of which a customer can~~
11 ~~request a PIC change shall clearly identify the certificated~~
12 ~~telecommunications company to which the service is being changed,~~
13 ~~whether or not that company uses the facilities of another carrier.~~
14 ~~The page of the document containing the customer's signature shall~~
15 ~~contain a statement that the customer's signature or endorsement on~~
16 ~~the document will result in a change of the customer's long~~
17 ~~distance service provider and explain that only one long distance~~
18 ~~service provider may be designated for the telephone number listed,~~
19 ~~that the customer's selection will apply only to that number, and~~
20 ~~that the customer's local exchange company may charge a fee to~~
21 ~~switch service providers. Such statement shall be clearly legible~~
22 ~~and printed in type at least as large as any other text on the~~
23 ~~page.~~

24 (4) The LOA shall not be combined with inducements of any kind
25 on the same document. The if any such document is not used solely

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2 ~~for the purpose of requesting a PIC change, then the document as a~~
3 whole must not be misleading or deceptive. For purposes of this
4 rule, the terms "misleading or deceptive" mean that, because of the
5 style, format or content of the document or oral statements, it
6 would not be readily apparent to the person signing the document or
7 providing oral authorization that the purpose of the signature or
8 the oral authorization was to authorize a provider PIC change, or
9 it would be unclear to the customer who the new ~~long distance~~
10 service provider would be; that the customer's selection would
11 apply only to the number listed and there could only be one
12 provider for that number; or that the customer's LP local exchange
13 ~~company~~ might charge a fee to switch service providers. If any
14 part of the LOA document is written in a language other than
15 English, then ~~it the document~~ must contain all relevant information
16 in each ~~the same~~ language.

17 ~~(c) If a PIC change request results from either a customer~~
18 ~~initiated call or a request verified by an independent third party,~~
19 ~~the information set forth in (3)(a)1. 3. above shall be obtained~~
20 ~~from the customer.~~

21 (5) A prospective provider must have received the signed LOA
22 before initiating the change.

23 (6) LOAs and audio recordings shall ~~(d) Ballots or letters~~
24 ~~will~~ be maintained by the provider ~~INC~~ for a period of one year.

25
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2 ~~(7)-(4)~~ Customer requests for other services, such as travel
3 card service, do not constitute a provider change ~~in~~ PIG.

4 ~~(8)-(5)~~ Charges for unauthorized provider PIG changes and all
5 charges billed on behalf of the unauthorized provider for the first
6 90 days higher usage rates, if any, over the rates of the preferred
7 company shall be credited to the customer by the company ~~IKG~~
8 responsible for the error within 45 days of notification. Upon
9 notice from the customer of an unauthorized provider PIG change,
10 the LEC shall change the customer back ~~to the prior~~ ~~IKG~~, or to
11 another company of the customer's choice. The change must be made
12 within 24 hours excepting Saturday, Sunday, and holidays, in which
13 case the change shall be made by the end of the next business day.
14 ~~In the case where the customer disputes the ballot or letter, the~~
15 ~~IKG appearing on the ballot/letter will be responsible for any~~
16 ~~charges incurred to change the PIG of the customer.~~

17 ~~(9)-(6)~~ The company ~~IKG~~ shall provide the following disclosures
18 when soliciting a change in service from a customer:

- 19 (a) Identification of the company ~~IKG~~;
- 20 (b) That the purpose of the visit or call is to solicit a
21 change of the provider PIG of the customer;
- 22 (c) That the provider shall not ~~PIG can not~~ be changed unless
23 the customer authorizes the change; and
- 24 (d) All ~~Any additional~~ information as referenced in Rule
25 25-24.490~~(3)-(4)~~.

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2 (10) During telemarketing and verification, no misleading or
3 deceptive references shall be made while soliciting for
4 subscribers.

5 Specific Authority 350.127(2) F.S.

6 Law Implemented 364.01, 364.19, 364.285 F.S.

7 History: New 3/4/92, Amended 5/31/95, _____.

8
9 25-24.490 Customer Relations; Rules Incorporated.

