

DOCKET NO. 050378-TP

ORIGINAL

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

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
2005 SEP 16 PM 3:39
FILED

I do hereby certify:

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

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

/X/(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;

/X/ (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

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

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

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

SGA _____

SEC 1

OTH _____

DOCUMENT NUMBER-DATE

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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.

25-4.0161

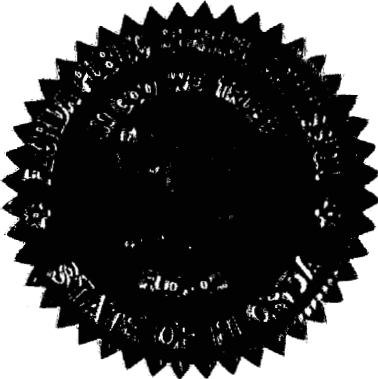
Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



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

Number of Pages Certified



CTM

1 25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.
2 (1) As applicable and as provided in Sections 350.113, 364.02(13) and 364.336
3 Florida Statutes, each company shall remit a fee based upon its gross operating revenue as
4 provided below. This fee shall be referred to as a regulatory assessment fee, and each
5 company shall pay a regulatory assessment fee in the amount of 0.0020 of its gross operating
6 revenues derived from intrastate business. For the purpose of determining this fee, each
7 telecommunications company shall deduct from gross operating revenues any amount paid to
8 another telecommunications company for the use of any telecommunications network to
9 provide service to its customers. Regardless of the gross operating revenue of a company, a
10 minimum annual regulatory assessment fee of \$50 shall be imposed.

11 (2) Telecommunications companies that owed gross regulatory assessment fees of
12 \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate
13 form twice a year. The regulatory assessment fee and appropriate form shall be filed no later
14 than July 30 for the preceding period of January 1 through June 30, and no later than January
15 30 of the following year for the period of July 1 through December 31. Telecommunications
16 companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding
17 calendar year shall pay the fee and remit the appropriate form once a year. The regulatory
18 assessment fee and appropriate form shall be filed no later than January 30 of the subsequent
19 year for the current calendar year operations.

20 (3) If the due date falls on a Saturday, Sunday, or legal holiday, the due date is
21 extended to the next business day. If the fees are sent by registered mail, the date of the
22 registration is the United States Postal Service's postmark date. If the fees are sent by certified
23 mail and the receipt is postmarked by a postal employee, the date on the receipt is the United
24 States Postal Service's postmark date. The postmarked certified mail receipt is evidence that
25 the fees were delivered. Regulatory assessment fees are considered paid on the date they are

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from existing law.

1 postmarked by the United States Postal Service or received and logged in by the
2 Commission's Division of the Commission Clerk and Administrative Services in Tallahassee.
3 Fees are considered timely paid if properly addressed, with sufficient postage, and postmarked
4 no later than the due date.

5 (4) Commission Form PSC/CMP 25 (01/05), entitled "Local Exchange Company
6 Regulatory Assessment Fee Return"; Form PSC/CMP 26 (01/05), entitled "Pay Telephone
7 Service Provider Regulatory Assessment Fee Return"; Form PSC/CMP 34 (01/05), entitled
8 "Shared Tenant Service Provider Regulatory Assessment Fee Return"; Form PSC/CMP 153
9 (01/05), entitled "Interexchange Company Regulatory Assessment Fee Return"; Form
10 PSC/CMP 1 (01/05), entitled "Alternative Access Vendor Regulatory Assessment Fee
11 Return"; and Form PSC/CMP 7 (01/05), entitled "Competitive Local Exchange Company
12 Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be
13 obtained from the Commission's Division of the Commission Clerk and Administrative
14 Services.

15 (5) Each telecommunications company shall have up to and including the due date in
16 which to submit the applicable form and:

17 (a) Remit the total amount of its fee, or

18 (b) Remit an amount which the company estimates is its full fee.

19 (6) Where the company remits less than its full fee, the remainder of the full fee shall
20 be due on or before the 30th day from the due date and shall, where the amount remitted was
21 less than 90 percent of the total regulatory assessment fee, include interest as provided by
22 paragraph (8)(b) of this rule.

23 (7) A company may request from the Division of the Commission Clerk and
24 Administrative Services a 30-day extension of its due date for payment of regulatory
25 assessment fees or for filing its return form.

