ORIGINAL

LAW OFFICES
MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, RIEF & BAKAS, P.A.

100 NORTH TAMPA STREET, SUITE 2800
TAMPA, FLORIDA 33602-5126

MAILING ADDRESS: TAMPA
P.O. BOX 3350, TAMPA, FLORIDA 33601-3350

TELEPHONE (813) 224-0866
FAX (813) 221-1854
CABLE GRANDLAW

PLEASE REPLY TO
TALLAHASSEE

TALLAHASSEE OFFICE
117 S. GADSDEN
TALLAHASSEE, FLORIDA 32301

TELEPHONE (850) 222-2525
FAX (850) 222-5606

LYNWOOD F. ARNOLD, JR.
JOHN W. BAKAS, JR.
C. THOMAS DAVIDSON
STEPHEN O. DECKER
LINDA E. JORGE
VICKI GORDON KAUFFMAN
JOSEPH A. MCGLOTHLIN
JOHN W. MCWHIRTER, JR.
RICHARD W. REEVES
FRANK J. RIEF, III
DAVID W. STEEN
PAUL A. STRASKE

January 23, 1998

VIA HAND DELIVERY

Ms. Blanca Bayó
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. [redacted]TI - In re: Proposed Rule 25-24.845, F.A.C., Customer Relations; Rules Incorporated, and Proposed Amendments to Rules 25-4.003, F.A.C., Definitions; 25-4.110, F.A.C., Customer Billing; 25-4.118, F.A.C., Interexchange Carrier Selection; 25-24.490, F.A.C., Customer Relations; Rules Incorporated

Dear Ms. Bayó:

Enclosed are the original and 15 copies of Telecommunications Resellers Association's Comments in the above docket.

I have enclosed an extra copy of each of the above documents for you to stamp and return to me. Please contact me if you have any questions. Thank you for your assistance.

Sincerely,

Joseph A. McGlothlin

JAM/jg
Enclosures

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FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rule 25-24.845, F.A.C., Customer Relations; Rules Incorporated, and Proposed Amendments to Rules 25-4.003, F.A.C., Definitions; 25-4.110, F.A.C., Customer Billing; 25-4.118, F.A.C., Interexchange Carrier Selection; 25-24.490, F.A.C., Customer Relations; Rules Incorporated.	Docket No. 970822-TI Filed: January 23, 1998

COMMENTS OF
TELECOMMUNICATIONS RESELLERS ASSOCIATION

The Telecommunications Resellers Association ("TRA"), on behalf of its more than 650 members nationwide and 29 Florida-based members, hereby submits its Comments on the rule revisions proposed in Order No. PSC-97-1615-NOR-TI, dated December 24, 1997.

I. TRA ENDORSES THE COMMENTS OF THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION

TRA concurs in and supports the comments and the alternative proposals submitted by the Florida Competitive Carriers Association (FCCA). The purpose of these separate comments is to highlight and emphasize those aspects of the proposed rules which are of particular concern to TRA's members.

II. TRA INCORPORATES BY REFERENCE ITS COMMENTS OF JUNE 18, 1997

On June 18, 1997, TRA submitted its initial comments on draft rule proposals Those comments continue to reflect TRA's positions. TRA adopts them by reference.

III. TRA SUPPORTS STRONG MEASURES THAT ADDRESS THE PROBLEM OF UNAUTHORIZED CHANGES EFFECTIVELY

TRA recognizes that claims of unauthorized carrier changes have become a significant problem industry-wide. TRA supports the adoption and enforcement of regulatory measures properly designed to address and remedy that problem effectively. TRA cautions, however, that -- however well-intended -- measures that simply impose costly requirements without adding meaningfully to the protections afforded customers will ultimately serve consumers poorly, by erecting unnecessary barriers to participation in the Florida market and by increasing the costs of doing business that customers must ultimately pay. The proposed rules should not be viewed only in terms of additional costs of doing business. Each proposal should be gauged in terms of whether it will afford benefits to customers that are needed and cannot be accomplished with existing requirements or through less costly means.

