



Public Service Commission

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RECORDS AND REPORTING

DATE: JUNE 18, 1998

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

FROM: DIVISION OF APPEALS (CALDWELL) *Due*
 DIVISION OF COMMUNICATIONS (KENNEDY, SHELPER) *APB WDH/PHI*
 DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KDL*

RE: DOCKET NO. 960312-TP - PROPOSED AMENDMENTS TO RULES 25-4.002, F.A.C., APPLICATION AND SCOPE; 25-24.600, F.A.C., APPLICATION AND SCOPE; 25-24.610, F.A.C., TERMS AND DEFINITIONS; RULES INCORPORATED; 25-24.620, F.A.C., SERVICE REQUIREMENTS FOR COMPANIES PROVIDING OPERATOR SERVICES; 25-24.630, F.A.C., RATE AND BILLING REQUIREMENTS; AND 25-24.800, F.A.C., SCOPE.

AGENDA: JUNE 30, 1998 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RRR\WP\960312.RCM

CASE BACKGROUND

Subsection 364.3376(3), Florida Statutes, relating to operator services provides:

For operator services, the commission shall establish maximum rates and charges for all providers of such services within the state.

No specific rates are referenced in the current rules, the Commission approved rate cap has been interpreted as being the comparable AT&T tariffed rate for interexchange carriers in accordance with Order No. 20489 issued on December 21, 1988.

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RECORDS AND REPORTING

DATE: June 18, 1998

The current rules governing Operator Service Providers (OSPs) apply to companies, other than local exchange companies, that provide operator services as defined in Section 364.02, Florida Statutes. Because the current rules exempt LECs from the rate cap, LECs may charge rates in accordance with a Commission approved tariff. The rules apply to call aggregators and companies that bill and collect in their own name for operator services provided by other entities. The rules prohibit such companies from charging end users more than the Commission approved rate for intrastate calls. The current rule is silent regarding alternative local exchange companies (ALECs).

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission propose amendments to the following rules: Rule 25-4.002, Application and Scope; Rule 25-24.600, F.A.C., Application and Scope; Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated; Rule 25-24.620, F.A.C., Service Requirements for Companies providing Operator Services; Rule 25-24.630, F.A.C., Rate and Billing Requirements; and Rule 25-24.800, F.A.C., Scope.

RECOMMENDATION: Yes, the Commission should propose the amendments.

STAFF ANALYSIS: The proposed amendments remove the exemption for LECs providing operator services and extend the provisions of the rule to govern every company that provides operator services as defined in Section 364.02, Florida Statutes (1995). Therefore, the rule would now encompass LECs and ALECs providing operator services in a call aggregator context.

The proposed amendments include specific rate caps expressed in dollars and cents that operator service providers must not exceed for various types of calls. The proposed amendments also provide a definition of a person-to-person call and revises the definition of "call aggregator."

Amendments have been proposed to six rules. Rule 25-4.002, F.A.C., Application and Scope, states which parts of the Chapters on telecommunications companies apply to which types of telecommunications providers. The proposed amendments remove

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references which are no longer accurate due to changes in the Florida Statutes and Commission rules. Unneeded language is also removed.

The language in Rule 25-24.600, F.A.C., Application and Scope, that presently exempts LECs from the rule would be stricken. The language that exempts certificated telecommunications companies from the definition of "call aggregator" would be stricken from Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. Also language to clarify the definition of call aggregator would be added to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. A definition of the term "person-to-person" would also be added to that rule. Other forms of access to interexchange carriers, such as 10XXXX and 101XXXX, are proposed as additions to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services.

Rule 25-24.630, F.A.C., Rate and Billing Requirements, presently states that an operator services provider shall charge end users no more than the Commission-approved rate for intrastate calls and does not list specific types of calls. The proposed amendment would remove this language and replace it with specific rate caps for per minute charges for intrastate calls, as well as specific rate caps for the operator charges that can be applied to person-to-person and non-person-to-person calls. Additionally, the proposed amendment requires an operator services provider to remit a \$0.25 set use fee to the pay telephone service provider for all 0- calls completed from a pay telephone station by the provider of local exchange telecommunications services.

Finally, ALECs that provide operator services in a call aggregator context would be required to comply with the rules contained in Part XIII of Chapter 25-24, F.A.C., according to the proposed amendment to Rule 25-24.800, F.A.C., Scope.

Statement of Estimated Regulatory Cost: Under the proposed rules, an operator service provider wishing to raise its rates above the cap would have to petition the Commission for a waiver of the rules or seek to have the rate caps changed through a rulemaking proceeding. Rulemaking proceedings generally take about nine months and would consume staff resources. Otherwise, the rule is not expected to result in any direct costs to this agency or other state or local government entities.

