

State of Florida



Public Service Commission  
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**DATE:** March 18, 2004

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Office of the General Counsel (Cibula) *S.M.C. DES*  
Division of Competitive Markets & Enforcement (R. Kennedy, Casey) *JK DM*  
Division of Economic Regulation (Hewitt) *CBH TJD*

**RE:** Docket No. 040167-TP – Proposed adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze; and proposed amendment of Rules 25-4.003, F.A.C., Definitions; 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated.

**AGENDA:** 03/30/04 – Regular Agenda – Rule Proposal – Interested Persons May Participate

**RULE STATUS:** Proposal May Be Deferred

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\040167.RCM.DOC

Case Background

Since January 1, 2003, the Commission has received approximately 200 complaints (see Attachment E for examples) from Florida citizens and regulated telecommunications companies relating to freezes on local, local toll, or toll service, as well as complaints regarding the inability of customers to move to another carrier while retaining the same telephone number (local or toll-free number portability). Most complaints involve freezes on local telephone service. At the present time, staff is actively investigating three companies that may be placing unauthorized carrier freezes on customers' service, or delaying removal of carrier freezes to hinder a customer's ability to change service providers. Staff believes that the number of complaints may likely increase.

During the past two years, staff has discovered that several competitive local exchange telecommunications companies (CLECs) have placed local service freezes on customers' lines

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without the customers' knowledge as a routine course of business. Consequently, customers attempting to switch service providers were hindered from doing so. When staff notified the companies about these problems, some claimed to be unaware of the freeze causing problems. Several companies voluntarily stopped implementing a local service freeze unless the customer specifically requested it. Other companies claimed that the ordering system(s) offered by the underlying carriers allow the CLEC the option of requesting the freeze, implying that the CLEC has the unilateral right to freeze a customer's local service. Several other companies have claimed that the Commission's rules do not preclude them from implementing local service freezes on their own initiative, regardless of the customers' wishes.

One company advised staff that a local service freeze is placed on the customer's service whenever the customer is behind in payment. The company uses the freeze as a tool for collecting payment. The freeze, thus, prevents the customer from transferring service, while keeping the same telephone number, to another provider until payment is made. This practice to collect payment can be very effective if the customer has a strong desire to retain the same telephone number for reasons such as toll-free service, yellow page advertisements, national directories, etc.

The Commission has the statutory authority to enact the proposed rules pursuant to sections 364.16 and 364.603, Florida Statutes. Sections 364.16 and 364.603, Florida Statutes, address preferred carrier (PC) freezes and number portability. Section 364.16(4), Florida Statutes, states in pertinent part that:

[i]n order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines.

Section 364.603, Florida Statutes, states that:

[t]he commission shall adopt rules to prevent the unauthorized changing of a subscriber's telecommunications service. Such rules shall be consistent with the Telecommunications Act of 1996, provide for specific verification methodologies, provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge, allow for a subscriber's change to be considered valid if verification was performed consistent with the commission's rules, provide for remedies for violations of the rules, and allow for the imposition of other penalties available in this chapter.

Currently, there are only two references to a carrier freeze in the Commission's rules. Rule 25-4.110(16), Florida Administrative Code, states that "[c]ompanies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC Freeze is available." Rule 25-4.003(44) defines a "Preferred Carrier Freeze" as a "service offered that restricts the customer's carrier selection until further notice from the customer."

In In re: Compliance investigation of Florida Telephone Services, LLC for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies, Order No. PSC-02-0925-PAA-TX, issued July 10, 2002, in Docket No. 020460-TX, made final by Order No. PSC-02-1054-CO-TX, issued August 5, 2002, and In re: Compliance investigation of CAT Communications International, Inc., LLC for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies, Order No. PSC-02-1656-PAA-TX, issued November 26, 2002, in Docket No. 020646-TX, made final by Order No. PSC-02-1841-CO-TX, issued December 23, 2002, the Commission found it was the customer's choice, not the provider's, as to whether or not a freeze is placed on the customer's service, pursuant to Section 364.603 and Rule 25-4.110(16).

The proposed adoption of Rules 25-4.082 and 25-4.083 and proposed amendments to Rules 25-4.003, 25-24.490, and 25-24.845 would codify that a provider can only apply a service freeze upon request from the customer and that an existing provider should facilitate a customer's move to a new provider when the customer so chooses. The new rules and amendments will supplement and clarify existing rules, thereby eliminating confusion that some providers appear to be experiencing regarding preferred carrier freezes. The proposed rules should also enhance a customer's opportunity to select a different carrier, while retaining the same telephone number.

Staff conducted workshops for this rule development. Generally, the industry participants suggested that staff should revise the draft rules regarding preferred carrier freezes to more closely reflect the Federal Communications Commission's (FCC) regulations contained in the Code of Federal Regulations (CFR), Title 47, Part 64, Subsection 1190, entitled Preferred Carrier Freezes (provided as Attachment B). For the most part, the proposed rule adoptions and amendments, particularly those proposed to Rule 25-4.083, which pertains to preferred carrier freezes, reflect the requirements set forth under federal law.

This rule development focused on the relationship between preferred carrier freezes and number portability (or service provider portability). Staff found these subjects to be interwoven as a preferred carrier freeze delays number porting if a freeze is not promptly removed.

This recommendation addresses whether the Commission should propose the adoption of Rules 25-4.082, F.A.C., Number Portability and 25-4.083, F.A.C., Preferred Carrier Freeze, and the amendments of Rules 25-4.003, F.A.C., Definitions, and 25-24.490, F.A.C., Customer Relations; Rules Incorporated, 25-24.845, F.A.C., Customer Relations; Rules Incorporated. The Commission has rulemaking authority pursuant to sections 120.54, 350.127, 364.01, 364.16, 364.337, and 364.603, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission propose the adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze, and the amendment of Rules 25-4.003, F.A.C., Definitions, 25-24.490, F.A.C., Customer Relations; Rules Incorporated, and 25-24.845, F.A.C., Customer Relations; Rules Incorporated?

**Recommendation:** Yes. The Commission should propose the adoption of Rules 25-4.082 and 25-4.083, and the amendment of Rules 25-4.003, 25-24.490, and 25-24.845, F.A.C., as set forth in Attachment A. **(CIBULA, KENNEDY, HEWITT)**

**Staff Analysis:** The following addresses the proposed adoption of Rules 25-4.082 and 25-4.083, and the proposed amendments of Rules 25-4.003, 25-24.490, and 25-24.845. The proposed rules are appended hereto as Attachment A. Staff presents a short summary for each rule, followed by objections or concerns raised by telecommunications companies, as well as staff's response to those concerns or objections. There is also a section below that discusses suggestions presented by the industry that have not been included in the rule proposals that staff is recommending to the Commission.

#### **Rule 25-4.003 F.A.C., Definitions and Rule 25-4.082, F.A.C., Number Portability**

##### **1. Summary of the Proposed Changes to Rule 25-4.003 and New Rule 25-4.082**

Rule 25-4.082 requires a serving local provider to cooperatively work with an acquiring local provider (e.g., the customer is leaving one provider to go to another) for the porting of the subscriber's telephone number. Subscribers, as well as acquiring local providers, have reported in complaints filed with the Commission that the serving local provider has introduced significant delays or has totally failed to cooperate in porting the subscriber's number to another provider. While circumstances may exist that cause delays in porting a subscriber's telephone number, the rule is intended to codify the obligation that the serving local provider must support the effort to ensure that the porting process occurs. In many instances, the serving local provider has placed a PC Freeze on the customer's service, with or without the customer's consent, and this causes delays or blocks the customer's ability to change to another provider while keeping the same telephone number. PC Freezes are addressed in proposed Rule 25-4.083, Florida Administrative Code, presented later in this recommendation.

This rule also requires that a number, either working or in Temporary Disconnect status, shall be ported even if the customer owes money to the current provider. Staff is recommending that Rule 25-4.003 be amended to include a definition for Temporary Disconnect.

