

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

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

DATE: January 6, 2004

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

FROM: Office of the General Counsel (Stern) *MKS DS*
Division of Competitive Markets & Enforcement (Kennedy) *RK*
Division of Economic Regulation (Hewitt) *CBH JCS JOJ*

RE: Docket No. 041304-TC – Proposed amendment of Rule 25-24.515, F.A.C., Pay Telephone Service.

AGENDA: 01/18/05 – Regular Agenda – Rule Proposal – Interested Persons May Participate

RULE STATUS: Proposed Rule

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\041304.RCM.DOC

Case Background

The Commission has jurisdiction over pay telephone providers pursuant to Sections 364.03 and 364.3375, Florida Statutes. When the Commission first codified standards for pay telephone stations, the only standards available were those developed by the American National Standards Institute, Inc. (ANSI). The ANSI standards were incorporated into Rule 25-24.515(18), Florida Administrative Code, and remain the standards in effect today. In this rule-making proceeding, staff recommends that the Commission propose a different set of standards for pay telephone stations – the standards required by the Americans with Disabilities Act. Attachment A contains the proposed rule and Attachment B contains the Statement of Estimated Regulatory Cost.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service?

Recommendation: Yes. The Commission should propose the amendment of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service to reflect changes in pay telephone station standards, as set forth in Attachment A. (Stern, R. Kennedy, Hewitt)

Staff Analysis: Currently, Rule 25-24.515(18), Florida Administrative Code (F.A.C.), requires that each pay telephone station conform to specified portions of the *American National Standards Accessible and Usable Buildings and Facilities* (ANSI A117.1-1998). The ANSI A117.1 defines parameters for pay telephones, including such things as volume control, wheelchair accessibility, the heights of operable parts, reach ranges, cord lengths, and hearing-aid compatibility.

In 1990, the Americans with Disabilities Act (ADA) became law, and the associated pay telephone requirements were codified in 28 CFR Part 36, Appendix A - *ADA Accessibility Guidelines for Buildings and Facilities*. The ADA's pay telephone standards were developed using the ANSI standards and generally mirror those provided in ANSI A117.1. However, there are compliance and enforcement differences between the two.

The foremost distinction is that the ADA standards are adopted by, and under the purview of the Federal Department of Justice. They are federally enforceable and pay phone providers must comply with them. From a more practical standpoint, the ADA standards are generally referenced in contractual arrangements between pay telephone service providers and their clients (e.g., inmate facilities, commercial and government facilities, etc.). The ADA standards are readily available, at no cost, to the citizenry and pay telephone industry. In addition, the federal government sponsors a group to assist anyone seeking clarification and technical guidance on all standards contained in the ADA Accessibility Guidelines for Buildings and Facilities. The group can be contacted via toll-free telephone service or via the Internet.

By proposing the ADA standards the Commission will be consistent with the intent of the Florida Legislature, which adopted the ADA Standards for Accessible Design in Chapter 553, Florida Statutes. Chapter 553 provides:

553.502 Intent.--The purpose and intent of ss. 553.501-553.513 is to incorporate into the law of this state the accessibility requirements of the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. ss. 12101 et seq., and to obtain and maintain United States Department of Justice certification of the Florida Accessibility Code for Building Construction as equivalent to federal standards for accessibility of buildings, structures, and facilities. All state laws, rules, standards, and codes governing facilities covered by the guidelines shall be maintained to assure certification of the state's construction standards and codes.

In contrast, the ANSI standards are not federally enforceable and are copyrighted materials that must be purchased. ANSI does not interpret its standards and ANSI provides that

no person shall have the right or authority to issue an interpretation of an ANSI Standard in the name of ANSI.

Regarding compliance differences, an example is the "high side reach," which is the maximum height allowed for the highest operable part, generally the coin slot. In situations where a wheelchair can make an unobstructed parallel approach to a pay phone, the ADA and ANSI set different height limits for the highest operable part. ANSI sets the high side reach at 48 inches and the ADA sets it at 54 inches. If required to meet the latest ANSI standard, the pay phone industry would be subject to significant financial burdens.

