

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



DIVISION OF APPEALS
DAVID E. SMITH
DIRECTOR ORIGINAL
(904) 413-6243

Public Service Commission

December 29, 1997

Ms. Monique H. Cheek
Office of Tourism, Trade, and
Economic Development
Executive Office of the Governor
The Capitol
Tallahassee, FL 32399-0001

SUBJECT: Docket No. ~~970002~~-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

The Commission has determined that the above rules will
affect small business. Accordingly, pursuant to Section
120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida
Administrative Weekly (FAW) notice for the proposed rules, which
will be published in the January 2, 1998 edition of the FAW.
Also enclosed is a copy of the statement of estimated regulatory
costs.

If there are any questions with respect to these rules or
the Commission's rulemaking procedures, please do not hesitate

- ACK _____
- AFA _____
- APP _____
- CAP _____
- CMR _____
- CTR _____
- EAS _____

Sincerely,

Diana W. Caldwell
Diana W. Caldwell
Associate General Counsel

Enclosures
cc: Division of Records & Reporting

- L _____
- CTC _____
- RMI _____
- STJ _____
- WJ _____
- OTH _____

DOCUMENT NUMBER-DATE

10255 DEC 29 5

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 970882-TI

RULE TITLE:	RULE NO.:
Definitions	25-4.003
Customer Billing for Local Exchange Telecommunications Companies	25.4.110
<u>Local, local Toll, or Toll Provider</u> Interexchange Carrier Selection	25-4.118

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate local, local toll, and toll service provider change requirements and 47 C.F.R. §§64.1100 and 64.1150 that provide more stringent change requirements than that in the Commission's current rules. The proposed amendments also provide for greater consumer protections. The effect of the proposed rule amendments is to reduce the possibility of "slamming" (the change of the primary local, local toll, or toll provider of a customer without authorization).

SUMMARY: 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 who must be certificated by the Commission.

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 certain information.

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

(3) An independent, unaffiliated firm has verified the consumer's request and obtained information by audio recording.

(4) The company has received a consumer's change request and responds by mailing an information package.

A company may not combine the LOA with any inducement on the same document and prohibits checks sent by companies to consumers where endorsement by the customer is agreement to switch service. Inducements in writing or by telephone may not be misleading or deceptive.

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. After 90 days up to 12 months any charges will be rerated. Upon notification by the consumer, the company must have the consumer switched back to this original provider or the provider of his choice.

Providers and billing companies are required to give notice to the customer in the bill and by letter that his provider of a

particular service has switched and that a PIC freeze is available. Provides for a billing block option for customers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The providers who filed cost information were primarily concerned with portions of the proposed rules that would make it difficult for them to standardize their marketing and billing procedures nationwide. 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.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 350.113, 364.01, 364.02, 364.03, 364.04, 364.05, 364.17, 364.19, 364.285, 364.32, 364.335, 364.337 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN

21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., February 6, 1998

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES ARE:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THESE PROPOSED RULES ARE:

25-4.003 Definitions.

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

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

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

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

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

(5)+(4) "Busy Season." The calendar month or period of the

year (preferably 30 days but not to exceed 60 days) during which the greatest volume of traffic is handled in the office.

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

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

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

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

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

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

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

(13)~~(12)~~ "Exchange." The entire telephone plant and

facilities used in providing telephone service to subscribers located in an exchange area. An exchange may include more than one central office unit.

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

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

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

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

(18)~~(17)~~ "Intercept Service." A service arrangement provided by the telecommunications company whereby calls placed to an unequipped non-working, disconnected, or discontinued telephone number are intercepted by operator, recorder, or audio response computer and the calling party informed that the called telephone number is not in service, has been disconnected, discontinued, or

changed to another number, or that calls are received by another telephone. This service is also provided in certain central offices and switching centers to inform the calling party of conditions such as system blockages, inability of the system to complete a call as dialed, no such office code, and all circuits busy.

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

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

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

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

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

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

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

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

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

~~(28)~~~~(27)~~ "Local Exchange Telecommunications Company (LEC)." Any telecommunicationa company, as defined in Section 364.02(6), Florida Statutes.