##### **2. Sprint-Florida, Incorporated's (Sprint) Comments on Rules 25-4.003 and 25-4.082**

Sprint commented that the Commission should allow local service providers to deny a customers' request to port their numbers when the customers fail to pay all charges due. Sprint supports the position that the local service provider should be permitted to collect all charges due prior to allowing a customer who is delinquent in his payments to switch to another provider. Sprint claims that customers do not own numbers and that customers that have been suspended

for non-pay have been disconnected and the telephone numbers are considered unassigned numbers. Sprint claims that if it is required to port customers with a number in Temporary Disconnect status, it will be negatively impacted systematically, operationally, and financially. Sprint states that its systems are not equipped to port numbers that are in delinquent status and system enhancements would be required. Sprint states that to allow porting of numbers in Temporary Disconnect status would encourage customer fraud and carrier hopping. Sprint refers to 47 CFR 52.51(k) in support of its argument, which states: "The term number portability means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." Sprint believes that a prerequisite to porting is that a customer must actually be a current telecommunications service user. Sprint reasons that, if a customer's service is in Temporary Disconnect status, then the customer is unable to place and receive calls, thus, for all intents and purposes, the customer has been disconnected from the Public Switched Telephone Network.

In the past, staff has contacted the FCC's staff to seek its position regarding the porting of numbers when the subscriber owes an outstanding balance to the current provider. Each time, staff was advised that the FCC staff's position is that a company cannot hold the customer hostage for payment by refusing to release the customer's phone number. The FCC staff stressed that the companies have processes in place to deal with non-payers, e.g., reports to credit agencies, courts, and referral to collection agencies.

While staff has not been able to locate specific documentation published by the FCC that clearly delineates this policy regarding the porting of wireline numbers, staff has found documentation that reflects the FCC's position regarding porting of wireless numbers. The FCC's Consumer & Governmental Affairs Bureau has published a number portability checklist for consumers. A copy of this checklist is provided as Attachment C. The following statement appears in this checklist: "Carriers are not allowed to refuse to transfer a number because a fee or outstanding balance has not been paid." The FCC's position regarding the porting of wireless numbers reflects exactly the same position that the FCC staff expressed regarding the porting of wireline numbers.

While Sprint is correct in its statement that a customer in Temporary Disconnect status cannot place or receive phone calls (except possibly place calls to 911), staff believes that there remains an association between the customer, Sprint, and the phone number. If the customer pays or enters into a payment arrangement, the service is restored with the same phone number. The number, in a sense, is being held in reserve for a specific customer and has not been completely "detached" from that customer.

Sprint's position on this matter appears to conflict with the position expressed by the FCC. Thus, staff inquired about the policies and practices of other telecommunications providers. Staff understands that BellSouth and Verizon routinely port numbers that are in Temporary Disconnect status. AT&T stated that the proposed language simply puts in place the FCC's existing rules relating to number portability, and AT&T supports the proposed rule. This being the case, staff has included in the proposed rule a six months period for any company to modify its operating systems to allow porting of numbers in Temporary Disconnect status.

3. BellSouth Telecommunications, Inc.'s (BellSouth) and FDN Communication's (FDN) Comments on Rules 25-4.003 and 25-4.082

BellSouth commented that it does not believe it is necessary to add a definition of Temporary Disconnect in the rule, nor should a specified time period, before a denied service can be disconnected, be required by rule. If a definition is included in the rule, BellSouth recommends defining Temporary Disconnect as a disruption of telephone service to a customer prior to permanent disconnect. BellSouth further seeks clarification as to whether the proposed rules adds to the time period of five working days written notice for discontinuance of service for violation of rules and regulations and for nonpayment of bills set forth in Rule 25-4.113 (1)(e) and (f).

FDN commented that a specified time period for Temporary Disconnect is not necessary. FDN stated that its Temporary Disconnect period is seven days.

Staff understands that most companies' Temporary Disconnect periods run 14 days. However, other companies, such as Cox Telcom and FDN have shorter Temporary Disconnect periods, ten and seven days prior to permanent disconnect, respectively. Staff is recommending a Temporary Disconnection period of ten days in the amendment of Rule 25-4.003. Staff believes that ten days is sufficient time for either the customer to repair matters with the serving provider or secure another provider.

Staff has attempted to define a Temporary Disconnect period in terms of a minimum number of days because there are 409 local exchange companies certificated to operate in Florida. Staff is concerned that some local providers may redefine the Temporary Disconnect period, if no period is specified, as circumstances dictate. For example, staff has observed that some local providers advertise themselves to be prepaid local service providers. In a prepaid environment, it is anticipated that service will be disconnected upon the expiration of the prepaid period. That is not the case. Many prepaid local service providers have advised staff that they place customers' service in Temporary Disconnect or continue to serve the customer after the prepaid period has expired because they can generally determine if a customer is going to request additional service. Staff respects the providers initiative and finds no fault with this. However, in handling customer complaints, staff has observed examples of prepaid customers delinquent in payment, yet still have active service disconnected by the provider when a competing provider has placed an order to acquire the customer.

Staff has observed the same when customers were placed in Temporary Disconnect status. When challenged about these practices by staff, companies have responded that they have the right to disconnect because the customer is delinquent in payment or they were placed in final disconnect because they were already in Temporary Disconnect. This response is often followed by a comment such as "we could have disconnected the customer a week ago." As a follow-up question, staff would ask, "what is your company's policy or what do you have in your price-list (filed with the Commission) regarding these matters?" Typical responses are: 1) we have no published policy; 2) we have nothing in our price list; or 3) we are prepaid and we could have disconnected the customer earlier than we did. However, as observed by staff, final disconnect typically occurs when a competitor has placed an order to acquire the customer, which results in the person losing their telephone number.

Staff believes that without a minimum number of days specified for Temporary Disconnect, the policies and practices of some providers may be changed each time a customer attempts to change providers. Staff further notes that providers that do this most often are those that appear to have placed PC freezes on their customers' service. Staff believes that a minimum number of days for Temporary Disconnect is required to establish a benchmark against which providers' practices can be measured and to eliminate a provider from subjecting customers to discriminatory treatment.

In response to BellSouth's request for clarification regarding the language in Rule 25-4.113(1) (e) and (f), Florida Administrative Code, the proposed rule does not add to the time period of five working days written notice. Plus, staff clarifies that once a customer is placed in permanent disconnect, the proposed rule does not require a customer's number be ported, except if upon investigation of a complaint, the provider has permanently disconnected a customer's service mistakenly or in violation of the Commission's rules regarding disconnection.

### **Rule 25-4.083, F.A.C., Preferred Carrier Freeze**

#### **1. Summary of New Rule 25-4.083**

This rule requires customer authorization before a PC Freeze is placed on a subscriber's account. Further, the rule prohibits a provider from requiring a PC freeze as a condition for obtaining service. It also defines the various procedures that a local exchange company must use to confirm a subscriber's request to impose a freeze. The proposed rule sets forth three methods that a local exchange company can use to confirm the subscriber's request: 1) the subscriber's written or electronically signed authorization; 2) the subscriber's oral authorization obtained by an independent third party; or 3) the subscriber's electronic authorization placed from the telephone number on which the PC Freeze is to be imposed. For each of the three authorization methods, the rule defines specific information that a local exchange company must obtain from the subscriber.

In addition, the rule defines the minimum number of procedures that a local exchange company must offer subscribers for lifting a PC Freeze. In either the placement or removal of a PC Freeze, the rule requires that the provider retain the information for one year.

The rule defines what must be included in all notification material that providers submit to subscribers regarding PC Freezes. The PC Freeze notification required by Rule 25-4.110(16), Florida Administrative Code, must reflect this information as well.

The proposed rule also precludes providers from soliciting, marketing, or inducing subscribers to request a PC Freeze. The proposed rule would thus preclude, for example, a company from including PC Freeze selection information in its letter of authorization or in a third party verification required by Rule 25-4.118.

The rule requirements described in the preceding paragraphs reflect the current requirements placed on providers by federal regulations. Specifically, the rule echoes the requirements of the FCC's regulations, as set forth in Code of Federal Regulations (CFR), Title 47, Part 64, Subsection 1190, entitled Preferred Carrier Freezes (Attachment B).