Because the Commission's existing rules require pay phone providers to comply with ANSI standards and the federal government requires them to comply with ADA standards, pay phone providers operating in Florida must comply with both sets of standards. By substituting the ADA standards for the ANSI standards, the proposed rule amendments would eliminate the need to comply with two sets of standards.

A Notice of Rule Development appeared in the August 6, 2004, edition of the Florida Administrative Weekly. The notice gave interested persons an opportunity to request a workshop to discuss the rule amendments. No workshop was requested, so none was held.

By amending Rule 25-24.515, F.A.C., the Commission will ensure consistency for the regulated community, as well as the citizenry, by eliminating any conflict or confusion that may exist between the ANSI and ADA standards.

Statutory Authority

The specific legal authority for the proposed amendments is Section 350.127, Florida Statutes, which confers rule making authority on the Commission. The laws being implemented are Section 364.3375, Florida Statutes, which requires pay phone providers to receive a certificate from the Commission, and Section 364.03, Florida Statutes, which requires that service be "modern, adequate, sufficient and efficient," and that telecommunications facilities be maintained for the "accommodation, comfort, and convenience" of patrons.

Statement of Estimated Regulatory Costs (SERC)

The SERC for this proposed rule is in Attachment B. The proposed rule amendments would substitute reference to the American National Standards for accessibility with the ADA Standards for Accessible Design. There would be costs incurred if some pay telephone providers' equipment must be rearranged to comply with the ADA standards. There should be a benefit to those whom the accessibility requirements are meant to help. The total potential net costs or benefits are unknown.

Based on the foregoing, staff recommends that the Commission propose the amendment of Rule 25-24.515, F.A.C., Pay Telephone Service to reflect changes in pay telephone station standards, as set forth in Attachment A.

Docket No. 041304-TC

Date: January 6, 2004

Issue 2: Should this docket be closed?

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

Staff Analysis: If no requests 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.

25-24.515 Pay Telephone Service.

- (1) For the purposes of this section, the term "direct free" shall mean without requiring the use of a coin, paper money, credit card, or any other form of payment, even if the payment will be returned.
- (2) Pay telephone stations shall be lighted during the hours of darkness when light from other sources is not adequate to read instructions and use the instrument.
- (3) Each pay telephone station shall return any deposited amount if the call is not completed, except messages to a Feature Group A access number.
- (4) Each pay telephone station shall permit direct free access to the universal telephone number "911" where operable.
- (5) Each pay telephone station shall permit direct free access to dialtone.
- (6) Each pay telephone station shall permit direct free access to toll free numbers (e.g., 800, 877, and 888).
- (7) Each pay telephone station shall complete calls to local and long distance directory assistance.
- (8) Each pay telephone station shall complete calls to the responsible party for repairs or refunds by direct free access.
- (9) Each pay telephone station shall be equipped with a legible sign, card, or plate of reasonable permanence which shall identify the following:
 - (a) The telephone number and location address of the pay telephone station, name and certificate number of the certificate holder, the party responsible for repairs and refunds, address of responsible party, free phone number of responsible party, clear dialing instructions (including notice of the lack of availability of local or toll services), and the local coin rate.

(b) For those pay telephone stations that will terminate conversation after a minimum elapsed time, notice shall be included on the sign card as well as an audible announcement 30 seconds prior to termination of the phone call.

(10) Each pay telephone station ~~that~~ ~~which~~ provides access to any interexchange company shall provide coin free access, except for Feature Group A access, to all locally available interexchange companies. The pay telephone station shall provide such access through the forms of access purchased by locally available long distance carriers such as 10XXX+0, 10XXXX+0, 101XXXX+0, 950, toll free (e.g., 800, 877, and 888) access.

(11) No sales solicitation shall be allowed during the interval between the last digit dialed by the end user and connection with the interexchange carrier.

(12) All 0- calls shall be routed to a telecommunications company that is authorized by the Commission to handle 0- calls. All other calls, including operator service calls, may be routed to the pay telephone provider's carrier of choice, unless the end user dials the appropriate access code for their carrier of choice, i.e., 950, 10XXX, 10XXXX, 101XXXX, and toll free access (e.g., 800, 877, and 888).

