



ORIGINAL  
FLORIDA PUBLIC  
SERVICE COMMISSION  
99 SEP -8 AM 9:30  
MAIL ROOM

September 7, 1999

*Via Overnight Delivery*

Division of Records and Reporting  
State of Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Notice of Intent to Request Confidential  
Classification of Responses to 1999 ALEC Data Request**

Dear Sir or Madam:

WinStar Wireless, Inc. ("WinStar"), pursuant to Florida Public Service Commission ("Commission") Rule 25-22.006(3)(a)(1), Florida Administrative Code, hereby files an original and two copies of its Notice of Intent ("Notice") to request confidential classification of certain of its responses to the Commission's 1999 ALEC data request. Attached please find a copy of the data request, issued by the Division of Telecommunications. WinStar intends to file its responses to the data request shortly. WinStar understands that, under Rule 25-22.006(3)(a)(1), filing of this Notice permits WinStar to receive a temporary exemption from Section 119.07(1), F.S., but that WinStar must, within 21 days after the staff obtains WinStar's responses to the 1999 ALEC data request, file a request for confidential classification with the Division of Records and Reporting to maintain confidentiality of its responses.

Please date-stamp the enclosed additional copy of this Notice and return it in the postage-paid, self-addressed envelope. If you have any questions regarding this Notice, please do not hesitate to contact the undersigned at (202) 530-1605.

Very truly yours,

Larry Walke  
Regulatory Counsel

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

cc: Walter D'Haeseleer, Director, Division of Telecommunications  
Eleanor Willis

WinStar Communications, Inc.

DOCUMENT NUMBER-DATE

1146 19th Street, N.W., • 2nd Floor • Washington, D.C. 20036 • TEL 202 833 5678 • FAX 202 659 1991

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FPSC-RECORDS/REPORTING

Eleanor  
Mike Hyatt

STATE OF FLORIDA

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.



DIVISION OF  
TELECOMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(850) 413-6600

**Public Service Commission**

July 1, 1999

**CERTIFIED MAIL**

Robert C. Berger  
Sr. Vice Pres., Regulatory/Affairs  
WinStar Wireless, Inc.  
1146 19th Street, N.W., Suite 250  
Washington, DC 20036

Dear Mr. Berger:

Chapter 364, Florida Statutes, contains the framework the Commission uses for regulation of the telecommunications industry. As a result of certain amendments made to this chapter during the 1995 Legislative session, the Commission has a statutory mandate to prepare and deliver annually a report, to the Governor and the Legislature, on the status of competition in the telecommunications industry. The report is due December 1, 1999.

In order to meet this Legislative mandate we must gather data from the industry. The attached data request will help us evaluate the status of local competition in Florida. The survey was designed to enable fairly brief responses. In addition, we ask that you provide any comments or additional information you believe will assist staff in evaluating and reporting on the development of local exchange competition in Florida.

Once the completed data request is received by the commission, the information will become public record. If you believe your response to the data request contains confidential information, you can request that your response be exempt from F.S. 119.07(1), General State Policy on Public Records. Enclosed is Florida Public Service Commission Rule 25-22.006, Florida Administration Code, which provides the necessary information for submitting confidential information to be exempt from F.S. 119.07(1).

In order to meet our statutory obligations, it is essential that we obtain this information in a timely manner. Florida Public Service Commission Rule 25-4.043, Florida Administration Code, Response to Commission Staff inquiries, states:

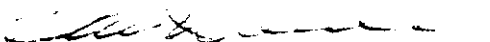
Page 2  
July 1, 1999

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in **writing within fifteen (15) days** from the date of the Commission inquiry.

Failure to comply with Rule 25-4.043, Florida Administration Code, can result in the Commission assessing penalties of up to \$25,000 per offense, where each day of non-compliance constitutes separate offences per F.S. 364.285(1).

We ask that you provide your responses to the enclosed data requests no later than August 6, 1999. Your response may be sent via mail, or by facsimile to (850) 413-6549. If there are any questions, please call David Wolfe at (850) 413-6548.