A rulemaking proceeding would be costly for both regulated entities and the Commission, however, simply allowing companies to file tariffs listing their rates would not accomplish the objective

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of Section 364.3376(3), F.S., which requires the Commission to establish maximum rates and charges for all intrastate operator services.

Of the companies that responded to staff's data request, AT&T was the only one which stated it would be required to lower its present rates as a result of the proposed rule amendment. AT&T stated that reducing its rates to the proposed rate cap would have an annual impact of \$5.992 million. It is unknown whether AT&T is basing this calculation upon projected losses from the rates that became effective May 1, 1998, or the rates that were in effect since June 12, 1997. Prior to June 12, 1997, AT&T's per minute rates were below the proposed cap. Staff submits that fewer customers may use AT&T's operator services or customers may make fewer calls due to AT&T's rate increases. Therefore, the losses AT&T has projected based upon not being able to charge above the cap, may be overstated.

Statutory Authority: As stated in the case background, the statutes requires the Commission to establish "maximum rates and charges for all providers of such services within the state." Because these maximum rates and charges are to apply to all companies equally, Section 120.54, Florida Statutes, requires rulemaking as the only means to set the caps.

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

RECOMMENDATION: Yes.

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

Attachments:

Rules

Statement of Estimated Regulatory Cost

1 25-4.002 Application and Scope.

2 (1) These rules and regulations are intended to define
3 reasonable service standards which will promote the furnishing of
4 adequate and satisfactory local and long distance service to the
5 public, and to establish the rights and responsibilities of both
6 the utility and the customer. The rules contained in Parts I--~~XI~~
7 of this Chapter apply to any local exchange companies Company as
8 ~~defined in Section 25-4.003(26)~~. The rules contained in Part X of
9 Chapter 25-24 apply to any Interexchange Company ~~as defined in~~
10 ~~Section 25-4.003(19)~~. The rules in Part XI of Chapter 25-24 apply
11 to any pay telephone service company ~~as defined in Section~~
12 ~~25-4.003(36)~~. The rules in Part XII of Chapter 25-24 apply to all
13 Shared Tenant Service Companies ~~as defined in Section~~
14 ~~25-24.560(10)~~. The rules in Part XIII of Chapter 25-24 apply to all
15 Operator Service Provider Companies and call aggregators ~~as defined~~
16 ~~in Section 25-24.610(1)(f)~~. The rules contained in Part XIV of
17 Chapter 25-24 apply to all Alternative Access Vendor Service
18 Providers ~~as defined in Section 25-24.710(2)~~. The rules contained
19 in Part XV apply to all alternative local exchange
20 telecommunications companies.

21 (2) In addition to the rules contained in this part, any local
22 exchange company that provides operator services in a call
23 aggregator context shall also comply with the rules contained in
24 Part XIII of Chapter 25-24, F.A.C.

25 ~~(2) In any case where compliance with any of these rules~~

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1 ~~introduces unusual hardship, or if unreasonable difficulty is~~
2 ~~involved in immediate compliance with any particular rule, written~~
3 ~~application may be made to the Commission for modification of the~~
4 ~~rule or for temporary exemption from its requirements.~~

5 ~~— (3) The adoption of these rules shall in no way preclude the~~
6 ~~Commission, upon complaint, upon its own motion or upon the~~
7 ~~application of any utility, upon due notice and opportunity for~~
8 ~~hearing, from altering or amending them, in whole or in part, or~~
9 ~~from requiring any other or additional service, equipment,~~
10 ~~facility, or standard, or from making such modifications with~~
11 ~~respect to their application as may be found necessary to meet~~
12 ~~exceptional conditions.~~

13 ~~— (4) Except as provided in Parts X and XI of Chapter 25-24, the~~
14 ~~adoption of these rules shall not in any way relieve any utility~~
15 ~~from any of its duties under the laws of this State.~~

16 Specific Authority 350.127 FS.

17 Law Implemented 364.01, 364.337 FS.

18 History--Revised 12-1-68, Formerly 25-4.02, Amended 2-23-87,
19 1-8-95,_____.

20
21 25-24.600 Application and Scope.

22 (1) This Part applies to:

23 (a) Every company, ~~other than a local exchange~~
24 ~~telecommunications company,~~ that provides operator services as
25 defined in Section 364.02, Florida Statutes (1995),

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1 (b) Every company that bills and collects in its own name for
2 operator services provided by other entities, and

3 (c) Call aggregators as defined in this Part.