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

~~(30)~~~~(28)~~ "Local Service Area" or "Local Calling Area." The area within which telephone service is furnished subscribers under a specific schedule of rates and without toll charges. A LEC's local-exchange-telecommunications-company's local service area may include one or more exchange areas or portions of exchange areas.

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

(32)~~(29)~~ "Main Station." The principal telephone associated with each service to which a telephone number is assigned and which is connected to the central office equipment by an individual or party line circuit or channel.

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

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

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

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

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

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

(d) A customer's bill cannot be determined by applying the

tariff of the underlying IXC ~~interexchange company~~ to the customer's individual usage.

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

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

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

(41) "PIC-Freeze." The customer authorization to prohibit a change of any selected provider as expressed on Form PSC/CAF 2 (XX/98).

(42) "Provider." Any telecommunications company providing service, excluding pay telephone providers and call aggregators (i.e. local, local toll, and toll providers).

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

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

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

(46)~~(42)~~ "Station." A telephone instrument consisting of a

transmitter, receiver, and associated apparatus so connected as to permit sending or receiving telephone messages.

(47)+~~43~~ "Subscriber" or "Customer." These terms may be used interchangeably herein and shall mean any person, firm, partnership, corporation, municipality, cooperative organization, or governmental agency supplied with communication service by a telecommunications company.

(48)+~~44~~ "Subscriber Line." See "Access Line."

(49)+~~45~~ "Switching Center." Location at which telephone traffic, either local or toll, is switched or connected from one circuit or line to another. A local switching center may be comprised of several central office units.

(50)+~~46~~ "Toll Connecting Trunk." A trunk which connects a local central office with its toll operating office.

(51)+~~47~~ "Toll Message." A completed telephone call between stations in different exchanges for which message toll charges are applicable.

(52) "Toll Provider (TP)." Any telecommunications company providing interLATA long distance telecommunications service.

(53)+~~48~~ "Traffic Study." The process of recording usage measurements which can be translated into required quantities of equipment.

(54)+~~49~~ "Trouble Report." Any oral or written report from a subscriber or user of telephone service to the telephone company indicating improper function or defective conditions with respect

to the operation of telephone facilities over which the telephone company has control.

~~(55)+50~~ "Trunk." A communication channel between central office units or entities, or private branch exchanges.

~~(56)+51~~ "Valid Number." A number for a specific telephone terminal in an assigned area code and working central office which is equipped to ring and connect a calling party to such terminal number.

Specific Authority: 350.127(2) FS.

Law Implemented: 364.01, 364.02, 364.32, 364.335, 364.337 FS.

History: Revised 12/1/68, Amended 3/31/76, formerly 25-4.03,

Amended 2/23/87, 3/4/92, 12/21/93, 3/10/96,_____.

25-4.110 Customer Billing for Local Exchange Telecommunications Companies.

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

"Written itemization of local billing available upon request."

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

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

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

(b) The annual itemized bill shall be accompanied by a bill

stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill stuffer shall be submitted to the Commission's Division of Communications for prior approval. The itemized bill provided to residential customers and to business customers with less than 10 access lines per service location shall be in easily understood language. The itemized bill provided to business customers with 10 or more access lines per service location may be stated in service order code, provided that it contains a statement that, upon request, an easily understood translation is available in written form without charge. An itemized bill shall include, but not be limited to the following information, separately stated:

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

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

1. Separately state the following items:
 - a. Any discount or penalty, if applicable;

- b. Past due balance;
- c. Unregulated charges, identified as unregulated;
- d. Long-distance charges, if included in the bill;
- e. Franchise fee, if applicable; and
- f. Taxes, as applicable on purchases of local and long distance service; and

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

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

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

the following circumstances:

1. Where service is terminated or abandoned;
2. Where toll service is two times greater than the subscriber's average usage as reflected on the monthly bills for the three months prior to the current bill, or, in the case of a new customer who has been receiving service for less than four months, where the toll service is twice the estimated monthly toll service; or
3. Where the company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is imminent for that subscriber.