Sincerely,



Walter D'Haeseleer  
Director

Enclosures:  
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## 1999 ALEC Data Request

Florida Statute 364.02(2) defines basic local service as:

**"Basic local telecommunications service"** means voice-grade, flat-rate residential and flat-rate single line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multi-frequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange company, such terms shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July, 1 1995.

1.
  - a. Are you providing service to service to residential customers in Florida that complies with the above definition of **basic local service**?
  - b. To how many residential customers are you providing **basic local service** in Florida?
  - c. What are your current rates for providing residential **basic local service**?
  - d. Are you providing service to business customers in Florida that complies with the above definition of **basic local service**?
  - e. To how many business customers are you providing **basic local service** in Florida?
  - f. What are your current rates for providing business **basic local service** in Florida?
  
2. Are you currently providing other forms of local service (business or residential) in Florida that may not meet Florida's statutory definition of **basic local service** ? (Examples could include: multiline business users; services with toll restrictions or usage; mandatory 900 blocking; limited amount of local calling included in the monthly charge; bundled service offerings; etc.)  
(If yes, continue with question #2; if no, skip to Question #3)
  - a. Are you currently providing other forms of local service to residential customers in Florida?
  - b. If the response to a. is affirmative, please describe the forms of local service you are providing to residential customers in Florida. (If available, please provide brochures or comparable materials.)
  - c. If the response to a. is affirmative, please indicate your current rates for the services indicated in response to b.
  - d. Are you currently providing other forms of local service to business customers in Florida?
  - e. If the response to d. is affirmative, please describe the forms of local service you are providing to business customers in Florida. (If available, please provide brochures or comparable materials.)
  - f. If the response to d. is affirmative, please indicate your current standard rates for the services indicated in response to e.

5. Please list your primary line of business (for example, entertainment, cable television, private line/special access service, interexchange service, local service, cellular service, paging service, electric service, municipality, etc.).
6. At any time during the last 12 months have you provided local telephone services in Florida and then withdrawn the service? If yes, please discuss the reasons for this decision.
7. If you or an affiliate provides cable television in Florida, do you offer any package plans combining cable television and local telephone services? If so, please indicate where such packages are being offered.
8. If you or an affiliate provides long distance telephone service in Florida, do you offer any package plans combining long distance and local telephone services? If so, please describe any such plans and their terms and conditions. Is subscribing to both local telephone and long distance a condition of providing service?
9. If you or an affiliate's primary business is unrelated to the provision of telecommunications, please indicate the nature of such primary business(es). Examples of such businesses could include, but are not limited to: pawn shops, title loan companies, alternative automobile financing, internet service providers, or check cashing services.
10.
  - a. Please describe any actions available to the Florida Public Service Commission which you believe should be taken to foster local exchange competitive market entry.
  - b. Please describe any actions which you may believe should be taken by the Florida legislature that would foster local exchange competitive market entry.
11. Please provide any additional comments or information you believe will assist staff in evaluating and reporting on the development of local exchange competition in Florida. In particular, we are seeking comment on obstacles that you believe may be impeding the growth of local competition in the state and any suggestions you may have on how to remove such obstacles.
12. Please provide a copy of your (or your parent company's) most recent annual report to shareholders and Form 10-K.
13.
  - a. Please indicate your gross Florida intrastate operating revenues for the year ending 12/31/98. If available, please separate between residential and business.
  - b. Please indicate your company's 1998 assessable revenues, as reported for Florida revenue assessment fees.

**Florida Statute 25-22.006**

**Confidential Information.**

**(1) Definitions.**

(a) "Confidential Information" means material that has been determined, pursuant to this rule, to be proprietary confidential business information under Section 350.121, 364.183, 366.093, or 367.156, F.S.

(b) "Formal proceeding" means a proceeding docketed in the Commission's Division of Records and Reporting.

(c) "Inquiry" means an investigation pursuant to Section 350.121, F.S. An inquiry is set in motion by the Commission Chairman, the Executive Director, or the General Counsel to evaluate a complaint, allegation, or develop information as a basis to initiate action on or dispose of any matter within the Commission's jurisdiction.