(13)(a) Each pay telephone station shall allow incoming calls to be received at all times, with the exception of those located at hospitals, schools, and locations specifically exempted by the Commission. There shall be no charge for receiving incoming calls.

(b) A pay telephone provider may petition the Commission for an exemption from the incoming call requirement for a period that shall not exceed two years from the effective date of the Order granting the exemption. Requests for exemption from the requirement that each pay telephone station allow incoming calls shall be accompanied by a completed Form PSC/CMP-2 (02/99), entitled "Request to Block Incoming Calls," which is incorporated into this rule by

reference and may be obtained from the Commission's Division of Competitive Markets and Enforcement. The form requires an attestation from the owner of the pay telephone, the owner of the pay telephone location, and the chief of the responsible law enforcement agency that the request is sought in order to deter criminal activity facilitated by incoming calls being received at the specified pay telephone. A separate form shall be filed for each telephone number for which an exemption is sought. The provider of the pay telephone may request subsequent two-year exemptions by filing another Form PSC/CMP-2 (02/99). Where incoming calls are not received, central-office based intercept shall be provided at no charge to the end user and a written notice shall be prominently displayed on the instrument directly above or below the telephone number which states: "Incoming calls blocked at request of law enforcement."

(14) Each pay telephone station must be connected to an individual access line.

(15)(a) Each pay telephone service company shall permit outgoing calls to be placed from its pay telephone stations at all times.

(b) Each pay telephone service company shall make all reasonable efforts to minimize the extent and duration of interruptions of service. Service repair programs should have as their objective the restoration of service on the same day that the interruption is reported to the company. (Sundays and holidays excepted.)

(16)(a) Where there is a single pay telephone station, a directory shall be maintained at each station. Where there are two or more pay telephone stations located in a group, a directory for the entire local calling area shall be maintained at every other station. However, where telephone pay stations are fully enclosed, a directory shall be maintained at each pay telephone station. For purposes of this rule, the term "directory" shall mean both a current white page

directory for the local calling area and a reasonably current yellow page directory that is appropriate for the calling area of the pay telephone station.

(b) Pay telephone stations that provide local directory assistance at no charge are exempt from the provisions in paragraph (16)(a). A notice must appear on the placard if local directory assistance at no charge is being provided.

(17) Normal maintenance and coin collection activity shall include a review of the cleanliness of each pay telephone station.

(18)(a) Except as provided in paragraphs (18)(b)-(d) below, each pay telephone station shall conform to sections 4.1.3(17), 4.2.4, 4.2.5, 4.2.6, 4.5.1, 4.31.2, 4.31.3, and 4.31.5 703.7.2.3 and 704 of the ADA Accessibility Guidelines for Buildings and Facilities, Appendix A to 28 CFR Part 36, (July 1, 2003 Edition) American National Standards Accessible and Usable Buildings and Facilities, approved, by the American National Standards Institute, Inc. (ANSI A117.1-1998), which sections are is incorporated by reference into this rule. This rule does not apply to public text telephone and closed circuit telephones.

~~(b) — Where there are two or more pay telephone stations located in a group, there shall be a minimum of one telephone per group of ten which conforms to the ANSI standards listed in paragraph (18)(a). The conforming station must be physically located in the group of pay telephone stations or must be installed within a clear line of sight within 15 feet of the group and the route to the conforming station must be free from wheelchair barriers.~~

~~(c) — Except for locations on floors above or below entry level in buildings not serviced by a ramp or elevator, pay telephone stations shall be placed in areas accessible to the physically handicapped.~~

(b)(d) Pay telephones shall not be installed where the required "clear floor or ground space" provided for in ADA Accessibility Guidelines for Buildings and Facilities ANSI sections 4.2.4.1, 4.2.4.2, and 4.31.2 ~~704.2.1~~ would be reduced by a vehicle parked in a designated parking space.

(19) Each pay telephone station shall permit end users to input unlimited digits for the duration of the call.

(20) Toll Fraud Liability.