While it has consistently been the position of this Commission that PC Freezes are exclusively the customers' choice and that providers cannot require a PC Freeze as a condition of service, staff believes that codifying these policies is very important. Providers will be provided clear, concise guidance regarding the placement and lifting of PC Freezes. For the same reason, staff will be able to more effectively work with providers to assist them in achieving voluntary compliance and, when necessary, recommending enforcement actions to the Commission.

A few of the requirements set forth in Rule 25-4.083 were added at the request of the industry. Specifically, the rule requires that a PC Freeze shall not prohibit a local provider from changing wholesale services when serving the same end user. Providers may change the types of wholesale services used to ultimately provide service to the end user, e.g., resale versus UNE-P, or the provider may select a different wholesale provider because of lower cost or better service. In these cases, the change in how the service is delivered to the end user is transparent to the end user. The rule will allow providers to change wholesale services whenever there is a PC Freeze on the account.

The proposed rule requires a local provider to place an indicator on the customer service record that a PC Freeze is in place. The industry requested this aspect of the rule as it helps their operations by alerting them to the PC Freeze. With this knowledge, the soliciting provider will be able to advise the prospective customer that a PC Freeze exists, and explain to the prospective customer the need to contact the current provider and have the PC Freeze lifted. In addition, the rule requires that the local provider make available the ability for a subscriber's new local provider to initiate a local PC Freeze using the local service request. Here again, this is an operations matter that certain industry participants requested to be codified in this rulemaking proceeding. The proposed rule will provide the acquiring provider the ability to place a service request and affect a PC Freeze on the same order.

## 2. Industry Comments on Rule 25-4.083

AT&T and Cox Telcom commented that they oppose a preferred local carrier freeze program in Florida because they believe that it is detrimental to the development of overall competition in the state. BellSouth noted that the FCC's rules regarding PC Freezes requires that an explanation be provided to customers regarding the costs associated with a PC Freeze and the rule developed by staff reflects that customers be advised that there is no charge for implementing or removing a PC Freeze. BellSouth also questions if the notices required by Rule 25-4.110(16)(a), F.A.C., regarding the availability of a PC Freeze should reflect the information defined in proposed Rule 25-4.083(4). BellSouth also seeks affirmation that proposed Rule 25-4.083(10) refers to the situation when a CLEC wants to change wholesale services from resale to UNE-P when serving the same customer, and a local service freeze is on the account.

Even though AT&T's and Cox Telcom's preference is that the Commission adopt a position that no local exchange carriers be allowed to place a PC Freeze on local service, it appears that they do understand that Section 364.603, Florida Statutes, specifically requires companies to offer a preferred carrier freeze at no charge to a customer. This same statute addresses BellSouth's concerns regarding the difference between the proposed rule and the FCC's rules, e.g., possible charges versus no charges for a PC Freeze. Based on this statutory



language, staff surmises that since placement of a PC Freeze is required at no charge, removal should be at no charge as well.

Staff agrees with BellSouth's understanding that Rule 25-4.083(1) does refer to a situation when a CLEC wants to change wholesale services from resale to UNE-P when serving the same customer and a local service freeze is on the account. This rule would not prevent the reseller from changing wholesale service providers when there is a freeze on the line. The same is true for resellers of long distance service when resellers want to change underlying wholesale providers. This situation, however, is covered by the reference of Rule 25-4.083 in the proposed amendment of Rule 25-24.490.

**Rule 25-24.490, F.A.C., Customer Relations; Rules Incorporated**

This rule incorporates certain requirements of proposed Rule 25-4.083 into Rule 25-24.490. By this rule revision, the PC Freeze requirements will apply to intrastate interexchange companies. Staff proposes this amendment because facilities-based long distance companies who sell network services to resellers can place freezes in their billing systems on customers' long distance service, particularly as it relates to toll-free numbers. In addition, the rule requires the portability of toll-free numbers.

Staff notes that the language stating that the Section 25-4 rules are incorporated by reference into Rule 25-24.490 has been deleted. Staff made this change to address a comment made by the Joint Administrative Procedures Committee (JAPC) staff in a prior rulemaking indicating that this language is not necessary in the rule.

**Rule 25-24.845, F.A.C., Customer Relations; Rules Incorporated**

This rule incorporates Rules 25-4.082 and 25-4.083 into Rule 25-24.845. This rule revision would apply PC Freeze and number portability requirements to CLECs. Staff received no comments regarding making these rules applicable to CLECs. Comments regarding the content of Rules 25-4.082 and 25-4.083 are discussed in the applicable sections of staff's discussion above.

Also, in accordance with staff's recommendation in regard to Rule 25-24.490, the language in Rule 25-24.845 stating that the Section 25-4 rules are incorporated by reference into this rule has been deleted to address comments that JAPC staff made in a prior rulemaking indicating that this language is not necessary.

**Proposed Amendments/Concepts by Industry Not Included in the Proposed Rules**

Companies also suggested additional amendments to the rules, beyond those presented in this recommendation. The suggested amendments were discussed during workshops and in post-workshop written comments.

BellSouth suggested that the Commission adopt rules or guidelines for the migration of customers between local exchange carriers. As examples of their suggestion, BellSouth provided guidelines established by the New York Public Service Commission and the Pennsylvania Public

Utility Commission. Staff understands that the industry is developing a set of standards. Once the industry has agreed on a set of standards, then a petition may be filed to initiate rulemaking.

AT&T suggested that a neutral entity be established to serve as a clearinghouse or repository for PC Freeze status and some basic elements of the local customer service record. AT&T envisions that the clearinghouse have a third party verification division that accepts requests to impose or lift freezes. Staff believes this concept should be presented at a national level (more appropriately at the FCC) for nationwide consideration.

AT&T proposed rule language that requires the incumbent local exchange companies to make available the ability for the subscriber's new local carrier to lift local freezes via an enhanced third party verification (TPV) or letter of authorization (LOA). The enhanced TPV or LOA must capture unique freeze lift authorization and include appropriate verification data, e.g., subscriber's date of birth and last four digits of the social security number. Staff did not include this language in the proposed rule amendments. Staff believes that the new local carrier should not be allowed to obtain the subscriber's authorization to lift a preferred carrier freeze placed by another provider. Removal of a preferred carrier freeze should uniquely remain a transaction between the subscriber and the provider that originally placed the preferred carrier freeze at the request of the subscriber. If a third party is given authority to request lifting of a preferred carrier freeze on behalf of the subscriber, the bond between the subscriber and the provider that placed the freeze will be broken. Staff believes the concept of allowing a third party to act on behalf of the subscriber contradicts the concept that only a subscriber can directly authorize the removal of a preferred carrier freeze. Staff submits that the reason for a preferred carrier freeze is to mitigate the unauthorized change of a subscriber's provider and that the subscriber is the only authority that may request the placement or removal of a preferred carrier freeze. This concept is critical to the integrity of the preferred carrier freeze process. By allowing a third party to act on behalf of the subscriber, the integrity of the preferred carrier freeze process may be jeopardized and the instances of slamming may increase.

AT&T suggested rule language requiring the provider, that administered a preferred carrier freeze, must be available during national telephone solicitation hours (8:00 am – 9:00 pm local time, seven days per week) in order to ensure the ability of the new carrier to execute a three-way call with the subscriber. Telecommunications companies currently define their operating hours and staff believes that this should remain their choice.

AT&T requested that the rule amendments include language that an incumbent local exchange company must support a mutually agreed upon non-discriminatory access method via the local service request (LSR) for the subscriber's new local carrier to add and remove a local freeze. Staff has not proposed this language for several reasons. First, expectations of a rule is that it define specific requirements. In this case, "mutually agreed upon" indicates an agreement between an incumbent local exchange company and another carrier. Thus, staff believes that the proposed language would be rife with uncertainty, e.g., each party may mutually agree on different processes. Staff does not believe such arrangements could be enforceable as the language is proposed. Incumbent local exchange companies have processes currently in place to accomplish the addition or deletion of a preferred carrier freeze on a subscriber's service.

**Statement of Estimated Regulatory Costs**

The Florida Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC) for rule developments. A SERC was prepared for this rule development and is appended hereto as Attachment D.