4 (2) In addition to the rules contained in this Part, every
5 company providing operator services shall also comply with the
6 rules contained in Part X of Chapter 25-24, F.A.C.

7 (3) Each company subject to this Part may petition for
8 exemption from applicable portions of Chapter 364, Florida
9 Statutes, or for application of different requirements than those
10 prescribed for telecommunications companies in Chapter 364, Florida
11 Statutes, under the authority of Section 364.337, Florida Statutes
12 (1995).

13 **Specific Authority:** 350.127(2), 364.3376(8), F. S.

14 **Law Implemented:** 364.01, 364.3376, F.S.

15 **History:** New 9/6/93, amended 9/10/97, _____.

16
17 25-24.610 Terms and Definitions; Rule Incorporated.

18 (1) For purposes of this Part, the following definitions
19 apply:

20 (a) "Call aggregator" is any person or entity ~~other than a~~
21 ~~certificated telecommunications company~~ that provides
22 telecommunications service to the transient public, ~~in the ordinary~~
23 ~~course of its operations, provides telecommunications service to~~
24 ~~any end user~~. Subject to the definition above, "call aggregator"
25 includes but is not limited to the following:

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- 1 1. Hotel as defined in Section 509.242 (1)(a), Florida
- 2 Statutes (1995),
- 3 2. Motel as defined in Section 509.242 (1)(b), Florida
- 4 Statutes (1995),
- 5 3. Resort condominium as defined in Section 509.242 (1)(c),
- 6 Florida Statutes (1995),
- 7 4. Transient apartment as defined in Section 509.242 (1)(e),
- 8 Florida Statutes (1995),
- 9 5. Roominghouse as defined in Section 509.242 (1)(f),
- 10 Florida Statutes (1995),
- 11 6. Resort dwelling as defined in Section 509.242 (1)(g),
- 12 Florida Statutes (1995),
- 13 7. Schools required to comply with any portion of Chapters
- 14 228 and 246, Florida Statutes (1995), or Section 229.808, Florida
- 15 Statutes (1995),
- 16 8. Nursing home licensed under Section 400.062, Florida
- 17 Statutes (1995),
- 18 9. Assisted living facility licensed under Section 400.407,
- 19 Florida Statutes (1995),
- 20 10. Hospital licensed under Section 395.003, Florida Statutes
- 21 (1995),
- 22 11. Timeshare plan as defined in Section 721.05(31), Florida
- 23 Statutes (1995),
- 24 12. Continuing care facility certificated under Section
- 25 651.023, Florida Statutes (1995), and

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1 13. Homes, communities, or facilities funded or insured by
2 the United States Department of Housing and Urban Development (HUD)
3 under 12 U.S.C.S. § 1701q (Law. Co-op. 1994) that sets forth the
4 National Housing Act program designed to aid the elderly.

5 (b) "Conversation time" is the time during which two-way
6 communication is possible between the calling and called party.

7 (c) "End user" means a person who initiates or is billed for
8 a telephone call.

9 (d) "Person-to-person" is a service whereby the person
10 originating the call specifies to the operator service providers
11 operator a particular person to be reached.

12 (e) ~~(d)~~ "Surcharge" means an amount billed to an end user by a
13 call aggregator that is in excess of the rate information that may
14 be obtained pursuant to Section 364.3376(5), Florida Statutes
15 (1995). "Surcharge" includes any charge billed by a call aggregator
16 that is associated with a call billed by another entity.

17 (2) In addition to the above, the following rules are
18 incorporated herein by reference:

Section	Title	Portions Applicable
21 25-4.003	Definitions	All
22 25-4.019	Records and Reports in General	All
24 25-4.020	Location and Preservation of Records	(2) and (3)

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1 Specific Authority: 350.127(2), 364.3376(8), F.S.

2 Law Implemented: 364.01, 364.016, 364.3376, F.S.

3 History: New 9/6/93, Amended 9/10/97,_____.

4

5 25-24.620 Service Requirements for Companies Providing Operator
6 Services.

7 (1) Every company providing operator services shall clearly
8 state the name of the company upon answer and again after accepting
9 billing information before the call is connected.