IV. TRA'S COMMENTS ON SPECIFIC PROPOSALS

A. Carriers should not be required to add their certificate numbers to customers' bills.

Proposed Rule 25-4.110(10)(a) would require each carrier to print its FPSC certificate number on customers' bills. With all due respect for the undoubtedly good intentions behind this proposal, it is perhaps the most conspicuous example of a requirement that would impose significant burdens and expenses on carriers while accomplishing no additional benefits for consumers.

To illustrate the point, assume the Commission receives the following complaint from a customer:

> "Yesterday, I received a bill from AJAX Telecommunications. Before yesterday, I had never heard of them. I certainly didn't authorize them to change my service over from my previous provider."

Given this complaint, the Commission can notify AJAX, process the complaint, and institute appropriate enforcement actions, if warranted.

Now, assume that the Commission instead receives the following complaint:

> "Yesterday, I received a bill from AJAX Telecommunications. Before yesterday, I had never heard of them. I certainly didn't authorize them to change my service over from my previous provider. According to the bill I received, AJAX holds FPSC Certificate 99999."

What can the customer or the Commission do differently, or more effectively, with the additional information? Given the name of the carrier, the Commission has the certificate number (or knows there is no certificate issued to the named carrier). Given the certificate number, the Commission can identify the carrier's name -- but TRA is aware of no problem in the form of customers receiving bills from anonymous carriers! Given both pieces of information by the customer (as a result of costly changes to billing programs made to comply with rules), the Commission could accomplish no more for customers than it could with the name alone. Again, TRA submits that the Commission should gauge the desirability of this proposal in terms of whether it would afford benefits that are not already present with existing rules. The Commission should examine the expensive measures that would be necessary to comply with the proposal, compare that information with the absence of any meaningful benefits, and delete this costly and nonproductive requirement from its proposed rule.

B. "PIC-Freeze" Definition and Establishment of Form PSC/CAF 2(XX/98) [Rule 25-4.003(41), F.A.C.] - Written Notice of PIC Freeze Availability [Rule 25-4.110(12) F.A.C.] - and Oral Notice of PIC-Freeze availability [Rule 25-4.118(11), F.A.C.].

TRA does not oppose the proposed "PIC-Freeze" definition, nor necessarily the establishment of a PIC-Freeze form or use of standardized language to institute subscriber PIC-Freezes. If implemented where technically feasible in a non-discriminatory manner, PIC-Freezes can serve as a useful tool to mitigate the potential of slamming. However, the proposed slamming rules should not establish an implicit requirement that resellers offer PIC-Freezes if they are technically incapable of doing so. Carrier Identification Codes are a prerequisite to the implementation of a PIC-Freeze. Because non-facilities-based resellers do not purchase Feature Group D access features, they are not assigned Carrier Identification Codes[1]. Accordingly, resellers are generally incapable of offering PIC-Freezes to their subscribers. Any rule must take this fact into account.

Further, the requirement that carriers provide written notification annually, and moreover, that carriers be required to retain copies of the forms would impose expenses far more significant than any corresponding benefits to customers. To comply with the PIC-Freeze notice and form provisions, carriers would have to institute programming changes necessary to first isolate Florida customer bills and

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[1]Obtaining a Carrier Identification Code (CIC) for the sole purpose of providing a PIC-Freeze mechanism would conflict with existing federal policies and criteria governing the issuance of CIC codes. A rule purporting to require a provider to obtain a CIC code for this purpose would be beyond the purview of the Commission's jurisdiction.

then to include a notice on the bill itself. The proposed amendment effectively creates a highly state-specific requirement which may disproportionately impact carriers with limited intrastate operations. As many companies utilize contract billing firms or engage in in-house programming staffs, per-hour programming costs could exceed the total Florida intrastate revenues some carriers may realize. According to information available to TRA, use of billing inserts would constitute an even greater expense. Even if costs associated with instituting the proposed disclosure provisions were relatively low, service providers would still have to allocate personnel to coordinate and oversee proper implementation, adding to the provider's costs. Such costs are unnecessary when alternative disclosure methods are available.