BellSouth, Verizon, Sprint and AT&T all state that there would be costs to comply with the proposed PC Freeze rules. The specific costs the companies identified are set forth in detail in Attachment D.

In regard to the costs associated with the rule amendment set forth by Verizon, they pertain to a prior draft of the rule that would have required that local providers ensure that the local service request not be rejected while the local freeze lift request is in progress. Upon review of Verizon's comments to the SERC questionnaire, staff determined that this provision should not be included in the rules proposed by the Commission. Thus, the costs set forth by Verizon in the SERC memorandum are no longer applicable.

Smart City states that the overall costs associated with implementing the proposed rules and rule revisions would be negligible. Frontier Communications estimates that it will cost approximately \$32,660 to implement the proposed rule changes.

The SERC concludes that small businesses should benefit from the proposed rules because the rules will remove barriers that prevent telecommunications companies from acquiring new customers. Also, small businesses, small cities, and small counties should not be negatively affected unless they operate as a competitive local exchange carrier.

The Commission and other state entities are not anticipated to have additional costs associated with promulgating the proposed rules. No additional Commission staff would be needed to implement the proposed rules, and, over time, the Commission would benefit as the number of complaints filed with the Commission on this subject decreases. Commission staff should save hundreds of working hours due to the reduced number of complaints.

Based on the foregoing, staff recommends that the Commission should propose the adoption of Rules 25-4.082 and 25-4.083, and the amendment of Rules 25-4.003, 25-24.490, and 25-24.845, F.A.C., as set forth in Attachment A.

Docket No. 040167-TP

Date: March 18, 2004

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no request for hearing or comments are filed, the rules as proposed should be filed for adoption with the Secretary of State and the docket should be closed.  
**(CIBULA)**

**Staff Analysis:** If no request for hearing or comments are filed, the rules as proposed may be filed for adoption with the Secretary of State without further Commission action. The docket may then be closed.

1           **25-4.003 Definitions.**

2 For the purpose of Chapter 25-4, F.A.C., the definitions of the following terms apply:

3           (1) "Access Line" or "Subscriber Line." The circuit or channel between the  
4 demarcation point at the customer's premises and the serving end or class 5 central office.

5           (2) "Competitive Local Exchange Telecommunications Company (CLEC)." Any  
6 company certificated by the commission to provide local exchange telecommunications  
7 services in Florida on or after July 1, 1995.

8           (3) "Average Busy Season-Busy Hour Traffic." The average traffic volume for the  
9 busy season busy hours.

10           (4) "Billing Party." Any telecommunications company that bills an end user  
11 consumer on its own behalf or on behalf of an originating party.

12           (5) "Busy Hour." The continuous one-hour period of the day during which the  
13 greatest volume of traffic is handled in the office.

14           (6) "Busy Season." The calendar month or period of the year (preferably 30 days but  
15 not to exceed 60 days) during which the greatest volume of traffic is handled in the office.

16           (7) "Call." An attempted telephone message.

17           (8) "Central Office." A location where there is an assembly of equipment that  
18 establishes the connections between subscriber access lines, trunks, switched access circuits,  
19 private line facilities, and special access facilities with the rest of the telephone network.

20           (9) "Commission." The Florida Public Service Commission.

21           (10) "Company," "Telecommunications Company," "Telephone Company," or  
22 "Utility." These terms may be used interchangeably herein and shall mean  
23 "telecommunications company" as defined in Section 364.02(12), Florida Statutes.

24           (11) "Completed call." A call which has been switched through an established path so  
25 that two-way conversation or data transmission is possible.

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

1 (12) "Disconnect" or "Disconnection." The dissociation or release of a circuit. In the  
2 case of a billable call, the end of the billable time for the call whether intentionally  
3 terminated or terminated due to a service interruption.

4 (13) "Drop or Service Wire." The connecting link that extends from the local  
5 distribution service terminal to the protector or telephone network interface device on the  
6 customer's premises.

7 (14) "Exchange." The entire telephone plant and facilities used in providing telephone  
8 service to subscribers located in an exchange area. An exchange may include more than one  
9 central office unit.

10 (15) "Exchange (Service) Area." The territory of a local exchange company (LEC)  
11 within which local telephone service is furnished at the exchange rates applicable within that  
12 area.

13 (16) "Extended Area Service." A type of telephone service whereby subscribers of a  
14 given exchange or area may complete calls to, and receive messages from, one or more other  
15 exchanges or areas without toll charges, or complete calls to one or more other exchanges or  
16 areas without toll message charges.

17 (17) "Extension Station." An additional station connected on the same circuit as the  
18 main station and subsidiary thereto.

19 (18) "Foreign Exchange Service." A classification of LEC exchange service furnished  
20 under tariff provisions whereby a subscriber may be provided telephone service from an  
21 exchange other than the one from which he would normally be served.

22 (19) "Information Service." Telephone calls made to 900 or 976 type services, but  
23 does not include Internet services.

24 (20) "Intercept Service." A service arrangement provided by the telecommunications  
25 company whereby calls placed to an unequipped non-working, disconnected, or discontinued

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1 telephone number are intercepted by operator, recorder, or audio response computer and the  
2 calling party informed that the called telephone number is not in service, has been  
3 disconnected, discontinued, or changed to another number, or that calls are received by  
4 another telephone. This service is also provided in certain central offices and switching  
5 centers to inform the calling party of conditions such as system blockages, inability of the  
6 system to complete a call as dialed, no such office code, and all circuits busy.

7 (21) "Interexchange Company (IXC)." Any telecommunications company, as defined  
8 in Section 364.02(12), Florida Statutes, which provides telecommunications service between  
9 local calling areas as those areas are described in the approved tariffs of individual LECs.  
10 IXC includes, but is not limited to, MLDA as defined in subsection (37) of these definitions.

11 (22) "Inter-office Call." A telephone call originating in one central office but  
12 terminating in another central office, both of which are in the same designated exchange area.

13 (23) "Interstate Toll Message." Those toll messages which do not originate and  
14 terminate within the same state.

15 (24) "Intertoll Trunk." A line or circuit between two toll offices, two end offices, or  
16 between an end office and toll office, over which toll calls are passed.

17 (25) "Intra-office Call." A telephone call originating and terminating within the same  
18 central office.

19 (26) "Intra-state Toll Message." Those toll messages which originate and terminate  
20 within the same state.

21 (27) "Invalid Number." A number comprised of an unassigned area code number or a  
22 non-working central office code (NXX).

23 (28) "Large LEC." A LEC certificated by the Commission prior to July 1, 1995, that  
24 had in excess of 100,000 access lines in service on July 1, 1995.

25 (29) "Local Access and Transport Area (LATA)" or "Market Area." A geographical

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1 area, which is loosely based on standard metropolitan statistical areas (SMSAs), within  
2 which a LEC may transport telecommunication signals.

3 (30) "Local Exchange Telecommunications Company (LEC)." Any  
4 telecommunications company, as defined in Section 364.02(6), Florida Statutes.

5 (31) "Local Provider (LP)." Any telecommunications company providing local  
6 telecommunications service, excluding pay telephone providers and call aggregators.

7 (32) "Local Service Area" or "Local Calling Area." The area within which telephone  
8 service is furnished subscribers under a specific schedule of rates and without toll charges. A  
9 LEC's local service area may include one or more exchange areas or portions of exchange  
10 areas.

11 (33) "Local Toll Provider (LTP)." Any telecommunications company providing  
12 intraLATA or intramarket area long distance telecommunications service.

13 (34) "Main Station." The principal telephone associated with each service to which a  
14 telephone number is assigned and which is connected to the central office equipment by an  
15 individual or party line circuit or channel.

16 (35) "Message." A completed telephone call.

17 (36) "Mileage Charge." A tariff charge for circuits and channels connecting other  
18 services that are auxiliary to local exchange service such as off premises extensions, foreign  
19 exchange and foreign central office services, private line services, and tie lines.

