

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
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JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF APPEALS
DAVID E. SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

March 22, 1999

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

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 Area

Dear Mr. Webb:

Enclosed are an original and two copies of the following materials concerning the above referenced proposed rule:

- 1. A copy of the rule.
- 2. A copy of the F.A.W. notice.
- 3. A statement of facts and circumstances justifying the proposed rule.
- 4. A federal standards statement.
- 5. No statement of estimated regulatory costs was prepared.

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,

Diana W. Caldwell
Diana W. Caldwell
Associate General Counsel

ADM4055.DWC
Enclosures

cc: ~~Division of Records & Reporting~~ Reporting

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FPSC-RECORDS/REPORTING

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.

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1 | History--New 12-1-68, Amended 5-4-81, XX-XX-XX, Formerly 25-4.05.
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NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990206-TI

RULE TITLE:

RULE NO.:

Transfer of Certificate of Public Convenience and
Necessity as to all or Portion of Service Area

PURPOSE AND EFFECT: To eliminate the requirements for a local exchange company (LEC) to provide a complete list of the noticed subscribers to the Commission. Such information contained in the list may be confidential and disclosure of such could violate 364.24, FS.

SUMMARY: The rule requires that when a local exchange carrier (LEC) requests approval to transfer its certificate (or portion thereof), a written notice be issued to each subscriber in the area to be transferred and that a complete list of the noticed subscribers, by telephone number, name, address, and class of service, be submitted to the Commission.

SUMMARY OF 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.

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: 364.335, 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.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) (b) No Change.

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

(2) - (3) No Change.

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

(5) No Change.

Specific Authority 350.127(2) FS.

Law Implemented 364.335 FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: March 16, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 24, Number 42, October 16, 1998

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, 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 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

Rule 25-4.005
Docket No. 990206-TI

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

Several rule waivers were granted on the grounds that detailed lists of customer related information was confidential. The proposed rule eliminates the requirement that companies provide such lists to the Commission.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.