10 (2) In its tariffs for and contracts with billing and
11 collection agents and other companies providing operator services,
12 every company providing operator services shall require the other
13 party to:

14 (a) Allow end users to access, at no charge, all locally
15 available interexchange companies via all locally available methods
16 of access, such as including 10XXX, 101XXXX, 950-XXXX, and toll
17 free access codes, such as 800 and 888; except that Feature Group
18 A (seven-digit local number) access lines are exempt from this
19 requirement;

20 (b) Allow end users to access the universal telephone number
21 "911", where operable, at no charge to the end user, and where not
22 operable, to allow end users to access the operator of the provider
23 of local exchange telecommunications services at no charge;

24 (c) Route all end user dialed 0 + local and all 0- calls to
25 the provider of local exchange telecommunications services unless

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1 the end user dials the appropriate access code for his carrier of
2 choice, such as 950, 800, 888, 101XXXX, or 10XXX; and

3 (d) Route all end user dialed 1 + and 0+ toll calls to the
4 preselected carrier unless the end user dials the appropriate
5 access code for his carrier of choice, such as 950, 800, 888,
6 101XXXX, or 10XXX; and

7 (e) Route all end user dialed 0- calls to the operator of the
8 provider of local exchange telecommunications services at no charge
9 to the end user when no additional digits are dialed after five
10 seconds.

11 (3) Each operator services provider shall provide an
12 opportunity for each caller to be identified by name to the called
13 party before any collect calls may be completed.

14 Specific Authority: 350.127(2), P.S.

15 Law Implemented: 364.01, 364.3376, P.S.

16 History: New 9/6/93, Amended 1/16/96, 9/10/97, _____.

17

18 25-24.630 Rate and Billing Requirements.

19 (1) Services charged and billed to any end user by an An
20 operator services provider for an intrastate call shall not exceed
21 a rate of \$.30 per minute plus the applicable charges for the
22 following types of telephone calls:

23 (a) A person-to-person call -- a charge of \$3.25; charge and
24 bill end users no more than the Commission approved rate for
25 intrastate calls;

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1 (b) A call that is not a person-to-person call -- a charge of
2 \$1.75.

3 (2) For 0- calls from pay telephone stations completed by the
4 provider of local exchange telecommunications services, a set use
5 fee of \$.25 shall apply and shall be remitted to the pay telephone
6 service provider.

7 (3) An operator services provider shall have current rate
8 information readily available and provide this information orally
9 to end users ~~end-users~~ upon request prior to connection. †

10 (4) ~~(e)~~ An operator services provider shall require that its
11 certificated name ~~or the name of its certificated billing agent~~
12 appear on any telecommunications company's bill for regulated
13 charges. †

14 (5) ~~(d)~~ An operator services provider shall require all calls
15 are to be individually identified on each bill from a
16 telecommunications company ~~on to~~ an end user's ~~end-user~~ bill,
17 including the date and start time of the call, call duration,
18 origin and destination (by city or exchange name and telephone
19 number), and type of call. † ~~and~~

20 (6) ~~(e)~~ An operator services provider shall provide a toll-free
21 number for customer inquiries on the bill and maintain procedures
22 adequate to allow the company to promptly receive and respond to
23 such inquiries. † ~~and~~

24 (7) ~~(f)~~ An operator services provider shall charge only for
25 conversation time as rounded according to company tariffs.

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1 ~~(8)(2)~~ An operator services provider shall not:

2 (a) ~~B~~bill or charge for uncompleted calls in areas where
3 answer supervision is available or knowingly bill or charge for
4 uncompleted calls in areas where answer supervision is not
5 available.†

6 (b) ~~B~~bill for any collect call that has not been affirmatively
7 accepted by a person receiving the call regardless of whether the
8 call was processed by a live or automated operator.†

9 (c) ~~B~~bill for calls in increments greater than one minute.†

10 (d) ~~B~~bill or collect a surcharge levied by any entity, either
11 directly or through its billing agent, except Commission-approved
12 charges for pay telephone providers.

13 **Specific Authority 350.127(2) FS.**

14 **Law Implemented 364.01, 364.3376 FS.**

15 **History--New 9-6-93, Amended _____.**

16
17 **25-24.800 Scope.**

18 (1) This part applies only to Alternative Local Exchange
19 Companies. The provisions of Chapters 25-4, 25-9 or 25-14 shall not
20 apply to Alternative Local Exchange Companies, unless specifically
21 provided by this part.

22 In addition to the rules contained in this part, any
23 Alternative Local Exchange Company which provides operator services
24 in a call aggregator context shall also comply with the rules
25 contained in Part XIII of Chapter 25-24, F.A.C.

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1 Specific Authority 350.127(2) FS.
2 Law Implemented 364.01, 364.337 FS.
3 History--New 12-27-95, Amended,_____.