20 (37) "Multiple Location Discount Aggregator (MLDA)." An entity that offers  
21 discounted long distance telecommunications services from an underlying IXC to unaffiliated  
22 entities. An entity is a MLDA if one or more of the following criteria applies:

23 (a) It collects fees related to interexchange telecommunications services directly from  
24 subscribers,

25 (b) It bills for interexchange telecommunications services in its own name,

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1 (c) It is responsible for an end user's unpaid interexchange telecommunications bill,  
2 or

3 (d) A customer's bill cannot be determined by applying the tariff of the underlying  
4 IXC to the customer's individual usage.

5 (38) "Normal Working Days." The normal working days for installation and  
6 construction shall be all days except Saturdays, Sundays, and holidays. The normal working  
7 days for repair service shall be all days except Sundays and holidays. Holidays shall be the  
8 days which are observed by each individual telephone utility.

9 (39) "Optional Calling Plan." An optional service furnished under tariff provisions  
10 which recognizes the need of some subscribers for extended area calling without imposing  
11 the cost on the entire body of subscribers.

12 (40) "Originating Party." Any person, firm, corporation, or other entity, including a  
13 telecommunications company or a billing clearinghouse, that provides any  
14 telecommunications service or information service to a customer or bills a customer through  
15 a billing party, except the term "originating party" does not include any entity specifically  
16 exempted from the definition of "telecommunications company" as provided in Section  
17 364.02(12), Florida Statutes.

18 (41) "Out of Service." The inability, as reported by the customer, to complete either  
19 incoming or outgoing calls over the subscriber's line. "Out of Service" shall not include:

20 (a) Service difficulties such as slow dial tone, circuits busy, or other network or  
21 switching capacity shortages;

22 (b) Interruptions caused by a negligent or willful act of the subscriber; and

23 (c) Situations in which a company suspends or terminates service because of  
24 nonpayment of bills, unlawful or improper use of facilities or service, or any other reason set  
25 forth in approved tariffs or Commission rules.

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1 (42) "Outside Plant." The telephone equipment and facilities installed on, along, or  
2 under streets, alleys, highways, or on private rights-of-way between the central office and  
3 subscribers' locations or between central offices of the same or different exchanges.

4 (43) "Pay Telephone Service Company." Any telecommunications company that  
5 provides pay telephone service as defined in Section 364.3375, Florida Statutes.

6 (44) "PC-Freeze." (Preferred Carrier Freeze) A service offered that restricts the  
7 customer's carrier selection until further notice from the customer.

8 (45) "Provider." Any telecommunications company providing service, excluding pay  
9 telephone providers and call aggregators (i.e., local, local toll, and toll providers).

10 (46) "Service Objective." A quality of service which is desirable to be achieved under  
11 normal conditions.

12 (47) "Service Standard." A level of service which a telecommunications company,  
13 under normal conditions, is expected to meet in its certificated territory as representative of  
14 adequate services.

15 (48) "Small LEC." A LEC certificated by the Commission prior to July 1, 1995,  
16 which had fewer than 100,000 access lines in service on July 1, 1995.

17 (49) "Station." A telephone instrument consisting of a transmitter, receiver, and  
18 associated apparatus so connected as to permit sending or receiving telephone messages.

19 (50) "Subscriber" or "Customer." These terms may be used interchangeably herein  
20 and shall mean any person, firm, partnership, corporation, municipality, cooperative  
21 organization, or governmental agency supplied with communication service by a  
22 telecommunications company.

23 (51) "Subscriber Line." See "Access Line."

24 (52) "Switching Center." Location at which telephone traffic, either local or toll, is  
25 switched or connected from one circuit or line to another. A local switching center may be

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1 comprised of several central office units.

2 (53) "Temporary Disconnect." A disruption of telephone service to a customer for  
3 a period of no less than 10 days prior to permanent disconnect.

4 (54) ~~(53)~~ "Toll Connecting Trunk." A trunk which connects a local central  
5 office with its toll operating office.

6 (55) ~~(54)~~ "Toll Message." A completed telephone call between stations in  
7 different exchanges for which message toll charges are applicable.

8 (56) ~~(55)~~ "Toll Provider (TP)." Any telecommunications company providing  
9 interLATA long distance telecommunications service.

10 (57) ~~(56)~~ "Traffic Study." The process of recording usage measurements which  
11 can be translated into required quantities of equipment.

12 (58) ~~(57)~~ "Trouble Report." Any oral or written report from a subscriber or user  
13 of telephone service to the telephone company indicating improper function or defective  
14 conditions with respect to the operation of telephone facilities over which the telephone  
15 company has control.

16 (59) ~~(58)~~ "Trunk." A communication channel between central office units or  
17 entities, or private branch exchanges.

18 (60) ~~(59)~~ "Valid Number." A number for a specific telephone terminal in an  
19 assigned area code and working central office which is equipped to ring and connect a calling  
20 party to such terminal number.

21 Specific Authority: 350.127(2), FS.

22 Law Implemented: 364.01, 364.02, 364.32, 364.335, 364.337, 364.3375, 364.3376, 364.602,  
23 FS.

24 History: Revised 12-1-68, Amended 3-31-76, Formerly 25-4.03, Amended 2-23-87, 3-4-92,  
25 12-21-93, 3-10-96, 12-28-98, 7-5-00, XX/XX/XX.

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25-4.082 Number Portability.

(1) The serving local provider shall facilitate porting of the subscriber's telephone number upon request from the acquiring company.

(2) A working number or a number in Temporary Disconnect status shall be ported regardless of whether a balance is owed.

(3) A local provider shall not disconnect a subscriber's working number or, beginning six months after the effective date of this rule, block porting of a number in Temporary Disconnect status after receiving a local service request from another local provider.

Specific Authority: 350.127, F.S.

Law Implemented: 364.16, 364.337, F.S.

History: New XX-XX-XX.

1        25-4.083 Preferred Carrier Freeze.

2        A PC Freeze prevents a change in a subscriber's preferred provider selection unless  
3 the subscriber gives the provider from whom the PC Freeze was requested consent to remove  
4 the PC Freeze.

5        (1) A PC Freeze shall not be imposed on a subscriber's account without the  
6 subscriber's authorization and shall not be required as a condition for obtaining service.

7        (2) A PC Freeze shall be implemented or removed at no charge to the subscriber.

8        (3) The subscriber's authorization shall be obtained for each service for which a PC  
9 Freeze is requested. Procedures implemented by local exchange providers must clearly  
10 distinguish among telecommunications services (e.g., local, local toll, and toll) subject to a  
11 PC Freeze.

12        (4) All notification material regarding PC Freezes must include:

13        (a) An explanation of what a PC Freeze is and what services are subject to a freeze;

14        (b) A description of the specific procedures necessary to lift a PC Freeze and an  
15 explanation that the subscriber will be unable to make a change in provider selection unless  
16 the subscriber authorizes lifting of the PC Freeze; and

17        (c) An explanation that there are no charges for implementing or removing a PC  
18 Freeze.

19        (5) A local provider shall not solicit, market, or induce subscribers to request a PC  
20 Freeze. A local provider is not prohibited, however, from informing a subscriber who  
21 contacts the local provider with concerns about slamming about the availability of a PC  
22 Freeze.

23        (6) A local exchange provider shall not implement a PC Freeze unless the  
24 subscriber's request to impose a freeze has first been confirmed in accordance with one of  
25 the following procedures:

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1           (a) The local exchange provider has obtained the subscriber's written or electronically  
2 signed authorization in a form that meets the requirements of subsection (7);

3           (b) The local exchange provider has obtained the subscriber's electronic  
4 authorization, placed from the telephone number(s) on which the PC Freeze is to be imposed.  
5 The electronic authorization should confirm appropriate verification data (e.g., the  
6 subscriber's date of birth or the last four digits of the subscriber's social security number)  
7 and the information required in subsection (7)(a) through (d). Telecommunications providers  
8 electing to confirm PC Freeze orders electronically shall establish one or more toll-free  
9 telephone numbers exclusively for that purpose. Calls to the number(s) will connect a  
10 subscriber to a voice response unit, or similar mechanism that records the required  
11 information regarding the PC Freeze request, including automatically recording the  
12 originating automatic numbering identification; or

13           (c) An appropriately qualified independent third party has obtained the subscriber's  
14 oral authorization to submit the PC Freeze and confirmed the appropriate verification data  
15 (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security  
16 number) and the information required in subsection (7)(a) through (d). The independent third  
17 party must not be owned, managed, or directly controlled by the provider or the provider's  
18 marketing agent; must not have any financial incentive to confirm PC Freeze requests for the  
19 provider or the provider's marketing agent; and must operate in a location physically separate  
20 from the provider or the provider's marketing agent. The content of the verification must  
21 include clear and conspicuous confirmation that the subscriber has authorized a PC Freeze.