The Commission should allow carriers the alternative of informing customers that PIC-Freezes are available orally or in writing at the time a new customer subscribes to the carrier's service. Proposed Rule 25-4.118(11) already envisions that PIC Freeze availability notices could be made orally during telemarketing and verification. Customers may also be reminded of PIC-Freeze availability at such time that customers contact a carrier's customer service representatives. Both options would obviate the need for reprogramming of billing systems, while accomplishing the Commission's intended objective of informing customers that PIC-Freezes are available to them.

The requirement that providers retain specific PIC-Freeze forms may also impose an operational, as well as financial, burden on carriers. Rule 25-4.110(12) F.A.C., would require service providers to retain the form. While arguably the cost of form

duplication is minimal, the administrative burdens of distributing, verifying, and retaining forms could be substantial. Individual tracking mechanisms would be necessary to ensure that forms had been distributed, received, and properly authorized. While use of a form to elect a PIC-Freeze may be beneficial, other methods of securing PIC-Freeze authorizations should be considered as well. For example, a PIC-Freeze election could be incorporated into letters of agency. Alternatively, they could be communicated and verified consistent with other methods of presubscription verification, such as verbal confirmations or electronic confirmation procedures already available to service providers. Separate carrier-developed PIC-Freeze forms could also be used by carriers, as long as these forms contained disclosure and affirmative selections consistent with those in the Commission's version.

Inflexible PIC-Freeze confirmation procedures would impose additional administrative costs on carriers. These unnecessary costs would be avoided by giving carriers the option to incorporate PIC-Freeze elections into existing subscription validation procedures. Little additional expense would be imposed on carriers, but affirmative PIC-Freeze elections could be documented consistent with current service subscription validation procedures.

C. Requirement of a free block option [Rule 25-4.110(11)(a)3., F.A.C.] - Item d.

TRA supports adoption of a third party billing block option for end users, but submits the opportunity should be without charge only once. As proposed Rule 25-4.110(11)(a) 3., F.A.C., is drafted, service providers would be required to provide

third party billing blocks at no charge, each time a subscriber selects third party billing blocking, *i.e.*, each time the subscriber decided to discontinue and then reestablish the block. The provision could unreasonably require providers to incur blocking costs at the whim of a subscriber. To mitigate potentially unreasonable blockage costs by providers, end users should be accorded only one free billing block. The requirement should not remain open ended, as proposed Rule 25-4.110(11)(a)3., F.A.C., is currently written.

D. Notice of Provider Change [Rule 25-4.110(13), F.A.C.] - Item f.

Many of the same concerns relating to the costs associated with state-specific billing disclosure requirements addressed above apply to the requirement that service providers provide notice of a change in provider. The costs associated with preparing billing notices are exacerbated, however, by the requirement that *ad hoc* individual notices appear in billing. Personnel costs associated with identifying customers who must receive notice, coupled with programming costs to include individual customer disclosure, presuming such individual customer notices can be programmed, could easily exceed $30.00, *per customer* when factoring coordination time and programming costs to prepare and distribute notices.

When this requirement is viewed with the proposed Local, Local Toll, or Toll Provider Selection Rules, Rule 25-4.118 as a backdrop, it is unclear why additional disclosure of a subscriber's selection should appear in individual bills. It appears to TRA that little is gained by compelling carriers to assume the additional expense and administrative burdens of informing subscribers that their service has been changed.

The Commission is already instituting effective selection verification procedures to ensure that customers' subscriptions are verified by procedures which require first-hand customer involvement. The Notice of Provider Change requirement is duplicative, and costly to implement and manage. It should be eliminated altogether.

E. Credit for all charges for first 90 days of first three billing cycles and credit for charges that exceed rates of preferred company for up to 12 months [Rule 25-4.118(8), F.A.] - Item g.

TRA supports provisions designed to ensure that no service provider unfairly enriches itself through slamming, even if the unauthorized change results from an administrative error. However, the Commission's proposals go beyond measures necessary to ensure the customer is made whole. A provision that allows consumers to "make money" on the transaction only invites problems of a different kind.