10 (1) The following rules are incorporated herein by reference
11 and apply to IXCs, ~~interexchange companies.~~ In the following
12 rules, ~~the word 'local' should be omitted or interpreted as 'toll',~~
13 ~~as they shall apply only to interexchange and not local service.~~

Section	Title	Portions not Applicable
14		
15		
16	<u>25-4.110</u>	<u>Customer Billing</u>
17		<u>Subsections (10)</u> <u>and (11)</u>
18	25-4.111	<u>All except</u>
19		Subsection (2)
20	25-4.112	<u>All None</u>
21		Termination of Service by Customer
22	25-4.113	<u>All None</u>
23		Refusal or Discontinuance of Service by Company
24	25-4.114	<u>All None</u>
25	25-4.117	<u>All None</u>
		800 Service

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1
2 25-4.118 Local, Local Toll, or All None
3 Toll Provider
4 Interexchange Carrier
5 Selection

6 (2) An IXC interexchange company may require a deposit as a
7 condition of service and may collect advance payments for more than
8 one month of service if it maintains on file with the Commission a
9 bond covering its current balance of deposits and advance payments
10 (for more than one month's service). A company may apply to the
11 Commission for a waiver of the bond requirement by demonstrating
12 that it possesses the financial resources and income to provide
13 assurance of continued operation under its certificate over the
14 long term.

15 (3) Upon request, each company shall provide verbally or in
16 writing to any person inquiring about the company's service:

- 17 (a) any nonrecurring charge,
18 (b) any monthly service charge or minimum usage charge,
19 (c) company deposit practices,
20 (d) any charges applicable to call attempts not answered,
21 (e) a statement of when charging for a call begins and ends,

22 and

23 (f) a statement of billing adjustment practices for wrong
24 numbers or incorrect bills.

25 In addition, the above information shall be included in the first

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2 bill, or in a separate mailing no later than the first bill, to all
3 new customers and to all customers presubscribing on or after the
4 effective date of this rule, and in any information sheet or
5 brochure distributed by the company for the purpose of providing
6 information about the company's services. The above information
7 shall be clearly expressed in simple words, sentences and
8 paragraphs. It must avoid unnecessarily long, complicated or
9 obscure phrases or acronyms.

10 Specific Authority 350.127(2) F.S.

11 Law Implemented 364.03, 364.14, 364.15, ~~364.19~~, 364.337 F.S.

12 History: New 2/23/87, Amended 10/31/89, 3/5/90, 3/4/92, 3/13/96,
13 _____.

14
15 25-24.845 Customer Relations; Rules Incorporated.

16 The following rules are incorporated herein by reference and
17 apply to ALECs. In the following rule, the acronym 'LEC' should be
18 omitted or interpreted as 'ALEC'.

<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
20 <u>25-4.110</u>	<u>Customer Billing</u>	<u>Subsections (10) and (11)</u>
21 <u>24-4.118</u>	Local, Local Toll, or 22 Toll Provider Selection	All

23 Specific Authority: 350.127(2) and 364.337(2), F.S.

24 Law Implemented: 364.337(2).

25 History: New

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MEMORANDUM

December 1, 1997

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *(10/2 PD JMD)*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COST FOR DOCKET NO. 970882-TL, PROPOSED AMENDMENTS TO RULE 25-4.003, F.A.C., DEFINITIONS; RULE 25-4.110, F.A.C., CUSTOMER BILLING; RULE 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION; RULE 25-24.490, F.A.C., CUSTOMER RELATIONS; RULES INCORPORATED. PROPOSED RULE 25-24.845, F.A.C., CUSTOMER RELATIONS; RULES INCORPORATED

SUMMARY OF THE RULE

The proposed rule amendments and proposed new rule would place new requirements on Local Exchange Companies (LECs), Alternative Local Exchange Companies (ALECs), and Interexchange Companies (IXCs) regarding the circumstances under which changes may be made to a customer's provider of local, local toll, or toll service. The proposed rule amendments and proposed rule are intended to reduce the incidence of unauthorized changes to Florida customers' local, local toll, or toll service providers.

ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Any telecommunications company that may solicit, receive or process changes to a Florida consumer's local, local toll, or toll telecommunications carrier is required to comply. In Florida, certificates to provide telecommunications service are held by 10 LECs, approximately 130 ALECs, and approximately 500 IXCs. All of these companies may potentially solicit, receive, or process carrier changes and therefore would be required to comply.

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

The Florida Public Service Commission (Commission) should eventually see a reduction in the number of complaints filed by consumers alleging slamming if the rule achieves its purpose (to reduce the incidence of slamming). However, until the preventive procedures required by the proposed rule are implemented throughout the industry, there may be a short-term increase in consumer complaints (due to publicity). The proposed rule requires that a company's informational package include the address and toll-free number of the Commission's Division of Consumer Affairs. This may cause an increase in the number of inquiry calls consumers place to the Commission, though it is unknown at this time whether complaints would be filed by these callers. Present staff levels should be adequate if these increases are short term.

Another cost consideration related to consumer complaints is the increased emphasis the industry will likely place on determining the legitimacy of each and every consumer complaint filed. Each complaint could require a company to make refunds for service going back as much as 90 days. Consequently, companies may shift their focus from simply resolving complaints in the most expedient manner to proving the customer wrong (i.e. company complied with rule, so no slam occurred, hence refund not required). An increase in the length of time that complaints are open (i.e. unresolved) or more complaints going to hearing would add regulatory costs to the Commission. However, it is not clear at this time that such a result would occur.

As with any complex rule amendments, Commission technical staff should also expect to receive an increased number of questions from the industry for at least a year after the rule takes effect. However adequate technical staff should exist to field such calls. The Office of Public Counsel and the Office of the Attorney General may also experience similar short-term increases in complaint/inquiry activity, followed by a decrease in such activity after the proposed rule amendments have been in effect long enough to be followed throughout the industry.

At least one local government (City of Lakeland) holds an ALEC certificate, though it is not currently operating as a telecommunications company. Local governments operating regulated telecommunications companies (LEC, ALEC or DCC) are expected to face the same compliance costs as other entities. No other direct costs to state or local government entities are foreseen.

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

Billing Detail (Proposed Amendments to Rule 25-4.110, F.A.C.)

Most respondents agreed that printing carrier name(s), type of service(s) provided and a toll-free customer service number, are reasonable requirements that could be complied with at minimal or no additional cost. However, providing the Florida certificate number on the bill was identified as being costly by almost all respondents, both for implementation and on a going-forward basis. Implementation costs ranged from \$80,000 (BellSouth) to \$610,400 (Sprint-Florida, Inc.). Some companies could not provide an estimate at this time. Annual recurring costs were estimated at between \$2 and \$2.5 million by BellSouth, although BellSouth stated costs could be as high as \$4.5 million if the Commission were to require that the certificate number appear on a certain portion of the bill rather than allowing placement to be the company's business decision. None of the other respondents were able to quantify annual recurring costs of maintaining, updating and printing the certificate numbers of Florida carriers, though most expected them to be significant. Carriers frequently contract with billing and collection vendors or other telecommunications companies to bill their calls. Two respondents (Telecommunications Resellers Association and MCI) are concerned that requiring additional information, especially state specific information such as certification numbers, would drive up the costs of billing and collection contracts.

Procedures for Obtaining and Submitting Requests to Change a Customer's Service Provider (Proposed Amendments to Rule 25-4.118, F.A.C.)

The procedures identified by the respondents as costly to their companies, and indirectly to Florida consumers, are primarily those that would limit their ability to market their services nationally. Many companies claimed that if the proposed rules become effective, costs for services could be driven up, carrier changes could become more confusing and difficult to implement, and Florida consumers would not realize the benefits from competition that they otherwise might.

Audio Recording (Proposed Amendments to Rule 25-4.118(2)(b) and (c), F.A.C.)