22           (7) A local exchange provider shall accept a subscriber's written and signed  
23 authorization to impose a PC Freeze on a preferred provider selection. A written  
24 authorization shall be printed in a readable type of sufficient size to be clearly legible and  
25 must contain clear and unambiguous language that confirms:

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1        (a) The subscriber's billing name and address and the telephone number(s) to be  
2 covered by the PC Freeze;

3        (b) The specific service, (e.g., local, local toll, and toll), separately stated, on which a  
4 PC Freeze will be imposed.

5        (c) That the subscriber understands that to make a change in provider selection, the  
6 subscriber must lift the PC Freeze; and

7        (d) That there will be no charge to the subscriber for a PC Freeze.

8        (8) All local exchange providers shall, at a minimum, offer subscribers the following  
9 procedures for lifting a PC Freeze:

10        (a) Acceptance of a subscriber's written or electronically signed authorization; and

11        (b) Acceptance of a subscriber's oral authorization along with a mechanism that  
12 allows the submitting provider to conduct a three-way conference call between the provider  
13 administering the PC Freeze and the subscriber. The provider administering the PC Freeze  
14 shall confirm appropriate verification data (e.g., the subscriber's date of birth or the last four  
15 digits of the subscriber's social security number) and the subscriber's intent to lift a specific  
16 PC Freeze.

17        (9) Information obtained under (6) and (8)(a) shall be retained by the provider for a  
18 period of one year.

19        (10) A PC Freeze shall not prohibit a local provider from changing wholesale services  
20 when serving the same end user.

21        (11) Local providers shall make available an indicator on the customer service record  
22 that identifies whether the subscriber currently has a PC Freeze in place.

23        (12) Local providers shall make available the ability for the subscriber's new local  
24 provider to initiate a local PC Freeze using the local service request.

25 Specific Authority: 350.127, 364.603, F.S.

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- 1 Law Implemented: 364.603, F.S.
- 2 History: New XX-XX-X.
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1           **25-24.490 Customer Relations; ~~Rules Incorporated.~~**

2           (1) The following rules ~~are incorporated herein by reference and~~ apply to IXCs.

3	<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
4	<u>25-4.083</u>	<u>Preferred Carrier Freeze</u>	<u>All except subsections (11) and (12)</u>
5	25-4.110	Customer Billing	Subsections (11), (12), (14), (15), (17),
6			(18), and (20)
7	25-4.111	Customer Complaint and	All except subsection (2)
8		Service Requests	
9	25-4.112	Termination of Service	All
10		by Customer	
11	25-4.113	Refusal or Discontinuance of	All
12		Service by Company	
13	25-4.114	Refunds	All
14	25-4.117	800 Service	All
15	25-4.118	Local, Local Toll, or Toll	All
16		Provider Selection	

17           (2) An IXC may require a deposit as a condition of service and may collect advance  
18 payments for more than one month of service if it maintains on file with the Commission a  
19 bond covering its current balance of deposits and advance payments (for more than one  
20 month's service). A company may apply to the Commission for a waiver of the bond  
21 requirement by demonstrating that it possesses the financial resources and income to provide  
22 assurance of continued operation under its certificate over the long term.

23           (3) Upon request, each company shall provide verbally or in writing to any person  
24 inquiring about the company's service:

25           (a) Any nonrecurring charge,

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- 1 (b) Any monthly service charge or minimum usage charge,
- 2 (c) Company deposit practices,
- 3 (d) Any charges applicable to call attempts not answered,
- 4 (e) A statement of when charging for a call begins and ends, and
- 5 (f) A statement of billing adjustment practices for wrong numbers or incorrect bills.

6 In addition, the above information shall be included in the first bill, or in a separate mailing  
7 no later than the first bill, to all new customers and to all customers presubscribing on or after  
8 the effective date of this rule, and in any information sheet or brochure distributed by the  
9 company for the purpose of providing information about the company's services. The above  
10 information shall be clearly expressed in simple words, sentences and paragraphs. It must  
11 avoid unnecessarily long, complicated or obscure phrases or acronyms.

12 (4) Toll free number portability.

13 (a) The serving IXC shall facilitate porting of the subscriber's toll free telephone  
14 number (e.g., 800, 877, 888) upon request from the acquiring company.

15 (b) The serving IXC shall not disconnect a subscriber's working toll free number or  
16 refuse to port a toll free number that is in Temporary Disconnect status after receiving a  
17 service transfer request from another IXC.

18 (c) The serving IXC shall not cause a toll free number that is in Temporary  
19 Disconnect status to be reassigned, transferred, or made otherwise unavailable for porting  
20 any time prior to final disconnect.

21 (d) A working toll free number or a toll free number in Temporary Disconnect status  
22 shall be ported regardless of whether a balance is owed.

23 Specific Authority: 350.127(2), 364.604(5), FS.

24 Law Implemented: 364.03, 364.14, 364.15, 364.19, 364.337, 364.602, 364.603, 364.604, FS.

25 History: New 2-23-87, Amended 10-31-89, 3-5-90, 3-4-92, 3-13-96, 12-28-98, 7-5-00, 11-

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1 **25-24.845 Customer Relations; Rules Incorporated.**

2 The following rules ~~are incorporated herein by reference~~ and apply to CLECs. In the  
3 following rules, the acronym "LEC" should be  
4 omitted or interpreted as "CLEC".

5	<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
6	<u>25-4.082</u>	<u>Number Portability</u>	<u>All</u>
7	<u>25-4.083</u>	<u>Preferred Carrier Freeze</u>	<u>All</u>
8	25-4.110	Customer Billing	Subsections (11), (12), (14), (15), (16), (17),
9			(18), and (20)
10	24-4.118	Local, Local Toll, or	All
11		Toll Provider Selection	

12 Specific Authority: 350.127(2), 364.337(2), 364.604(5), FS.

13 Law Implemented: 364.337(2), 364.602, 364.604, FS.

14 History: New 12-28-98, Amended 7-5-00, 11-16-03, XX/XX/XX.

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## Federal Communications Commission

## § 64.1190

## § 64.1190 Preferred carrier freezes.

(a) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(b) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(d) *Solicitation and imposition of preferred carrier freezes.*

(1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(i) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(ii) A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the Commission's verification rules in §§ 64.1120 and 64.1130 for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze.

(iii) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(i) The local exchange carrier has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of § 64.1190(d)(3); or

(ii) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in §§ 64.1190(d)(3)(ii)(A) through (D). Telecommunications carriers electing to confirm preferred carrier freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(iii) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in § 64.1190(d)(3)(ii)(A) through (D). The independent third party must not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

(3) *Written authorization to impose a preferred carrier freeze.* A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred carrier freeze.

(i) The written authorization shall comply with §§ 64.1130(b), (c), and (h) of

§64.1195

47 CFR Ch. I (10-1-03 Edition)

the Commission's rules concerning the form and content for letters of agency.

(ii) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(A) The subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(B) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(C) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(D) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(e) *Procedures for lifting preferred carrier freezes.* All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written or electronically signed authorization stating his or her intent to lift a preferred carrier freeze; and

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security

number) and the subscriber's intent to lift the particular freeze.

[64 FR 7762, Feb. 16, 1999, as amended at 66 FR 12893, Mar. 1, 2001]

§ 64.1195 **Registration requirement.**

(a) *Applicability.* A telecommunications carrier that will provide interstate telecommunications service shall file the registration information described in paragraph (b) of this section in accordance with the procedures described in paragraphs (c) and (g) of this section. Any telecommunications carrier already providing interstate telecommunications service on the effective date of these rules shall submit the relevant portion of its FCC Form 499-A in accordance with paragraphs (b) and (c) of this section.