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MEMORANDUM

June 4, 1998

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KOL* *TD* *AWA*

SUBJECT: PROPOSED AMENDMENTS TO RULE 25-4.002, F.A.C., APPLICATION AND SCOPE; RULE 25-24.600, F.A.C., APPLICATION AND SCOPE; RULE 25-24.610, F.A.C., TERMS AND DEFINITIONS; RULE INCORPORATED; RULE 25-24.620, F.A.C., SERVICE REQUIREMENTS FOR COMPANIES PROVIDING OPERATOR SERVICES; RULE 25-24.630, F.A.C., RATE AND BILLING REQUIREMENTS; AND RULE 25-24.800, F.A.C., SCOPE. - DOCKET NO. 960312-TP

SUMMARY OF THE RULE

Amendments have been proposed to six rules. Rule 25-4.002, F.A.C., Application and Scope, states which parts of the Chapters on telecommunications companies apply to which types of telecommunications providers, as those providers are defined in the Commission's rules. The proposed amendments remove references which are no longer accurate due to changes in the Florida Statutes and Commission rules. The proposed amendments add statements clarifying that Part XV of Chapter 25-4, F.A.C., applies to all alternative local exchange companies (ALECs) and that Part XIII of Chapter 25-24, F.A.C., applies to any local exchange company (LEC) that provides operator services in a call aggregator context. The proposed amendments also remove unneeded language.

The language in Rule 25-24.600, F.A.C., Application and Scope, that presently exempts LECs from the rule would be stricken. The language that exempts certificated telecommunications companies from the definition of "call aggregator" would be stricken from Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. Also, language to clarify the definition of "call aggregator" would be added to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. A definition of "person-to-person" would be added to Rule 25-24.610, F.A.C. Another form of

who deal with certification, tariffs, and customer complaints. If operator service providers wish to raise rates above the caps, a rulemaking proceeding would have to take place. Such a proceeding generally takes about nine months and would consume staff resources. Otherwise, the rule is not expected to result in any direct costs to this agency. No direct costs to other state or local government entities are foreseen.

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

Proposed Amendment to Rule 25-4.002, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.600, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated

No provider identified costs for this proposed rule amendment, although AT&T and LDDS WorldCom stated the proposed definition of "call aggregator" was unnecessarily broad and would increase regulatory costs by an unquantified amount. Subsequent to receiving the companies' responses to staff's data request, the proposed definition of "call aggregator" was revised to clarify that it applies to ". . . any person or entity that provides telecommunications service to the transient public (emphasis supplied)." This narrowing of the definition should alleviate the concerns expressed by AT&T and LDDS WorldCom.

AT&T was also concerned that potential new costs the proposed rule amendments might impose upon call aggregators such as hotels and motels would not be identified, as staff did not send such entities a data request. It is staff's view that the proposed rule amendments do not impose new requirements upon these entities, as the vast majority do not provide their own operator services but obtain them under contract from a certificated operator services provider. Entities such as hotels and motels are regulated under Rule 25-24.640, F.A.C., which is not being amended by these proposed rules. Furthermore, hotel and motel call aggregators are well aware of the Commission's

who deal with certification, tariffs, and customer complaints. If operator service providers wish to raise rates above the caps, a rulemaking proceeding would have to take place. Such a proceeding generally takes about nine months and would consume staff resources. Otherwise, the rule is not expected to result in any direct costs to this agency. No direct costs to other state or local government entities are foreseen.

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

Proposed Amendment to Rule 25-4.002, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.600, F.A.C., Application and Scope

No provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated

No provider identified costs for this proposed rule amendment, although AT&T and LDDS WorldCom stated the proposed definition of "call aggregator" was unnecessarily broad and would increase regulatory costs by an unquantified amount. Subsequent to receiving the companies' responses to staff's data request, the proposed definition of "call aggregator" was revised to clarify that it applies to ". . . any person or entity that provides telecommunications service to the transient public (emphasis supplied)." This narrowing of the definition should alleviate the concerns expressed by AT&T and LDDS WorldCom.

AT&T was also concerned that potential new costs the proposed rule amendments might impose upon call aggregators such as hotels and motels would not be identified, as staff did not send such entities a data request. It is staff's view that the proposed rule amendments do not impose new requirements upon these entities, as the vast majority do not provide their own operator services but obtain them under contract from a certificated operator services provider. Entities such as hotels and motels are regulated under Rule 25-24.640, F.A.C., which is not being amended by these proposed rules. Furthermore, hotel and motel call aggregators are well aware of the Commission's

rules because they have been subject to a random inspection and enforcement program conducted by the Commission staff since approximately 1992.

