

STATE OF FLORIDA

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Public Service Commission
May 3, 2004

Ms. Mary Helen Blakeslee
Office of Tourism, Trade, and
Economic Development
Executive Office of the Governor
The Capitol
Tallahassee, FL 32399-0001

SUBJECT: Docket No. 040167 - Commission Rules 25-4.082, 25-4.083, 25-24.490, and 24-24.845, F.A.C.

The Commission has determined that the above rules will affect small business. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Weekly (FAW) notice for the proposed rules, which will be published in the May 7, 2004, 2004 edition of the FAW. Also enclosed is a copy of the statement of estimated regulatory costs.

If there are any questions with respect to these rules or the Commission's rulemaking procedures, please do not hesitate to call on me.

Sincerely,

A handwritten signature in cursive script that reads "Samantha M. Cibula".

Samantha M. Cibula
Associate General Counsel

Enclosures

cc: Division of the Commission Clerk
and Administrative Services

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040167-TP

RULE TITLE:	RULE NO.:
Number Portability	25-4.082
Preferred Carrier Freeze	25-4.083

PURPOSE AND EFFECT: To codify the requirements that a company must facilitate a subscriber's move to a new provider when the subscriber elects to switch providers and that a company may only put a preferred carrier freeze on a subscriber's service when one is requested by the subscriber.

SUMMARY: Rule 25-4.082 would require a local provider to facilitate the porting of a subscriber's telephone number and require that a working number should be ported regardless of whether a balance is owed. Rule 25-4.083 clarifies that a preferred carrier freeze should not be imposed on or removed from a subscriber's account without the subscriber's authorization and sets forth the information the company must receive from the subscriber to place a preferred carrier freeze on the subscriber's account.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: All the telecommunications companies that submitted data for the statement of estimated regulatory cost indicated that there would be additional costs for complying with the proposed rules.

The statement of estimated regulatory cost also 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. The statement of estimated regulatory cost also indicates that no additional Commission staff would be needed to implement the proposed rules, and, over time, the Commission could potentially benefit as the number of complaints filed with the Commission on this subject may decrease.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127, 364.603, F.S.

LAW IMPLEMENTED: 364.16, 364.603, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Samantha Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6202.

THE FULL TEXT OF THE PROPOSED RULES IS:

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 shall be ported regardless of whether a balance is owed.

(3) A local provider shall not disconnect a subscriber's working number, regardless of whether a balance is owed, after receiving a local service request from another local provider.

Specific Authority: 350.127, F.S.

Law Implemented: 364.16, F.S.

History: New XX-XX-XX.

25-4.083 Preferred Carrier Freeze.

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

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

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

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

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

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

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

(5) A local provider shall not solicit, market, or induce subscribers to request a PC Freeze. A local provider is not prohibited, however, from informing an existing or potential new subscriber who expresses concerns about slamming about the availability of a PC Freeze.

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

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

(b) The local exchange provider has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the PC Freeze is to be imposed. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the information required in subsection (7)(a) through (d) Telecommunications providers electing to confirm PC 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 PC Freeze request, including automatically recording the originating automatic numbering identification; or

(c) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the PC Freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or the last four digits of the subscriber's social security number) and the information required in subsection (7)(a) through (d). The independent third party must not be owned, managed, or directly controlled by the provider or the provider's marketing agent; must not have any financial incentive to confirm PC Freeze requests for the provider or the provider's

marketing agent; and must operate in a location physically separate from the provider or the provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a PC Freeze.

(7) A local exchange provider shall accept a subscriber's written and signed authorization to impose a PC Freeze on a preferred provider selection. A written authorization shall be printed in 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 PC Freeze;

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

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

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

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

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

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

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

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

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

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

Specific Authority: 350.127, 364.603, F.S.

Law Implemented: 364.603, F.S.

History: New XX-XX-X.

NAME OF PERSON ORIGINATING THE PROPOSED RULES: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission

DATE PROPOSED RULES APPROVED: April 20, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No. 17, April 25, 2003

The statement of estimated regulatory cost also 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. The statement of estimated regulatory cost also indicates that no additional Commission staff would be needed to implement the proposed rules, and, over time, the Commission could potentially benefit as the number of complaints filed with the Commission on this subject may decrease.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 364.337(2), 364.604(5), F.S.

LAW IMPLEMENTED: 364.03, 364.14, 364.15, 364.16, 364.19, 364.337, 364.602, 364.603, 364.604, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Samantha Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6202.

THE FULL TEXT OF THE PROPOSED RULES IS:

25-24.490 Customer Relations; ~~Rules Incorporated.~~

(1) The following rules ~~are incorporated herein by reference and~~ apply to IXC's.

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

(2) – (3) No change.

(4) Toll free number transfers.

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

(b) The serving IXC shall not disconnect a subscriber's working toll free number after receiving a service transfer request from another IXC.

(c) A working toll free number shall be transferred regardless of whether a balance is owed.

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

Law Implemented: 364.03, 364.14, 364.15, 364.16, 364.19, 364.337, 364.602, 364.603, 364.604, FS.

History: New 2-23-87, Amended 10-31-89, 3-5-90, 3-4-92, 3-13-96, 12-28-98, 7-5-00, 11-16-03, XX/XX/XX.

25-24.845 Customer Relations; ~~Rules Incorporated.~~

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

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

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

Law Implemented: 364.16, 364.337(2), 364.602, 364.603, 364.604, FS.

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

NAME OF PERSON ORIGINATING THE PROPOSED RULES: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission

DATE PROPOSED RULES APPROVED: April 20, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No.
17, April 25, 2003



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: November 19, 2003
TO: Division of Appeals (CIBULA)
FROM: Division of Economic Regulation (HEWITT) *CSA* *✓* *Joe*
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

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