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

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

(4) Each telephone company shall include a bill insert advising each subscriber of the directory closing date and of the subscriber's opportunity to correct any error or make changes as

the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. ~~The such~~ notice shall be included in the billing cycle closest to 60 days preceding the directory closing date.

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

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

(7) Franchise fees and municipal telecommunications taxes.

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

within that county.

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

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

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

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

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

(d) All services sold to another telecommunications vendor, provided that the applicable rules of the Department of Revenue

are satisfied, must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida Statutes, unless those services have been adjusted by some other Commission action.

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

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

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

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

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

(c) A toll-free customer service number.

~~(11)-(10)~~ This section applies to ~~LECs local-exchange companies and interexchange carriers~~ that provide transmission services or bill and collect on behalf of ~~other Pay-Per-Call~~

providers including pay per call providers. Pay Per Call services are defined as switched telecommunications services between locations within the State of Florida which permit communications between an end use customer and an information provider's program at a per call charge to the end user/customer. Pay Per Call services include 976 services provided by the LECs, local exchange companies and 900 services provided by IXCs, and other miscellaneous charges on behalf of other providers interexchange carriers.

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

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

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

3. End Users/customers can obtain a free billing block option from the LEC to block all charges from a third party. Bills submitted by third parties with the subscriber's LEC-specific personal identification number will validate the

subscribers authorization of the charges and supersede the billing block option. The subscriber is responsible for all such charges.

~~4.3~~ The local or toll-free number the end user/customer can call to dispute charges;

~~5.4~~ ~~The With 900 service,~~ the name of the IXC interexchange carrier providing 900 service; and

~~6.5~~ The Pay Per Call service (900 or 976) program name.

(b) Pay Per Call Service (900 and 976) Billing. LECs and IXCs ~~local exchange companies and interexchange carriers~~ who have a tariff or contractual relationship with a Pay Per Call (900 or 976) provider shall not provide Pay Per Call transmission service or billing services, unless the provider does each of the following:

1. Provides a preamble to the program which states the per minute and total minimum charges for the Pay Per Call service (900 and 976); child's parental notification requirement is announced on preambles for all programs where there is a potential for minors to be attracted to the program; child's parental notification requirement in any preamble to a program targeted to children must be in language easily understandable to children; and programs that do not exceed \$3.00 in total charges may omit the preamble, except as provided in Section

~~(11)(10)~~(b)3.;

2. Provides an 18-second billing grace period in which the

end user/customer can disconnect the call without incurring a charge; from the time the call is answered at the Pay Per Call provider's premises, the preamble message must be no longer than 15 seconds. The program may allow an end user/customer to affirmatively bypass a preamble;

3. Provides on each program promotion targeted at children (defined as younger than 18 years of age) clear and conspicuous notification, in language understandable to children, of the requirement to obtain parental permission before placing or continuing with the call. The parental consent notification shall appear prominently in all advertising and promotional materials, and in the program preamble. Children's programs shall not have rates in excess of \$5.00 per call and shall not include the enticement of a gift or premium;

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

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

6. In all advertising and promotional materials, displays charges immediately above, below, or next to the Pay Per Call number, in type size that can be seen as clearly and conspicuously at a glance as the Pay Per Call number. Broadcast television advertising charges, in Arabic numerals, must be shown

on the screen for the same duration as the Pay Per Call number is shown, each time the Pay Per Call number is shown. Oral representations shall be equally as clear;

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

8. Meets internal standards established by the LEC or IXC ~~local exchange company or the interexchange carrier~~ as defined in the applicable tariffs or contractual agreement between the LEC and the IXC; or between the LEC/IXC and the Pay Per Call (900 or 976) provider which when violated, would result in the termination of a transmission or billing arrangement

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

the time the charge is removed, the end user/customer may agree to free blocking of Pay Per Call service (900 and 976).