Proposed Amendment to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services

Sprint-Florida, Inc. (Sprint-Florida) was the only company that stated it would incur costs to comply with some of the provisions contained in the proposed amendments to Rule 24-24.620, F.A.C. Sprint-Florida currently provides front-branding on manual Toll Assist calls but not back branding as the proposed rule amendment would require. An estimated 1.5 seconds of work time per call would be added to each call that required manual branding. The annual cost to brand toll assist calls on the back end with the Sprint-Florida name would be approximately \$105,000. Branding for other companies on a call-by-call basis would increase Sprint-Florida's cost by an unquantified amount. However, Sprint-Florida stated that it does not plan to manually brand calls as the company does not believe it would be an efficient or cost effective method of handling calls.

Instead, Sprint-Florida plans to provide automated front and back branding for all Toll Assist calls (including manual). To accomplish this branding, software and possibly hardware changes would be required in the four Nortel TOPS switches in the company's network. The estimated total non-recurring cost of these additions would be approximately \$750,000. No recurring costs were provided. No other provider identified costs associated with this proposed rule amendment.

Proposed Amendment to Rule 25-24.630, F.A.C., Rate and Billing Requirements

AT&T was the only respondent that stated it would be required to decrease rates below its present rates as a result of the proposed rule amendment. According to the proposed rule, the maximum charge permitted for an intrastate call is \$0.30 per minute plus other applicable charges. The maximum applicable charges are \$3.25 for a person-to-person call and \$1.75 for a call that is not a person-to-person call. On April 30, 1998, AT&T filed a general services tariff listing operator service charges of \$6.50 for a person-to-person interLATA call. Charges for other than person-to-person calls were as high as \$2.25.

MEMORANDUM

June 4, 1998

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KOL* *TD* *AWA*

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SUMMARY OF THE RULE

Amendments have been proposed to six rules. Rule 25-4.002, F.A.C., Application and Scope, states which parts of the Chapters on telecommunications companies apply to which types of telecommunications providers, as those providers are defined in the Commission's rules. The proposed amendments remove references which are no longer accurate due to changes in the Florida Statutes and Commission rules. The proposed amendments add statements clarifying that Part XV of Chapter 25-4, F.A.C., applies to all alternative local exchange companies (ALECs) and that Part XIII of Chapter 25-24, F.A.C., applies to any local exchange company (LEC) that provides operator services in a call aggregator context. The proposed amendments also remove unneeded language.

The language in Rule 25-24.600, F.A.C., Application and Scope, that presently exempts LECs from the rule would be stricken. The language that exempts certificated telecommunications companies from the definition of "call aggregator" would be stricken from Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. Also, language to clarify the definition of "call aggregator" would be added to Rule 25-24.610, F.A.C., Terms and Definitions; Rule Incorporated. A definition of "person-to-person" would be added to Rule 25-24.610, F.A.C. Another form of

access to interexchange carriers, 10XXXX, is proposed for addition to Rule 25-24.620, F.A.C., Service Requirements for Companies Providing Operator Services.

Rule 25-24.630, F.A.C., Rate and Billing Requirements, presently states that an operator services provider shall charge end users no more than the Commission-approved rate for intrastate calls and does not list specific types of calls. The proposed amendment would remove this language and replace it with specific rate caps for per minute charges for intrastate calls, as well as specific rate caps for the operator charges that can be applied to person-to-person and calls that are not person-to-person. Additionally, the proposed amendment requires an operator services provider to remit a \$0.25 set use fee to the pay telephone service provider for all 0- calls completed from a pay telephone station by the provider of local exchange telecommunications services.

Finally, ALECs that provide operator services in a call aggregator context would be required to comply with the rules contained in Part XIII of Chapter 25-24, F.A.C., according to the proposed amendment to Rule 25-24.800, F.A.C., Scope.

ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES IMPACTED

Each company that provides operator services as defined in Section 364.02, F.S., (1995) is required to comply. There are currently approximately 87 interexchange carriers identified as operator service providers in the Master Commission Directory. There are approximately 178 certificated ALECs, though it is not known how many provide operator services. Of the ten LECs, BellSouth, GTE Florida Incorporated, Sprint-Florida, Inc., and Vista-United provide their own operator services. It is the understanding of RRR staff that the remainder obtain operator services through contracts with other providers.

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

Specific rate caps will be clearly defined in the rules, and all operator service providers will be subject to the same rate caps. Such standardization should be beneficial for Commission staff

AT&T stated that reducing its rates to the proposed rate cap would have an annual impact of \$5.992 million. It is unknown whether AT&T is basing this calculation upon projected losses from the rates tariffed in the April 30, 1998, filing or rates in effect since June 12, 1997. Prior to June 12, 1997, AT&T's per minute rates were below the proposed cap. Fewer customers may use AT&T's operator services or customers may make fewer calls due to AT&T's rate increases. Therefore, AT&T's losses might be less than the \$5.992 million projected because if call volume is reduced as a result of the higher rates, then AT&T's revenues would not exceed the rate cap revenues by as much as projected.

