

DOCKET NO. 040167-TP

ORIGINAL

CERTIFICATION OF  
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES  
FILED WITH THE  
DEPARTMENT OF STATE

2004 AUG 20 PM 3:57  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA  
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I do hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

(2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

(a) Are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
MMS \_\_\_\_\_  
RCA \_\_\_\_\_  
SCR \_\_\_\_\_  
SEC   1    
OTH \_\_\_\_\_

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// (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

// (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

// (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

// (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

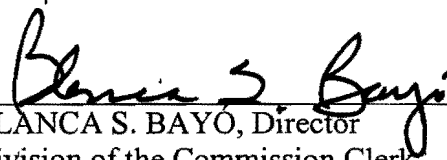
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-24.490

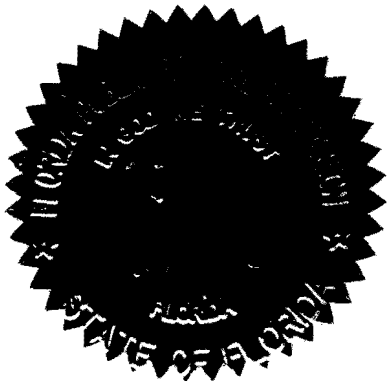
Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)



BLANCA S. BAYO, Director  
Division of the Commission Clerk  
and Administrative Services

\_\_\_\_\_  
Number of Pages Certified



SMC

1 **25-24.490 Customer Relations; Rules Incorporated.**

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

3 <u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
4 25-4.083	<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 transfers.

13 (a) The serving IXC shall facilitate the transfer 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  
16 (e.g., a telephone number that is fully functional to the customer) after receiving a service  
17 transfer request from another IXC.

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

20 Specific Authority: 350.127(2), 364.604(5), 364.337(4), FS.

21 Law Implemented: 364.03, 364.14, 364.15, 364.16, 364.19, 364.337, 364.602, 364.603,  
22 364.604, FS.

23 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-  
24 16-03, XX/XX/XX.

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### SUMMARY OF RULE

The amendment to Rule 25-24.490 would require interexchange telecommunications companies to facilitate the transfer of toll free numbers. The amendment to Rule 25-24.490 would also instruct interexchange telecommunications companies that a preferred carrier freeze should not be imposed on or removed from a subscriber's account without the subscriber's authorization and would set forth the information these companies must receive from the subscriber to place a preferred carrier freeze on the subscriber's account.

### SUMMARY OF HEARINGS ON THE RULE

The Commission held a hearing on July 20, 2004, to consider comments on the rule submitted by US LEC of Florida Inc., XO Florida, Inc., and the Joint Administrative Procedures Committee. Based on the comments, the Commission changed the rule by providing an example of a working toll free number. The Notice of Change appeared in the July 30, 2004 Florida Administrative Weekly.

### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Since January 1, 2003, the Commission has received approximately 200 complaints 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, Commission 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. The Commission believes that the number of complaints may likely increase.

During the past two years, Commission staff has discovered that several competitive local exchange telecommunications companies (CLECs) have placed local service freezes on customers' lines without the customers' knowledge as a routine course of business. Consequently, customers attempting to switch service providers were hindered from doing so. When Commission 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.

The amendments to Rule 25-24.490 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 rule amendments will supplement and clarify existing rules, thereby eliminating confusion that some providers appear

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to be experiencing regarding preferred carrier freezes. The rule amendments should also enhance a customer's opportunity to select a different carrier, while retaining the same telephone number.