(b) *Information required for purposes of part 64.* A telecommunications carrier that is subject to the registration requirement pursuant to paragraph (a) of this section shall provide the following information:

(1) The carrier's business name(s) and primary address;

(2) The names and business addresses of the carrier's chief executive officer, chairman, and president, or, in the event that a company does not have such executives, three similarly senior-level officials of the company;

(3) The carrier's regulatory contact and/or designated agent;

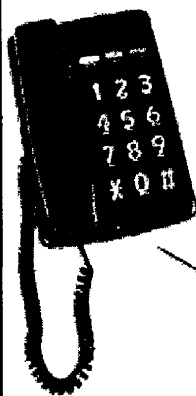
(4) All names that the carrier has used in the past; and

(5) The state(s) in which the carrier provides telecommunications service.

(c) *Submission of registration.* A carrier that is subject to the registration requirement pursuant to paragraph (a) of this section shall submit the information described in paragraph (b) of this section in accordance with the Instructions to FCC Form 499-A. FCC Form 499-A must be submitted under oath and penalty of perjury.

(d) *Rejection of registration.* The Commission may reject or suspend a carrier's registration for any of the reasons identified in paragraphs (e) or (f) of this section.

(e) *Revocation or suspension of operating authority.* After notice and opportunity to respond, the Commission may revoke or suspend the authorization of a carrier to provide service if


**Consumer & Governmental Affairs Bureau**


## Your Phone Number, You Can Take It With You!



### What are the steps to take?

**Compare Rates and Coverage.**

Comparison shop the rates and coverage areas offered by the carriers who serve your area. You should choose the carrier that provides the value, services, and technology that best fit your needs.

**Review Your Current Contract.** Your contract may contain early termination fees that you are obligated to pay. You will also be responsible for any outstanding balances. Make sure you know what fees apply. Carriers are not allowed to refuse to transfer a number because a fee or outstanding balance has not been paid.

**Contact Your New Carrier -- Do Not Cancel Existing Service!** Your preferred new carrier will handle all the details, and they have every incentive to make this process as easy as possible. Be sure not to call and terminate your existing service-let the new carrier handle the transfer. You should also bring a copy of a recent phone bill. This will have all the account information to make the process both accurate and painless.

**That's it.** For changes among wireless carriers, you should be able to use your phone within a few hours. Moving your landline number to a wireless phone may take a few days. If things don't go smoothly contact your new carrier to try to resolve the problem. If that does not work, contact the FCC for more information or register a complaint at 1-888-CALL-FCC.

### Things to Know

- **Your location matters.** You'll be able to take your wireless local number with you beginning November 24, 2003 if you live in one of the 100 largest metropolitan areas. If you live outside of these areas, you may still request to have your number transferred, but carriers have until May 24, 2004, to move your number.

- **Expect to get a new phone.** Even though you can take your number with you, your old phone may not be compatible with your new service provider's telecommunications network.
- **Use your phone during the transition.** You will be able to send and receive calls while your number is being transferred, but be aware that certain features may not work. If you call 911 during this transfer period, the public safety agency may not know the location or the phone number you are calling from. Tell them your location and phone number at the start of the call.



Federal Communications Commission • Consumer & Governmental Affairs Bureau • 445 12th St. S.W. • Washington, DC 20554

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*last reviewed/updated on 11/18/03*

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State of Florida



# Public Service Commission

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

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**DATE:** November 19, 2003  
**TO:** Division of Appeals (CIBULA)  
**FROM:** Division of Economic Regulation (HEWITT) *CSA* *✓* *JDJ*  
**RE:** Statement of Estimated Regulatory Costs for Proposed Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze; and Proposed Amendments to Rules 25-4.003, F.A.C., Definitions, 25-24.490 AND 25-24.845, F.A.C., Customer Relations, Rules Incorporated

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### SUMMARY OF THE RULE

The proposed rules and rule changes would benefit competition by removing artificial barriers that customers are faced with when changing carriers. Some companies would benefit if they realize a net gain in their number of customers. Some companies may suffer a net loss of customers if they cannot retain or gain new customers in a more open arena in the competition for customers.

Proposed Rule 25-4.082, F.A.C., Number Portability, would require the serving local provider to facilitate porting of a subscriber's telephone number upon request, preclude the disconnect of a subscriber's service for a working number, and prevent blocking of the porting of a number in temporary disconnect status. Proposed Rule 25-4.083, F.A.C., Preferred Carrier Freeze, would require a laundry list of items the local service provider must follow for Preferred Carrier (PC) Freeze procedures. The proposed amendment to Rule 25-24.490, F.A.C., would apply the requirements of the PC Freeze rule to interexchange companies (IXCs). The proposed amendment to Rule 25-24.845, F.A.C., would apply the requirements of the PC Freeze rule to alternative or competitive local exchange companies (CLECs).

### ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

There are 688 IXCs, 422 CLECs, and 10 LECs currently certificated to operate in Florida. Many of the certificated companies are not actually operating or do not have customers. Each operating company would have to comply with the proposed rule.

### RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Public Service Commission and other state entities are not expected to experience implementation costs other than the costs associated with promulgating a proposed rule. Existing Commission staff would continue to handle the monitoring and review of telecommunications companies' compliance. Commission staff would benefit because the number of complaints should decrease over time with the removal of barriers for subscribers to switch companies and port numbers to a competitive carrier. Local government entities that have certificates and operate as an IXC or CLEC, would have costs to comply with the rule.

## ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

Some of the largest companies reported they would have transactional costs to comply with the proposed rule. The preliminary estimates of the cost impacts by BellSouth are: to confirm the verifications data related to “lifting” a PC freeze is \$0.46 each (there was no estimate of the number of transactions); if a change is necessary to the current two PC Freeze bill notification messages, \$4,007 for a change to the new customer initial bill, and \$4,007 to change the annual notification message for all existing customers; the annual cost for BellSouth to implement the proposed temporary disconnect provision would be \$108,000 (which would only be for dispatch of service technicians - costs for construction and engineering activities for additional outside plant would be additional; however, adequate data are unavailable for an estimate). BellSouth also states that the PC Freeze rule would be beneficial for customers.

Verizon Florida states that the proposed PC Freeze rule would have an adverse impact on end use customers. Verizon believes that there would be no reasonable way for it to ensure that the local service order will not reject while the local freeze lift request is in progress. Verizon also objects to the proposed rule because of the potential expense of altering its systems and processes for such a low number of customers. Less than 1% percent of its customers have existing freezes on their accounts. Verizon estimates that the cost of complying would be \$950,100 for work involving retrofitting all the wholesale and retail systems required. Also, there would be extensive changes to Verizon’s support systems resulting in additional resources and costs to implement that are not quantified. Impacts on other CLEC initiatives would be expected by Verizon from implementation of the proposed rule but are not quantified.

Sprint states that when a customer’s service is temporarily disconnected for nonpayment of bills, that customer no longer has a working service and Sprint’s Operational Support System (OSS) will not process an order to port the temporarily disconnected telephone number. Sprint would have to manually process a request to port a temporarily disconnected number and make system enhancements to the provisioning and billing systems to allow a temporarily disconnected number to port.

### **Estimated cost for implementing a temporary, manual process:**

a. Review systems, develop M&Ps and training material	\$2,800
b. Training of Carrier Service Center Analysts	<u>\$15,800</u>
Total implementation cost for manual process	\$18,600

### **Estimated transactional costs per order:**

a. Electronic Service Order NRC	\$3.82
b. Service Manual Processing to re-instate and Port	<u>\$5.31</u>
Total transactional cost per order	\$9.13
Additional exposure to uncollectible during time service is reinstated until ported (typically 3 days) is an average cost of	<u>\$1.65</u>
Total additional costs incurred per transaction	\$10.78

Implementation time would be approximately 3 months. The number of requests for porting under the proposed rule is unknown.