AT&T also believes it will incur annual losses of \$84,000 because it will be required to reduce its tariffed billing increment for an operator station or person-to-person, sent-paid interLATA 0+ coin call. According to AT&T's tariffs effective June 12, 1997, the first billing increment for this type of call is three minutes. However, the current operator service Rule 25-24.630(2)(c) clearly states that operator service providers shall not "bill for calls in increments greater than one minute." This rule has been in effect since September 6, 1993. Also, AT&T's most recent tariff filing (effective May 1, 1998) lists the billing increment for operator station or person-to-person, sent-paid, interLATA 0+ coin calls as three minutes for the first minute and three minute increments for the duration of the call. These billing increments appear to be in direct conflict with both the existing and proposed rule.

AT&T also stated "walkaway" fraud would increase by \$56,000 if it had to reduce its billing increment to one minute. AT&T describes "walkaway" fraud as the loss incurred when a customer fails to deposit additional coins when requested by the operator but continues to incur talk time. In staff's view, AT&T controls the talk time in this situation and could choose to disconnect the customer earlier if the customer fails to deposit coins.

Prior to June 12, 1997, AT&T's tariffed rates were lower per minute than those specified in the rule. Order 20489 issued December 21, 1988, capped operator service rates at AT&T's time-of-day rate plus applicable operator charges. The table below provides a brief history of the rates for 0+ InterLATA Calls and Surcharges and the rates provided in the proposed rule.

0+ InterLATA Rate Cap and Surcharges¹

AT&T rates in effect when Order 20489 issued 12/21/88	AT&T rates effective 3/16/96	AT&T rates effective 6/12/97	AT&T rates effective 5/1/98	Proposed Amendment to Rule 25-24.630
Per minute \$3.00 Surcharges Person- Person \$2.50 Not Person-to-Person \$1.00	Per minute \$2.80 Surcharges Person-to-Person \$3.25 Not Person-to-Person \$1.75	Per minute \$2.80 Surcharges Person-to-Person \$4.50 Not Person-to-Person \$2.25	Per minute \$2.60 Surcharges Person-to-Person \$6.50 Not Person-to-Person \$2.25	Per minute <= \$3.00 Surcharges Person-to-Person \$3.25 Not Person-to-Person <= \$1.75

BellSouth identified non-recurring costs of \$75,000 to assign specific rates to operator served traffic originating from call aggregator locations. Changing its rates to market levels within the rate cap can be achieved for a one-time cost of approximately \$1,000.

Neither Sprint-Florida, Inc. nor GTE Florida expected to incur additional costs to comply with the proposed amendments to Rule 24-24.630, F.A.C.

Rate and billing requirements currently in effect for operator service providers at Rule 25-24.630(1)(b) require rate information to be provided to end users, upon request, prior to connection. IXCs providing operator services are already required to comply with this provision, and proposed amendments to Rule 25-4.002, Application and Scope, extend this requirement to LECs and ALECs providing operator services in a call aggregator context. MCI and T-Netix, Inc. stated there would be costs associated with configuring their systems to provide rates to the called party prior to the party accepting the call. However, both companies agreed that the Federal Communications Commission has mandated this requirement, so the costs were not unique to Florida and would be incurred regardless of this Commission's proposed rules.

MCI and AT&T were both concerned that placing specific rates in a rule would increase their costs. MCI did not quantify its costs. AT&T stated it would have additional regulatory costs of

¹Per minute daytime rate, highest mileage band.

\$150,000 annually, plus (unquantified) lost revenues if it has to go to rulemaking each time it wants to increase rates above the cap.

Under the proposed rule, a company would have to petition for a rulemaking proceeding to increase its rates over the rate cap. A company could not increase its rates until the rulemaking proceeding was completed (typically about nine months) and, therefore, would lose revenues it might otherwise have earned.

If rates were not capped via rule, a company could simply file a tariff to increase its rates. Such tariffs are effective within 24 hours of filing. If the Commission staff's review of the tariff determined that the rates were excessive, a recommendation that the company modify or withdraw its tariff would be filed. However, in the interim, the company could continue to charge its tariffed rates. AT&T and MCI favor having their rates tariffed rather than specified in a rule. WorldCom suggests that rather than the rule containing specific rates, it should state that operator service providers may charge no more than AT&T's tariffed rates in effect as of April 30, 1998.