F. Letter notifying customer that service will be provided [Rule 25-4.118(12), F.A.C.] - Item i.

A requirement that customers receive a second (written) notification verifying a new subscription is costly and unnecessary given current federal, and proposed state verification requirements. The effort associated with providing separate confirmation letters will require carriers to assume further administrative expenses associated with coordination of letter distribution. While the cost of sending separate indi dual letters itself may be minimal, the costs of overseeing a separate verification process is significant. Separate customer notifications are duplicitous and will not, in and of themselves, prevent slamming, but rather serve as a potential additional method of informing customers that they have been slammed, should slamming occur.

Such after-the-fact confirmations will accomplish little in *preventing* slamming, yet will impose additional burdens on legitimate carriers. TRA urges the Commission to delete this requirement of a separate confirmation notification.

G. Copy of authorization must be provided to customer [Rule 25-4.118(13), F.A.C.] - Item j.

TRA agrees that a carrier should be able to produce evidence that a subscription was obtained upon request. Yet it is unclear how "a *copy* of the authorization it relies upon for the switch [emphasis added]" could be provided when new customers subscribe to service via telemarketing or electronically. An affirmative written confirmation requirement such as is seemingly imposed by Rule 25-4.118(13), would ostensibly compel service providers to obtain written Letters of Agency in all instances, obviating other confirmation methods. If Rule 25-4.118(13) is intended to require that only written authorizations be produced upon request, this provision, regardless of the additional costs imposed on carriers, will act to undermine and moot use of other confirmation provisions available to service providers under the Commission's proposed rules. Only written Letters of Agency would serve to fulfill this requirement. Otherwise service providers would have to transcribe verbal or electronic confirmations to comply, imposing yet an additional cost on service providers without any countervailing means to *prevent* slamming. Evidence of verification rather than a "copy" of an authorization should be required.

H. Answering incoming calls and responding to customer complaints [Rule 25-4.118(14), F.A.C.] - Item k.

Clearly, service providers have a responsibility to be responsive to customer inquiries and complaints. TRA is concerned, however, with the establishment of a call completion standard, as is proposed in Rule 25-4.118(14), F.A.C., and urges the Commission to eliminate the requirement from its rules.

The proposed call completion standard fails as a meaningful metric. As the proposed call completion standard requirement is currently worded, there is no indication of the period of time over which the 95% call completion standard would be maintained, *i.e.*, whether service providers would be expected to maintain the standard during periods of highest calling volumes, say immediately following billing, over a 24-hour period, or during some other unspecified period of time. Without specifying the period over which the standard would be imposed, the standard becomes unworkable.

More importantly, in a competitive environment where consumers have a choice among service providers, customer service becomes a crucial competitive advantage for retaining subscribers. Service providers who fail to be responsive to customers stand to lose them. Few customers will tolerate poor responsiveness and customer service. Carriers who fail to adequately support their customers through insufficient customer service representatives or limited access to representatives, risk the loss of subscribers. The loss of hard-won subscribers should be sufficient motivation to ensure that customers have immediate access to customer service representatives. Arbitrary Commission-imposed customer service access standards are overly broad,

unnecessary in a competitive environment, and should be deleted from the proposed rules.

I. Enforcement is the Key to Protecting the Public From Slamming.

TRA agrees with the general concerns raised by industry respondents to Staff's first data request regarding projected regulatory costs, summarized in the Commission's December 24, 1997, Notice of Rulemaking, at pages 40 and 41. The promulgation of new regulations will undoubtedly impose additional costs on service providers, as the Commission acknowledges. Yet additional regulations alone will not curb the actions of unscrupulous providers, no matter how many regulations are imposed on ethical carriers who must bear the financial burdens of compliance. Many of the proposed requirements will simply add new financial and administrative burdens to legitimate carriers, disproportionately affecting those with limited Florida operations.

TRA believes the key to the effective prevention of slamming lies in vigorous action taken against those who deliberately abuse customers. Such enforcement is a responsibility of the Commission, as well as the industry through establishment of ethical operating standards such as those embodied in TRA's Code of Ethics. Swift enforcement action taken against deliberate violations of the rules will send a strong message that knowing and willful misconduct will not be tolerated.