The proposed rules modify the four conditions under which a local provider or IXC may submit a consumer's carrier change request for processing. For example, the proposed rules require

an audio recording to be made of a customer's request for carrier change (local, local toll, or toll) whether such request is initiated by a telephone call from the customer to the company (inbound call) or by a telemarketer to the customer (outbound call). Providing an audio recording was named as costly by most respondents, both for implementation (equipment, programming, vendor contracts, and staff training) and on a going-forward basis (maintenance, record retrieval, vendor contracts, and increased staff/customer talk time). Most companies stated specific costs would not be known until equipment was purchased and contracts with vendors are negotiated. However, four companies (BellSouth, MCI, AT&T, and Sprint) provided at least partial cost estimates.

BellSouth stated it would cost \$15 million to develop a complete system for audio recording carrier change requests. Annual recurring costs to maintain the system are estimated at \$6.3 million.

MCI presently uses third-party verification (TPV) on both inbound and outbound calls but audio recording is not part of its TPV process. The one-time implementation costs associated with setting up an audio system had not been calculated at the time MCI provided cost information to staff. Ongoing costs would come to approximately \$14,400 per year to obtain audio recordings of carrier change requests, based upon present transaction levels and taping costs provided by the company. Retrieval of archived records would cost \$75 per record retrieved, according to MCI. In 1996, 150 consumers contacted the Commission to allege slamming against MCI. Assuming the company retrieved an archived record in each of those cases, annual costs for retrieval would be approximately \$11,250 (for Commission complaints only). Other ongoing costs associated with audio recording are costs of magnetic tapes, autofaxing, and postage, according to MCI. These costs were not quantified.

AT&T stated the implementation difficulties combined with the costs to audio record all inbound and outbound carrier change calls were so extreme that "... AT&T does not feel it will ever be feasible to fulfill these proposed requirements." Therefore, rather than providing cost data for the rule as proposed, AT&T provided costs for performing TPV on inbound calls using the same procedures it presently uses on outbound calls. These procedures do not include an audio recording. One-time implementation costs are estimated at \$550,000. Annual ongoing expenses are estimated to be at least \$6 million (including costs associated with systems, vendors, staff training, and talk time).

Though the requirement to record inbound calls was cited as being particularly costly by many respondents (LDDS WorldCom, BellSouth, MCI, and Sprint), only Sprint provided costs figures for recording inbound carrier changes separately. Sprint's costs to purchase and install appropriate recording systems totaled \$1,190,000 for its IXC operations and \$560,000 for its ALEC operations.

Modifications to Informational Package and Letter of Authorization (LOA) (Proposed Amendments to Rule 25-4.118(2)(d) and (3), F.A.C.)

The requirements that the Commission's address and toll-free number appear on the informational package postcard was viewed as costly by several respondents (Telecommunications Resellers Association, LCI International, Sprint, and AT&T). This is because most companies market their services nationally and would incur added expense to design, print, and distribute LOAs and informational packages specifically for potential Florida customers. Sprint indicated it would discontinue use of the information package as an option to indicate a request for carrier change if the proposed rule becomes effective. Sprint claims annual revenues would be reduced by \$765,000 as a result. However, Sprint would not necessarily lose revenues if these customers could be switched using another verification method, unless other methods were more expensive.

Unlike IXCs, most incumbent local exchange companies (ILECs) and ALECs do not already have extensive systems in place to market and process consumer carrier change requests. BellSouth was the only ILEC that provided specific costs for developing an LOA and informational package. BellSouth reported \$790,000 to develop an LOA and \$660,000 annual recurring costs. BellSouth expects to incur costs of \$730,000 to develop an information package and \$450,000 annual recurring costs.

Third Party Verification (TPV) (Proposed Amendments to Rule 25-4.118(2)(c), F.A.C.)

BellSouth estimated its TPV costs would be \$8 million for development plus \$740,000 in annual recurring costs. Incumbent local service provider, Sprint-Florida, Inc. was unable to quantify its costs at present. Sprint Communications stated that its total equipment costs would be \$280,000 for its IXC operations and \$70,000 for its competitive local exchange operations. MCI presently uses TPV even on inbound calls at cost of approximately \$1.25 per gross transaction, or \$150,000 per year based on the present number of transactions processed annually in Florida. AT&T presently

uses TPV on outbound calls and reports it could extend this use to inbound calls for \$550,000 one-time set up costs and \$6 million per year ongoing costs (excluding costs for data storage which have not been calculated).