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

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

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

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

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

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

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

(f) Credit and Collection. LECs and IXCs ~~Local exchange~~

~~companies and interexchange carriers~~ billing Pay Per Call (900 and 976) charges to an end user/customer in Florida shall not:

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

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

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

(12) The customer must be notified on his first bill and annually thereafter that a PIC Freeze is available and may contact the provider to obtain FORM PSC/CAF 2 (XX/XX). A copy of FORM PSC/CAF 2 (XX/XX), which is incorporated into this rule by reference, may be obtained from the Commission's Division of Consumer Affairs. Existing customers must be notified by January 1, 1999, and annually thereafter that a PIC Freeze form is available and may contact the provider to obtain FORM PSC/CAF 2 (XX/XX).

(13) The customer must be given notice on the first or second page of his next bill in conspicuous bold fact type when his provider of local, local toll, or toll service has changed.

Specific Authority: 350.127 FS.

Law Implemented: 364.17, 350.113, 364.03, 364.04, 364.05, 364.19,
FS.

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

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

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

(2) A LEC shall also accept a PIC change requests from a certificated LP or IXC interexchange company (IXC) acting on behalf of the customer. A certificated LP or IXC certified IXC that will be billing customers in its name shall may submit a PIC change request, other than a customer initiated PIC change, directly or through another IXC, to a LEG only if it has first certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

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

(b) the company has received a customer-initiated call, and

has obtained the following:

1. The customer's consent to record the requested change;
2. An audio recording of the information set forth in (3)a. through e.; and
3. A recording of the originating telephone number on which the provider is to be changed via automatic number identification. ~~the customer initiates a call to an automated 800 number and through a sequence of prompts, confirms the customer's requested change; or~~

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

1. The customer's consent to record the requested change;
and
2. An Audio recording of the information stated in subsection (3)a. through e. is verified through a qualified, independent firm which is unaffiliated with the company claiming the subscriber any-IXG; or

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

1. A notice that the information is being sent to confirm

that a telemarketer obtained a customer's request to change the customer's telecommunications provider;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) Every written document by means of which a customer can request a PIG change shall clearly identify the certificated~~

~~telecommunications company to which the service is being changed, whether or not that company uses the facilities of another carrier. The page of the document containing the customer's signature shall contain a statement that the customer's signature or endorsement on the document will result in a change of the customer's long distance service provider and explain that only one long distance service provider may be designated for the telephone number listed, that the customer's selection will apply only to that number, and that the customer's local exchange company may charge a fee to switch service providers. Such statement shall be clearly legible and printed in type at least as large as any other text on the page.~~

(4) The LOA shall not be combined with inducements of any kind on the same document. The ~~if any such document is not used solely for the purpose of requesting a PIC change, then the document as a whole must not be misleading or deceptive. For purposes of this rule, the terms "misleading or deceptive" mean that, because of the style, format or content of the document or oral statements, it would not be readily apparent to the person signing the document or providing oral authorization that the purpose of the signature or the oral authorization was to authorize a provider PIC change, or it would be unclear to the customer who the new long distance service provider would be; that the customer's selection would apply only to the number listed and there could only be one provider for that number; or~~

that the customer's LP local exchange company might charge a fee to switch service providers. If any part of the LOA document is written in a language other than English, then it the document must contain all relevant information in each the same language.

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

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

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

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

(8)(5) Charges for unauthorized provider PIG changes and all charges billed on behalf of the unauthorized provider for the first 90 days or first three billing cycles, which ever is longer, higher usage rates, if any, over the rates of the preferred company shall be credited to the customer by the company ~~IKG~~ responsible for the error within 45 days of notification. After the first 90 days up to 12 months, charges over the rates of the preferred company will be credited to the customer by the company responsible for the error within 45 days of notification. Upon notice from the customer of an unauthorized provider PIG change, the LEC shall change the customer back to

~~the prior ING, or to another company of the customer's choice. The change must be made within 24 hours excepting Saturday, Sunday, and holidays, in which case the change shall be made by the end of the next business day. In the case where the customer disputes the ballot or letter, the ING appearing on the ballot/letter will be responsible for any charges incurred to change the PIC of the customer.~~

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

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

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

(11) During telemarketing and verification, the customer must be informed that a PIC Freeze is available.