**Estimated costs for implementation of the OSS enhancements for a mechanized process:**

a. System enhancements to the Service Order Delivery System (Includes 336 programming hours)	\$24,000
b. System enhancement to Customer Records Billing (CRB) System to prevent auto disconnect when there is pending port order (Includes 4,550 programming orders)	\$315,000
c. Operational cost, i.e., develop M&Ps and training material and train all impacted employees	<u>\$106,000</u>
Total implementation costs for system enhancements	\$445,000

Total project time for system enhancements and training is estimated at 12 to 18 months.

Sprint makes the point that the FCC definition for number portability is for users of telecommunications services to “retain” “existing” numbers, but when a customer’s service is temporarily disconnected there is no number to “retain” because that customer no longer has an operational number. Further, Sprint states that proposed rule 25-4.082 would likely increase its substantial amount of uncollectible revenues (an average of \$126.81 per residential telephone disconnected for non-payment).

**Transactional and operating expenses expected by AT&T to implement the PC Freeze rule:**

a. Provisioning	\$ 86,200
b. Catalog Development	\$ 13,400
c. TPV (GUI + Interface)	\$ 63,200
d. CareDisc Updates	\$ 64,200
e. Reports	<u>\$ 12,000</u>
Total one-time expenses	\$239,000

AT&T does not anticipate any expenses for the implementation of the proposed rule on number portability.

Smart City Telecom believes that its overall costs associated with the implementation of the proposed rules and rule revisions would be negligible.

Cox Florida Telecom is not yet operational in the switched telephone business in Florida but submitted comments based on its experiences in other states. Cox affiliates place a 10 day “soft disconnect” on customers for non-payment. Most pay their past due bills within the first few days after the soft disconnect. Cox objects to a 14 day period for temporary disconnect definition because another four more days only prolongs an already failed company-customer relationship. Cox believes that if the Commission places such a requirement on LECs it should not apply to CLECs.

As far as PC Freezes, Cox acknowledges that the problems that have occurred in the long distance markets give value to preferred carrier freezes for intraLATA and interLATA toll. However, this is not the case in the local exchange markets, according to Cox. Cox Telecom objects strenuously to any rule for local exchange carrier freezes as being anti-competitive, unnecessary, and a solution in search of a problem. A LEC freeze rule only serves to make it easy for incumbent LECs to keep customers. Cox says it is virtually impossible for a facilities-based carrier (like Cox) to have a customer’s LEC carrier changed without the customer’s knowledge. Cox points out that during all of 2002 the Commission had to resolve only 102 local slamming complaints from CLECs and ILECs. Although the proposed rule requires the subscriber’s authorization for each service for which a PC Freeze is requested. Cox points out that customers may not even realize that they are

even getting a local PC Freeze or may forget about it until problems crop up later when they want to switch carriers. Given the ability of the Commission to assist customers, punish if a local slam takes place, and the paucity of such occurrences, Cox believes the anti-competitive impact and cost on CLECs far outweighs the benefits of a local PC Freeze and it should be prohibited.

Frontier Communications estimates costs of approximately \$32,660 to implement the proposed rule changes in its Florida exchanges.

#### IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

Small businesses should benefit because the proposed rule adoption and amendments would remove barriers that inhibit small telecommunications companies from acquiring new subscribers from other providers. Small businesses, small cities, and small counties should benefit if they are customers with a better ability to apply or remove PC Freezes from their accounts, switch carriers without unnecessary barriers from their current provider, and more easily port their numbers to a competitive carrier.

Small businesses, small cities, and small counties should not be affected negatively unless they operate as a CLEC. Their cost per transaction to comply should be similar to the reported costs by incumbents operating a service with customers. Total implementation costs would depend on their size.

CH:kb

cc: Mary Bane  
Ray Kennedy  
Hurd Reeves

Complaint No.	Excerpts from Customer Complaint Files
577124T	Customer claims that the new company was unable to port the number because the old company had placed a local service freeze on the account. She never requested that a local service freeze be placed on her account.
573945T	Customer states that the new company said that the UNE-P company that she is now has service from has restrictions and that service is frozen.
571747T	Customer states "Now that I am finally ready to move from the company I have not been able to do so because of a local service freeze they have placed on my lines without my consent. My new company would have been able to transfer all of my lines out of the old company before the beginning of this months billing period leaving me debt free, but they have not been able to do so because the company is holding my lines hostage with the service freeze."
567166T	Customer states that her current company has a freeze on her line. The customer has service but is unable to switch to the perspective provider. Customer states that the current provider states the freeze is off. Customer states this is not true. Based on feedback from the current provider, staff informed the customer that the local freeze was removed on November 4, 2003, and that she should be able to switch to the provider of her choice. The customer was asked to notify staff if her account still had a local freeze on the line. On December 5, 2003, the customer called in a conference call with her perspective provider. The customer and the perspective provider claim that the customer's line still has a freeze and it cannot be ported. The company from which the customer intended to switch notified staff the freeze was removed on December 5, 2003.
567128T	Customer states that a freeze has been placed on her line. She states that her account is paid in full and she wants to switch to another carrier. Customer is requesting that the freeze be lifted as soon as possible.
564133T	Customer states that she tried to switch her local carrier to another company on October 17, 2003. The acquiring company reported that there was a local service freeze on her line. Customer stated that she did not authorize the company to put a local service freeze on her line. She called the current provider with the acquiring provider on the line to request that the freeze be removed on October 21, 2003. The current provider denied that there was a freeze on her line and demanded she pay late fees before it would release her line. The customer reported that her line was disconnected today, October 22, 2003.
527649T	A CLEC representative reports that he has a customer that has completed an LOA requesting that his company be the customer's local provider. When the company sent in its request, it was told that there was a local service freeze on the line. The CLEC representative participated in a three-way call with the customer and the current provider so that all parties would understand that the customer wished to have the freeze removed and service provided by the CLEC representative's company. The CLEC representative reported that the current provider refused to lift the local service freeze.

587412T	Customer stated that "on March 8,2004, I contacted Talk America, a local and long distance provider, to switch my service from my current provider to a new provider. Today, March 15th, 2004, I was informed by the new provider that there was a pick-freeze on my phone service and that I needed to have it removed before my order could be processed. I contacted my current provider and they told me that they would remove the pick-freeze within 24 to 48 hours. When I asked who requested the pick-freeze I was informed that it was a company policy. When I asked why I wasn't informed of this policy, I was told that it was something they don't tell their customers. Now I have to wait for my service to be switched at least 24 hours, after I have already waited a week. I want the pick freeze removed now! I should not have to wait this time."
586810T	Customer states she is attempting to transfer her home number to a different company. She states that even though she pays that portability charge on her phone bill each month, the company is charging her an additional \$30 fee for the transfer. Customer feels that this is an incorrect charge. She does not understand why she must pay extra for something that she has been paying for all along.
586540T	Customer states that she has been trying for two weeks to switch her services to a new company and the current company has a freeze on her line. Customer states that the new company has made numerous attempts to switch her line to no avail. Customer states that her service is currently active and when she called the current company to ask for the line to be released they informed her that when she pays the current bill that was due on the 03/01 they will remove the "block and disconnect her line". Customer does not want the line to be disconnected because the new company will not be able to port the line over and also she has already mailed payment on 03/01 for the amount \$42.09 to bring her account balance to zero.
583471T	Customer states that she wants to switch her services to another company. When customer called the current company to request the freeze be removed from her line, they informed her that she had to send in the payment for the current bill before they will remove the freeze. Customer says that she is up to date on paying her bills and that if a new bill was generated she has not received it. Customer feels she should not have to pay the new bill for the company to release her line.
582313T	Customer states that her previous company has placed a freeze on her line that does not allow her to transfer service to another provider. Customer states that the company has delayed disconnection which does not permit her to switch to another provider.
582229T	Customer states she is trying to port her services to another provider and the current provider has a freeze on her line. Customer says she called and spoke with the current provider and they indicated to her that they do not have a freeze on the line. Customer spoke with the underlying carrier and they confirmed that there was a freeze on the line but only the current provider can remove it. Customer is asking for the current provider to remove the freeze from her line as soon as possible so the new provider can port her line over.