(a) A company providing interexchange telecommunications services or local exchange telecommunications services shall not collect from a pay telephone provider for charges billed to a line for calls ~~that~~ which originated from that line through the use of access codes such as 10XXX, 10XXXX, 101XXXX, 950, and toll free (e.g., 800, 877, 888) access codes, or when the call originating from that line otherwise reached an operator position, if the originating line is subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

(b) A company providing interexchange telecommunications services or local exchange telecommunications services shall not collect from a pay telephone provider for charges for collect or third number billed calls, if the line to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the incoming call screening order.

(c) Any calls billed through the provider of local exchange telecommunications services or directly by an interexchange company, or through a billing agent, which have been identified as not collectible as described in paragraphs (20)(a) and (b) above, must be removed from any pay telephone provider's bill after the pay telephone provider gives notice of the

fraudulent charges to the billing party. Pay telephone providers shall give such notice to the provider of local exchange telecommunications services and the interexchange company in writing no later than the due date of the bill.

(d) The provider of local exchange telecommunications services is responsible for charges described in paragraph (20)(c) that are associated with the failure of the provider of local exchange telecommunications services' screening services.

(e) The interexchange company is responsible for charges described in paragraph (20)(c) that are associated with the failure to properly validate calls via the appropriate provider of local exchange telecommunications services' data base.

(f) Definitions: For purposes of subsection (20) the term "Effective Date" shall mean the date after the call screening order was placed and associated charges apply.

(g) Any charges accrued to a line when the subscriber has subscribed to the provider of local exchange telecommunications services to screen calls described in paragraphs (20)(a) and (b) above shall not be the basis for discontinuance of local and intrastate service.

(21) Providers serving confinement facilities shall provide for completion of all inmate calls allowed by the confinement facility.

(22) Pay telephone stations located in confinement facilities shall be exempt from the requirements of subsections (2), (4), (6), (7), (8), (10), (12), (13), (15), (16), and (19) of this rule. Such pay telephone stations shall also be exempt from the requirements of subsection (9), except that outgoing local and long distance calls may not be terminated until after a minimum elapsed time of ten minutes. Audible and written disconnect notifications shall apply, and one access line shall not be connected to more than three pay telephone stations.

(23) Pay telephone facilities shall be designed, constructed, installed, maintained and operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-2002) and the National Electrical Code (NEPA 70-2002).

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.035, 364.063, 364.337, 364.3375, 364.345 FS. History--New 1-5-87, Amended 4-14-92, 12-21-92, 2-3-93, 10-10-94, 12-27-94, 9-5-95, 2-1-99; 12-23-02, _____

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

DATE: November 9, 2004
TO: Office of General Counsel (Stern)
FROM: Division of Economic Regulation (Hewitt)
RE: Statement of Estimated Regulatory Costs for Proposed Rule Amendments to 25-24.515, Pay Telephone Service, F.A.C.

SUMMARY OF THE RULES

Rule 25-24.515, Pay Telephone Service, F.A.C., contains the regulations for companies offering pay telephone service in Florida, including physical location requirements and accessibility.

The proposed rule amendments would substitute reference to the American National Standards for accessibility with the Americans with Disabilities Act (ADA) Standards for Accessible Design. The ADA standards have been adopted by the legislature and are nationally recognized.

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

Some of the 477 pay telephone providers (PTPs) regulated by the Commission would be affected if they do not meet the current national standards.

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

The usual rule implementation costs would be incurred with these rule changes. The Commission should benefit by the elimination of any confusion over pay telephone accessibility requirements. There should be no impact on other state or local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

Some of the PTPs may have transactional costs to comply with the change in the referenced requirements. There would be costs incurred if their equipment must be rearranged to comply with the ADA standards. There should be a benefit to those whom the accessibility requirements are meant to help. The total potential net costs or benefits are unknown.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

Small PTP businesses would have the same costs as larger PATs if they have to modify the accessibility of their equipment. Small cities, and counties should have no impact from the changes.

cc: Mary Andrews Bane
Chuck Hill
Ray Kennedy
Hurd Reeves