(12) Upon completion of the verification process outlined in this section, the provider must send a letter notifying the customer that it will be providing his service.

(13) A provider must provide the customer a copy of the

authorization it relies upon for the switch within 15 days of request.

(14) Each company shall provide a live operator to answer incoming calls 24 hours a day, 7 days a week, or shall record end user complaints. A combination of live operators and recorders may be used. If a recorder is used, the company shall attempt to contact each complainant no later than the next business day following the date of recording. A minimum of 95 percent of all call attempts shall be completed to a company's toll-free customer service number. Station busies will not be counted as competed calls. The term "answer" as used in this subsection means more than an acknowledgment that the customer is waiting on the line. It shall mean the provider is ready to render assistance or accept the information necessary to process the call.

Specific Authority: 350.127(2) FS.

Law Implemented: 364.01, 364.19, 364.285 FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULES: Rick Moses

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:
Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: December 16, 1997

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 23, Number 38, September 19, 1997

If any person decides to appeal any decision of the Commission

with respect to any matter considered at the rulemaking hearing, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 970882-TI

RULE TITLE:

RULE NO.:

Customer Relations; Rules Incorporated 25-24.490

Customer Relations; Rules Incorporated 25-24.485

PURPOSE AND EFFECT: To require interexchange companies (IXCs) and alternative local exchange companies (ALECs) to abide by the rules relating to the change of a customer's local, local toll, or toll service providers. The effect is to eliminate or reduce the incidences of unauthorized changes of these providers as the telecommunications markets grow more competitive.

SUMMARY: The new rule and amendments require IXC's and ALEC's to abide by the rules relating to customer billing and local, local toll, and toll provider selection.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

The providers who filed cost information were primarily concerned with portions of the proposed rules that would make it difficult for them to standardize their marketing and billing procedures nationwide. 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.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 364.337(2) FS.

LAW IMPLEMENTED: 364.03, 364.14, 364.15, 364.19, 364.337, 364.227(2) FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., February 6, 1998

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES ARE:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THESE PROPOSED RULES ARE:

25-24.845 Customer Relations; Rules Incorporated.

The following rules are incorporated herein by reference and apply to ALECs. In the following rule, the acronym 'LEC' should

be omitted or interpreted as 'ALEC'.

<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
<u>25-4.110</u>	<u>Customer Billing</u>	<u>Subsections (10), (11), (12), and (13)</u>
<u>24-4.118</u>	<u>Local, Local Toll, or Toll Provider Selection</u>	<u>All</u>

Specific Authority: 350.127(2) and 364.337(2), FS.

Law Implemented: 364.337(2)FS.

History: New _____.

25-24.490 Customer Relations; Rules Incorporated.

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

<u>Section</u>	<u>Title</u>	<u>Portions not Applicable</u>
<u>25-4.110</u>	<u>Customer Billing</u>	<u>Subsections (10), (11), (12), and (13)</u>
<u>25-4.111</u>	<u>Customer Complaint and Service Requests</u>	<u>All except Subsection (2)</u>
<u>25-4.112</u>	<u>Termination of Service by Customer</u>	<u>All None</u>
<u>25-4.113</u>	<u>Refusal or Discontinuance of Service by Company</u>	<u>All None</u>

25-4.114	Refunds	All None
25-4.117	800 Service	All None
25-4.118	<u>Local, Local Toll, or</u> <u>Toll Provider</u> <u>Interexchange Carrier</u> Selection	All None

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

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

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

and

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

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

Specific Authority: 350.127(2) FS.

Law Implemented: 364.03, 364.14, 364.15, 364.19, 364.337 FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULES: Rick Moses

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: December 16, 1997

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 23, Number 38, September 19, 1997

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

MEMORANDUM

December 1, 1997

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *WLD* *AM*

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 IXC) 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 DXC 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 DXCs, 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 DXC 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 changed 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 DXCs 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.)

DXCs and ALECs would be required to comply with specific subsections of the proposed LEC billing rules. ALEC operations would experience more cost than DXC 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, DXC).

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 becomes 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