(d) "Material" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other recorded information regardless of physical form or characteristics.

(e) "Obtaining material" means receiving material pursuant to filing or taking physical control of material by removing the original material or a copy of it from the utility's or other person's premises. Obtaining material also means the extraction of data from material for inclusion in working papers or memoranda.

**(2) Material obtained during an inquiry.**

(a) All material obtained incident to an inquiry by the Commission, its staff, or any consultant employed by the Commission is exempt from the public access requirements of Section 119.07(1), F.S., and will be accorded stringent procedural safeguards against public disclosure during the pendency of the inquiry. When the Commission or its staff is requesting information incident to an inquiry, the source shall be informed in writing that the request is made incident to an inquiry.

(b) An inquiry will terminate 40 days after the transmittal of a notice of termination by the Division of Records and Reporting. This notice will be sent to all sources from whom material was obtained during the inquiry and will include a list of all materials obtained from the source during the inquiry and any portions of staff work papers, analyses, and reports containing materials obtained from the source during the inquiry. The notice will indicate whether the Commission intends to retain, destroy, or return the materials listed. A source may, within 30 days after issuance of the notice, file with the Division of Records and Reporting a written request that the material the Commission intends to retain be classified as confidential and exempt from Section 119.07(1), F.S. Requests filed in response to the notice of termination shall meet the same criteria and be processed in the same manner as other requests for confidential classification under Subsection (4) of this rule. If no timely request for confidential classification is filed, confidentiality is waived and the material becomes subject to inspection and examination pursuant to Section 119.01(7), F.S.

**(3) Material obtained outside of an inquiry.** Material obtained by the Commission or its staff outside of an inquiry shall be subject to inspection and examination pursuant to Section 119.07(1), F.S., unless the utility or other person requests that it be classified as confidential information.

(a)1. If the utility or other person believes information requested by staff is confidential, the utility or other person may require that the staff request be in writing. Prior to the staff obtaining any material, a utility or other person may receive temporary exemption from Section 119.07(1), F.S., by filing a notice of intent to request confidential classification. The notice of intent to request confidential classification shall be filed with the Division of Records and Reporting and shall have appended thereto a copy of any written request for the material to which it relates. A copy of the notice shall be provided to the division requesting the material. To maintain continued confidential handling of the material the utility or other person must, within 21 days after the staff has obtained the material, file a request for confidential classification with the Division of Records and Reporting. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

2. In the case of material obtained by the Commission's auditors, the utility shall indicate on the document request Form PSC/AFA 6 (2/95) whether the information is believed by the utility to be confidential. To maintain continued confidential handling of the material, the utility must, within 21 days after the audit exit conference or, if waived, the date the audit exit conference would have taken place, file a request for confidential classification with the Division of Records and Reporting. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

not be limited to:

1. Filings which are routine, filed periodically, and which have been filed for a minimum of six months;
2. Information which has regularly been classified as confidential in the past; and
3. While the utility must identify material to be classified by line-by-line reference, the utility may cite to a previous order for justification.

If the waiver is approved, the Commission will issue an order referencing the appropriate previous order stating the relevant justification. No party will be denied the opportunity to object to a request for confidentiality made pursuant to this sub-paragraph.

(5) Claim of confidential treatment pursuant to Section 364.183(1), F.S.

(a) Telecommunications companies or other persons claiming confidential treatment for materials pursuant to Section 364.183(1), F.S., shall file with the Division of Records and Reporting one copy of all such materials and include a cover letter stating that confidentiality is being claimed. The telecommunications company or other person also shall file one copy of the material on which the specific information claimed as confidential shall be highlighted. Along with the highlighted copy, the telecommunications company or other person shall file two edited copies which will be made available for public inspection. In the edited copies, the specific information claimed to be confidential shall be blocked out by the use of an opaque marker or other masking device.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidentiality is claimed, along with a field-by-field justification for the confidential classification.

(c)1. The materials claimed to be confidential shall be kept confidential until returned to the provider pursuant to Paragraph (6)(d) of this rule, unless the materials will be used in a Commission proceeding or are the subject of a request pursuant to Section 119.07(1), F.S.