Automatic Number Identification (ANI) (Proposed Amendments to Rule 25-4.118(2)(b), F.A.C.)

The proposed rules require companies to use ANI to record the originating telephone number on which the provider is to be charged when they receive a customer-initiated (inbound) call. Both AT&T and LDDS WorldCom stated that compliance with this amendment would be impossible in many cases, such as when a customer calls from a number that differs from the one he wants to switch, when he wants to switch multiple lines, or when the ANI is not delivered with the call. Revenues that might be lost as a result were not provided.

Crediting of Unauthorized Charges (Proposed amendments to Rule 25-4.118(8), F.A.C.)

Though there was agreement that companies who had engaged in willful slamming should not receive revenues, most companies are concerned that customers would attempt to obtain 90 days of "free service" by claiming slamming when none had occurred. As a result, companies stated they would face increased costs to investigate and defend themselves against false slamming accusations. The cost of providing refunds or investigating slamming allegations will vary for each company, based upon the amount billed and number of customers determined to be slammed. Sprint Communications said the cost to set up and maintain a system to verify/refute slamming claims would likely be greater than the cost of providing actual refunds. Sprint Communications was the only company to provide a numeric estimate of these costs (\$345,000 annually for labor plus \$88,000 one-time investment for office and equipment). Several companies questioned how "charges for unauthorized provider changes" would be determined for purposes of when credit must be given. Some companies indicated they would incur litigation costs rather than make refunds they considered to be unwarranted. They also believed making unwarranted refunds would ultimately contribute to increased refunds over time as other customers learned they could be easily obtained. There might also be increased consumer complaints filed at the Commission as consumers attempt to obtain refunds. However, staff believes that complaints will level out as policies and procedures

are established. The number of complaints to the Commission should eventually be reduced overall if the preventive measures in the proposed rules have the intended effect.

Requirements Placed upon IXCs and ALECs by Incorporation of Specific Subsections of Other Rules (Proposed Amendments to Rule 24-24.490, F.A.C. and Proposed Rule 24-24.845, F.A.C.)

IXCs and ALECs would be required to comply with specific subsections of the proposed LEC billing rules. ALEC operations would experience more cost than IXC operations as they have less billing infrastructure in place and a lower volume of calls to spread costs over. AT&T stated its ALEC operations would incur greater incremental costs to comply with the proposed rules as compared to current costs under existing rules. No company provided specific costs. BellSouth mentioned the importance of equal treatment and application of the rules to all types of carriers (LEC, ALEC, IXC).

Summary

If the Florida-specific requirements have the effect of greatly reducing the number of participants competing in the Florida telecommunications market, there may be indirect costs to consumers because their choices among companies, services, and rates would be reduced. However, if the only participants that leave the Florida market are those that are prone to engage in unauthorized carrier changes, then consumers would experience an indirect benefit (fewer incidents of slamming), as intended by the proposed amendments.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

None of the responding telecommunications companies met the statutory definition of a small business. However, the Telecommunications Resellers Association (TRA) indicated that many of its members are small providers who must depend on contract billing services to bill their calls nationwide. Because of this billing arrangement, TRA said its smaller members would incur significant costs to display state-specific information on the bill. It appears TRA is referring to the greater incremental costs a small company might incur due to the fact that their smaller share of the market provides them with fewer customers to spread cost over. It is presumable that should the

proposed rule become law, companies which provide contract billing could develop a Florida-specific bill in order to meet the needs of both large and small clients.

Small telecommunications companies should also enjoy the same benefits as large ones by not having their customer base reduced through unauthorized carrier changes. Other types of small businesses are expected to experience the same benefits as consumers (i.e. reduced incidents of unauthorized carrier changes). No additional direct impact on small cities or small counties is foreseen.

