



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: MARCH 4, 1999

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

FROM: DIVISION OF APPEALS (CALDWELL) *AWC*
 DIVISION OF COMMUNICATIONS (KENNEDY) *REK*
 DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KM*

RE: DOCKET NO. 990206-TI - PROPOSED AMENDMENTS TO RULE 25-4.005, F.A.C., TRANSFER OF CERTIFICATE OF PUBLIC NECESSITY AS TO ALL OR A PORTION OF SERVICE AREAS.

AGENDA: MARCH 16, 1999 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\APP\WP\990206.RCM

CASE BACKGROUND

Currently, Rule 25-4.005(1)(c), F.A.C., requires that when a local exchange company requests approval to transfer its certificate, or a portion thereof, a written notice must be issued to each subscriber in the area to be transferred and a complete list of the noticed subscribers, by telephone number, name, address and class of service, be submitted to the Commission.

On June 5, 1997, St. Joe Telephone and Telegraph Company, Gulf Telephone Company, and The Florida Telephone Company, filed a petition for a partial waiver of Rule 25-4.005(1)(c), F.A.C. The companies petitioned for a waiver of the requirement to provide the Commission with a list of all subscribers sent a written notice as required by the rule. In the Petition, the companies argued the detailed list may contain some confidential customer information such as unlisted numbers or full addresses. The Commission granted the petition in Order No. PSC-97-0982-FOF-TP.

DOCUMENT NUMBER-DATE

02685 MAR-38

PSC-RECORDS/REPORTING

In granting the waiver, the Commission found that the purpose of the underlying statute (364.335(1)(d), Florida Statutes¹) would be served.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission propose amendments to Rule 25-4.005(1)(c), F.A.C., Transfer of Certificate of Public Convenience and Necessity as to All or Portions of Service Areas?

RECOMMENDATION: Yes. The Commission should propose amendments to Rule 25-4.005(1)(c), F.A.C.

STAFF ANALYSIS: The proposed amendment eliminates the requirement for a LEC to provide a complete list of the noticed subscribers to the Commission. This amendment is consistent with Order NO. PSC-97-0982-FOF-TP. While companies are not required to provide a list of the customers to whom notice was sent, the companies are still required to send notice to the customers. The purpose of Section 364.335(1)(d), Florida statutes would remain fulfilled if the amendment were adopted.

Statement of Estimated Regulatory Cost: A SERC was not prepared since no significant additional costs or negative impacts on utilities, ratepayers, small businesses, small cities, or small counties could be identified. It is expected that the elimination of the requirement would relieve the LECs and the Commission of some administrative burden.

¹ 364.335(1)(d), Florida Statutes, provides: Each applicant for a certificate shall: . . . submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be subscribed by commission rule.

DOCKET NOS. 990206-TI
DATE: March 4, 1999

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket be closed.

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

1 | 25-4.005 Transfer of Certificate of Public Convenience and
2 | Necessity As to All or Portion of Service Area.

3 | (1) Request for approval by the Commission of transfer of any
4 | certificate of public convenience and necessity (or portion
5 | thereof) shall be made by joint petition of the certificate holder
6 | and transferee after reasonable notice has been given to all
7 | subscribers affected by the proposed transfer. Requests for
8 | approval shall be accompanied by an affidavit that notice of
9 | intention to file the petition has been given:

10 | (a) By mail or personal delivery to the governing bodies of
11 | the counties and municipalities affected, to the public counsel,
12 | and to the Commission,

13 | (b) By a legal advertisement in a newspaper of general
14 | circulation in the area affected and published on two (2) separate
15 | occasions at least two (2) weeks prior to the filing of the joint
16 | petition on the proposed transfer, and

17 | (c) By written notice subject to Commission approval, issued
18 | to each subscriber in the area to be transferred concurrent with
19 | the filing of the petition. ~~A complete lists, by telephone number~~
20 | ~~(numerical sequence), name, address, and class of service of all~~
21 | ~~subscribers sent a written notice shall be furnished the Commission~~
22 | ~~immediately following distribution.~~

23 | (2) Upon approving a transfer of certificate, or portion
24 | thereof, the Commission will cancel same and reissue in the name of
25 | the transferee or amend the description of the service area or

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

1 both.

2 (3) Such joint petitions shall include detailed descriptions
3 of the affected boundaries; the number of subscribers, if any, in
4 each petitioned area; changes in rates; service being provided by
5 either petitioner in areas to be transferred; pending applications
6 for service held by either petitioner; changes in calling scope;
7 customers to be transferred; deposits and deposit interest; any
8 financial exchange or consideration for the proposed change, and a
9 list by name and telephone number of all customers who will be
10 exempt from the proposed change.

11 (4) Any subscriber or group of subscribers of a telephone
12 company may petition the Commission for transfer from the service
13 area of such telephone company to that of another telephone company
14 serving contiguous territory. After public hearing, if one is
15 requested, the Commission may, ~~on a finding of just cause,~~ require
16 such transfer and amend the existing certificates of the telephone
17 companies involved or change the exchange service area maps to
18 reflect any changes found justified.

19 (5) If a customer survey is conducted by a telephone company
20 among customers affected by the proposed transfer, return postage
21 shall be paid by the company serving the affected customer and
22 survey ballots shall be returnable to the Public Service
23 Commission, Attention: Communications Department, for tabulation.

24 Specific Authority 350.127(2) FS.

25 Law Implemented 364.335 FS.

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

1 History--New 12-1-68, Amended 5-4-81, XX-XX-XX, Formerly 25-4.05.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

MEMORANDUM

January 8, 1999

TO: DIVISION OF APPEALS (CALDWELL)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KDL P.S. JML*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED REVISIONS TO RULE 25-4.005, F.A.C., TRANSFER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AS TO ALL OR A PORTION OF SERVICE AREAS.

Currently, Rule 25-4.005, F.A.C., contains procedures Incumbent Local Exchange Companies (ILECs) must follow when a certificate of public convenience and necessity is transferred for all or portions of a service area. The rule requires an ILEC to provide written notice to each subscriber in the area to be transferred at the time the petition for transfer is approved. After the ILEC has distributed the notice to each affected customer, the rule currently requires the ILEC to provide the Commission with a complete list, by telephone number (numerical sequence), name, address, and class of service, of all subscribers in the affected area.

The proposed revision to Rule 25-4.005, F.A.C., would eliminate the requirement that the ILEC provide the Commission with a complete list, by telephone number, name, address, and class of service, of the noticed subscribers. Though eliminating this requirement would not relieve the ILEC of its obligation to inform affected subscribers in writing, the ILEC would no longer be required to submit the detailed list of subscribers to the Commission. The elimination of this requirement would relieve the ILEC of the cost to compile and file the information with the Commission, and would simplify the process of transferring a certificate when two or more companies merge. Eliminating the requirement would not have a direct financial impact on ratepayers. Elimination of this requirement would also reduce staff work time associated with reviewing the lists, enforcing the rule, or addressing petitions requesting a waiver of the rule.

The Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). However, since there should be no significant additional costs or negative impacts on utilities, ratepayers, small businesses, small cities, or small counties, a SERC has not been prepared for the proposed rule revision.

Please keep my name on the CASR.

KDL:tf/e-certif

cc: Mary Andrews Bane
Hurd Reeves
Ray Kennedy