2. Any person may file a petition to inspect and examine any material which has been claimed confidential pursuant to Section 364.183(1), F.S. A copy of the petition must be served on the affected telecommunications company or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings.

(6) Discovery.

(a) In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure outside the proceeding.

(b) The Commission's protective orders shall exempt proprietary confidential business information from Section 119.07(1), F.S. While a request for a protective order is pending, the information asserted to be confidential shall also be exempt from Section 119.07(1), F.S. Such exemption shall apply whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel.

(c) When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from Section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under Paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

(d) Confidential information which has not been entered into the official record of the proceeding shall be returned to the utility or person who provided the information no later than 60 days after the final order, unless the final order is appealed. If the final order is appealed, the confidential information which has not been made a part of the record shall be returned no later than 30 days after the decision on appeal.

(7)(a) Any person may file a petition to inspect and examine any material which the Commission has ruled exempt from Section 119.07(1), F.S., or which is exempted under Paragraph (3)(d) pending the

## Florida Exchange List

Alachua	Cocoa Beach	Greenwood	Lee
Alford	Cocoa	Gretna	Leesburg
Alligator Point	Coral Springs	Groveland	Lehigh Acres
Altha	Cottdale	Gulf Breeze	Live Oak
Apalachicola	Crawfordville	Haines City	Luraville
Apopka	Crecent City	Hastings	Lynn Haven
Arcadia	Crestview	Havana	Macclenny
Archer	Cross City	Hawthorne	Madison
Astor	Crystal River	High Springs	Malone
Avon Park	Dade City	Hilliard	Marathon
Baker	Daytona Beach	Hobe Sound	Marco Island
Baldwin	DeBary	Holley-Navarre	Marianna
Bartow	Deerfield Beach	Hollywood	Maxville
Belle Glade	DeFuniak Springs	Homestead	Mayo
Belleview	Deland	Homosassa	McIntosh
Beverly Hills	DeLeon Springs	Hosford	Melbourne
Big Pine Key	Delray Beach	Howey-in-the-Hills	Melrose
Blountstown	Destin	Hudson	Miami
Boca Grande	Dowling Park	Immokalee	Micanopy
Boca Raton	Dunnellon	Indian Lake	Middleburg
Bonifay	East Orange	Indiantown	Milton
Bonita Springs	Eastpoint	Interlachen	Molino
Bowling Green	Eau Gallie	Inverness	Monticello
Boynton Beach	Englewood	Islamorada	Montverde
Bradenton	Eustis	Jacksonville Beach	Moore Haven
Branford	Everglades	Jacksonville	Mount Dora
Bristol	Fernandina Beach	Jasper	Mulberry
Bronson	Flagler Beach	Jay	Munson
Brooker	Florahome	Jennings	Myakka
Brooksville	Florida Sheriff's Boy's	Jensen Beach	Naples
Bunnell	Ranch	Julington	New Port Richey
Bushnell	Forest	Jupiter	New Smyrna Beach
Callahan	Freeport	Keaton Beach	Newberry
Cantonment	Frostproof	Kenansville	North Cape Coral
Cape Haze	Ft. Meade	Key Largo	North Dade
Cape Coral	Ft. Myers	Key West	North Fort Myers
Carrabelle	Ft. Lauderdale	Kingsley Lake	North Key Largo
Cedar Key	Ft. Pierce	Kissimmee	North Naples
Celebration	Ft. Walton Beach	La Belle	North Port
Century	Ft. White	Lady Lake	Oak Hill
Chattahoochee	Ft. Myers Beach	Lake Buena Vista	Ocala
Cherry Lake	Gainesville	Lake Butler	Ocklawaha
Chiefland	Geneva	Lake City	Okeechobee
Chipley	Glendale	Lake Placid	Old Town
Citra	Graceville	Lake Wales	Orange City
Clearwater	Grand Ridge	Lakeland	Orange Park
Clermont	Green Cove Springs	Laurel Hill	Orange Springs
Clewiston	Greensboro	Lawtey	Orlando
	Greenville		