A rulemaking proceeding would be costly for both regulated entities and the Commission. However, simply allowing companies to file tariffs listing their rates would not accomplish the objective of Section 364.3376(3), F.S., which requires the Commission to establish maximum rates and charges for all intrastate operator services providers.

Proposed Amendment to Rule 25-24.800, F.A.C., Scope

No provider identified costs associated with this proposed rule amendment.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

Though some operator service providers may qualify as a small business, it is not known how many. None of the providers responding to staff's data request met the statutory requirement for a small business. Some operator service providers who contract with small businesses such as motels, will be able to raise their rates under the proposed rules. They may pass some of their increased earnings to these small businesses through higher commission payments and/or more beneficial contract arrangements. The proposed rules are not expected to have a negative or disproportionate impact on small businesses, small cities, or small counties.

REASONABLE ALTERNATIVE METHODS

AT&T, MCI and WorldCom submitted alternatives in response to staff's data request. For the proposed amendment to Rule 25-24.600, F.A.C., AT&T recommends exempting operator services provided to customers who are presubscribed to the operator service providers' long distance or local exchange service. AT&T believes that customers using calling cards and customers placing calls from or charging calls to a presubscribed line are not the "captive customers" the rule is seeking to protect. Adopting this measure would result in savings to AT&T of \$6.13 million annually. The proposed amendment does not intend to regulate the rates an operator services provider charges its presubscribed customers.

AT&T recommends expanding the one-minute billing increment to three minutes for coin calls placed from pay telephones (proposed amendment to Rule 24-24.630(8)(c), F.A.C.). AT&T states this would result in savings of \$140,000 annually (\$84,000 direct revenue impact, plus \$56,000 fraud) while still accomplishing the purpose of the proposed rule amendments. As stated in the discussion of the proposed amendment to Rule 25-24.630, F.A.C., AT&T's three-minute billing increment is in direct conflict with both the existing and proposed rule. It is unclear how AT&T's proposal, which violates an existing rule, would accomplish the objective of Section 364.3376(3), F.S., which requires the Commission to establish maximum rates and charges for all intrastate operator services providers. AT&T has the ability to reduce its fraud losses since it controls the talk time for these types of calls. AT&T does not have to permit additional talk time if a customer fails to deposit additional coins.

MCI suggests retaining the tariff process as the means for operator service providers to set maximum rates instead of delineating specific maximum rates as in the proposed amendments to Rule 25-24.630, F.A.C., Rate and Billing Requirements. MCI states its opportunity cost would be very great (unquantified) if it must petition to amend the Commission rules each time it wishes to increase its rates beyond the caps specified in the proposed rule amendments.

Presumably, MCI believes it should be allowed to file tariffs containing its rates which would be effective within 24 hours. Should the Commission staff believe the tariffed rates are excessive, it would have to file its objections in a recommendation to the Commissioners. This procedure may not be in the best interest of consumers as it places the burden on staff to "catch" excessive rates

contained in tariff filings and would allow companies to continue charging excessive rates until any action taken by the Commission became final. Such a process could become quite lengthy as it might require a hearing. If excessive rates were determined to have been charged, the problem is compounded because the Commission would then have to determine a method of refunding amounts overcharged. Identifying customers who have placed calls from call aggregator locations can be difficult, time-consuming, and costly to the company. Therefore, customers who paid excessive rates may not receive a direct refund or would not receive the refund in a timely manner.

WorldCom suggests adopting a rate cap using the current AT&T rates filed on April 30, 1998. WorldCom believes this would reduce its regulatory cost by an unquantified but significant amount. However, adopting a rate cap which caps the rates at AT&T's tariffed rate as of a specific date does not appear to reduce costs, because a rulemaking proceeding would still be required to increase the cap. On March 13, 1996, the Commission decided that AT&T was no longer the dominant carrier, consequently, there is no rationale for linking the operator service rates to AT&T rates.

For proposed Rule 25-24.610(1)(a), F.A.C., WorldCom suggested leaving the phrase "other than a certificated telecommunications company" in the definition of "call aggregator" or replacing "provides telecommunications service to any end user" with "makes telephones available to the transient public." The proposed rule amendment is intended to protect the transient public or those who do not have a pre-existing relationship with the operator services provider they must use (i.e. a guest at a motel who does not know how to dial around to a preferred carrier). Subsequent to receiving the companies' responses to staff's data request, the proposed definition of "call aggregator" was revised to clarify that it applies to ". . . any person or entity that provides telecommunications service to the transient public (emphasis supplied)." This revision would appear to alleviate WorldCom's concerns while preserving the intent of the proposed rule amendment.

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