SUMMARY

TRA supports the effort to bring strong, effective measures to bear on providers who willfully and knowingly abuse customers in unscrupulous efforts to obtain their business. Adoption of the modifications and refinements advocated by TRA will assure that regulatory requirements do not unnecessarily raise costs to providers (and their customers), without diminishing the effectiveness of the Commission's requirements.

Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 222-2525

Attorney for Telecommunications Resellers Association

Andrew O. Isar
Director, Industry Relations
Telecommunications Resellers Association
4312 92nd Avenue, N.W.
Gig Harbor, Washington 98335-4461

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of TRA's foregoing Comments has been furnished by United States mail or hand delivery(*) this 23rd day of January, 1998:

Diana Caldwell*
Division of Appeals
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 301D
Tallahassee, Florida 32399-0850

Michael A. Gross
Assistant Attorney General
Department of Legal Affairs
The Capitol, PL-01
Tallahassee, Florida 32399-1050

Marsha Rule
Tracy Hatch
AT&T Communications of the
Southern States, Inc.
101 North Monroe Street, Suite 700

Tallahassee, Florida 32301
C. Everett Boyd, Jr.
Ervin, Varn, Jacobs & Ervin
305 South Gadsden Street
Post Office Drawer 1170
Tallahassee, Florida 32302

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
501 East Tennessee Street, Suite B
Post Office Drawer 1657
Tallahassee, Florida 32302

Charles J. Beck
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Rm. 812
Tallahassee, Florida 32399-1400

Nancy White
c/o Nancy Sims
BellSouth Telecommunications
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301

Technologies Management, Inc.
Post Office Drawer 200
Winter Park, Florida 32790-0200

Benjamin W. Fincher
Sprint Communications Company
3100 Cumberland Circle
Atlanta, Georgia 30339
Mailstop: GAATLN0802

Ky E. B. Kirby
Warren A. Fitch
Don W. Blevins
Swidler & Berlin, Chtd.
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116

Richard D. Melson
Hopping Green Sams & Smith
123 South Calhoun Street
Post Office Box 6526
Tallahassee, Florida 32314

Charles Rehwinkel
Sprint/United Florida
Sprint/Centel Florida
Post Office Box 2214
Tallahassee, Florida 32316

Michael L. Glaser
Canora T. Podd
Haligman and Lottner, P.C.
First Interstates Tower North
633 Seventeenth Street, Suite 2700
Denver, Colorado 80202-3635

Angela Green
Florida Public Telecommunications
Association
125 South Gadsden Street
Suite 200
Tallahassee, Florida 32301-1525

Jill Butler
Cox Communications
4585 Village Avenue
Norfolk, Virginia 23502

Benjamin Ochshorn
Florida Legal Services, Inc.
2121 Delta Boulevard
Tallahassee, Florida 32303

Thomas K. Bond
MCI Telecommunications
Corporation
780 Johnson Ferry Road
Suite 700
Atlanta, Georgia 30342

Suzanne Fannon Summerlin
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301

Greg L. Eriksen
Levine & Eriksen
2560 North Santiago Boulevard
Orange, California 92667

Amy Gross
AMNEX
100 West Lucerne Circle
Suite 100
Orlando, Florida 32801

Brandon Peters
Dean, Mead Law Firm
800 North Magnolia Avenue
Suite 1500
Orlando, Florida 32803

Bruce May
Holland & Knight
315 South Calhoun Street
Post Office Drawer 810
Tallahassee, Florida 32302

Floyd Self
Messer, Caparello & Self
215 South Monroe Street, Suite 701
Post Office Drawer 1876
Tallahassee, Florida 32302-1876

R. Scheffel Wright
Landers & Parsons
310 West College Avenue
Post Office Box 271
Tallahassee, Florida 32308

Kenneth A. Hoffman
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
215 South Monroe Street
Suite 420
Post Office Box 551
Tallahassee, Florida 32302-0551

Joseph A. McGlothlin