REASONABLE ALTERNATIVE METHODS

Only one respondent provided specific language for a lower cost alternative to the proposed rule amendments, though several companies made general suggestions. LDDS WorldCom proposed an additional rule as follows to make a distinction between whether underlying (facilities based) carriers or resellers should be held responsible for slamming violations:

An underlying carrier (UC) is not responsible nor liable for an unauthorized carrier selection of a reseller of the UC.

LDDS WorldCom states there would be no costs associated with implementing this rule. However, this additional rule does not appear to be necessary, since the proposed rules require the bill to reflect the name, certificate number, and toll-free customer service number of the "... company claiming to be the customer's presubscribed provider..." It should, therefore, be clear that the company whose name is displayed on the bill (i.e., reseller when appropriate) is the responsible party.

Two more changes were suggested by LDDS WorldCom. One is to allow companies 18 months to implement the rule after final adoption and to allow a waiver of the implementation date based on technical and economic feasibility. LDDS says it will need more time to develop a solution to the problem of how to get the reseller's name on a bill if the reseller does not have its own Carrier Identification Code (CIC). LDDS indicated it is working with BellSouth and other companies to develop an industry standard solution to this problem at the federal level.

The other change suggested by LDDS is to remove the requirement to place the certificate number on the bill. As discussed in the previous section on procedures, many companies objected to this requirement. LDDS stated that Commission rules already prohibit wholesalers from reselling

their services to uncertificated carriers, therefore, the proposed amendment is redundant. TDS Telecom stated the certificate number should not be required on the bill, as placing the carrier's name and telephone number on the bill should provide the customer with sufficient information. TDS Telecom stated there are no customer benefits that outweigh the administrative costs the company would incur to ensure the accuracy of certificate numbers on a going forward basis, though no specific costs were provided. As discussed previously, TRA stated requiring state-specific information to be displayed on the bill would result in significant costs (not specified).

Most of the other suggestions for savings centered on the idea that the Florida Commission should not impose any regulations that might differ substantially from those that the Federal Communications Commission (FCC) might put in place or that make national marketing of their services more difficult. Many companies are concerned about state-specific requirements increasing the cost of doing business in Florida. AT&T believes differences between the proposed rules and the FCC's rules will cause customer confusion and result in any additional compliance costs being passed on to Florida consumers. Since the FCC has not completed its rulemaking proceeding, it is unknown what costs federal slamming rules will impose on companies or how such costs will compare to the costs of rules adopted by Florida and other states.

BellSouth suggested printing a telephone number on each monthly bill that consumers can call to verify the name of their local toll and toll carrier at any time. BellSouth states this method would be less costly than printing each carrier's certificate number, though costs savings were not quantified. However, this method would require the customer to take an action to obtain the information, whereas, staff's proposed rule makes the information (name, type of service, and certificate number) readily available to the customer by being displayed on each monthly bill.

AT&T cautioned that the process of changing carriers should not be made so cumbersome as to make it difficult for consumers to quickly switch between companies to take advantage of savings on special rate plans. The proposed amendments offer several methods companies may use to process and confirm a customer's carrier selection. Companies may elect to use any one or all of these methods, considering factors such as the timeliness, perceived difficulty, and costs associated with each. The proposed amendments do not appear to prevent consumers from changing carriers quickly and often, therefore, competitive savings may still be realized.

Each time a Florida customer is slammed, costs are incurred. These costs are reflected in the time the customer, telecommunications companies, and state agencies must spend to resolve the matter. During public workshops held around the state, many customers testified that they spent hours, days, even months writing letters and making telephone calls to resolve billing problems or be returned to their preferred carrier. Other costs to customers are potentially higher rates than they would have paid to their preferred carrier and carrier change fees. Each slamming incident also results in the preferred carrier losing revenues and market share. Finally, consumer confidence in the integrity of the telecommunications industry may be eroded by the deceptive marketing practices and careless procedures that slamming represents. If consumers lose confidence in the integrity of telecommunications providers, competition is not likely to be enhanced. Unauthorized carrier changes give the appearance of an actively competitive market but do not represent real competition. As the local and local toll markets become more competitive, it is crucial to reduce the incidence of slamming. This will allow the development of truly competitive markets that will provide benefits to both customers and the industry.

KDL:tf/e-slam