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1 (a) The request for extension must be submitted on Form PSC/CCA 124 (01/05) and
2 will be granted if the company has applied for the extension within the time required in
3 paragraph (b) below and the company does not have any unpaid regulatory assessment fees,
4 penalties or interest due from a prior year. Form PSC/CCA 124 (01/05), entitled "Regulatory
5 Assessment Fee Extension Request" is incorporated into this rule by reference and may be
6 obtained from the Commission's Division of the Commission Clerk and Administrative
7 Services.

8 (b) The request for extension must be received by the Division of the Commission
9 Clerk and Administrative Services at least two weeks before the due date.

10 (c) Where a telecommunications company receives an extension of its due date
11 pursuant to this rule, the telecommunications company shall remit a charge in addition to the
12 regulatory assessment fees, as set out in Section 350.113(5), Florida Statutes.

13 (d) The return forms may be obtained from the Commission's Division of the
14 Commission Clerk and Administrative Services. The failure of a telecommunications
15 company to receive a return form shall not excuse the company from its obligation to timely
16 remit the regulatory assessment fees.

17 (8) The delinquency of any amount due to the Commission from the
18 telecommunications company pursuant to the provisions of Section 350.113, Florida Statutes,
19 and this rule, begins with the first calendar day after any date established as the due date either
20 by operation of this rule or by an extension pursuant to this rule.

21 (a) A penalty, as set out in Section 350.113, Florida Statutes, shall apply to any such
22 delinquent amounts.

23 (b) Interest at the rate of 12 percent per annum shall apply to any such delinquent
24 amounts.

25 (9) The Division of the Commission Clerk and Administrative Services shall send by

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1 certified mail a regulatory assessment fee delinquency notice to any company that fails to file
2 a regulatory assessment fee return and that fails to pay the regulatory assessment fee by the
3 date specified in subsection (2), unless the company has met the requirements of subsections
4 (6) and (7).

5 (10) If a company fails to pay the regulatory assessment fee within 15 days after
6 receiving a delinquency notice, the Division of the Commission Clerk and Administrative
7 Services, in cooperation with the Division of Competitive Markets and Enforcement and the
8 Office of General Counsel, will establish a docket and administratively issue a Notice of
9 Proposed Agency Action Order Imposing Penalties and Collection Costs, and Requiring
10 Payment of Delinquent Regulatory Assessment Fees, or Cancelling Certificates or Removing
11 From the Register for Violation of Rule 25-4.0161, Florida Administrative Code, and Section
12 364.336, Florida Statutes. The company must pay the past due regulatory assessment fees, the
13 penalty and interest for late payment as provided in Section 350.113, Florida Statutes, and as
14 stated in subsection (8) above, and must also pay the applicable penalty stated in subsection
15 (11) for failure to file the regulatory assessment fee return.

16 (11) Pursuant to Section 364.285, Florida Statutes, the Commission has the authority to
17 impose a penalty or cancel a certificate or registration if a company refuses to comply with
18 Commission rules, orders, or Florida Statutes. The penalty, which will include collection
19 costs, for failure to file the regulatory assessment fee return by the date stated in the
20 delinquency notice shall be as follows:

- 21 (a) First violation – \$500
22 (b) Second violation – \$1,000
23 (c) Third violation – \$2,000

24 Failure of the company to pay the full amount due and stated in the Notice of Proposed
25 Agency Action will result in the cancellation of the company's Certificate of Public

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1 Convenience and Necessity, or will result in the cancellation of the company's tariff and
2 removal of its name from the Commission's register, whichever is applicable.

3 (12) For a company's fourth failure to pay the regulatory assessment fee after being
4 sent a delinquency notice, Commission staff shall file a recommendation to the Commission
5 for further action.

6 (13) A company that reapplies for a Certificate of Public Convenience and Necessity,
7 or refiles for registration, must pay all prior unpaid regulatory assessment fees, plus the
8 penalty and interest defined in subsection (8), and any prior unpaid penalty assessed in
9 accordance with subsection (10).

10 Specific Authority 350.127(2) FS.

11 Law Implemented 350.113, 364.285, 364.336 FS.

12 History—New 5-18-83, Formerly 25-4.161, Amended 10-19-86, 1-1-91, 12-29-91, 1-8-95, 12-
13 26-95, 7-7-96, 11-11-99, 12-7-04 _____.

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SUMMARY OF RULE

The rule amendment codifies the procedures to be followed and the penalty amounts to be imposed for a telecommunications company's filing of a regulatory assessment fee return after the due date and after the company has received a delinquency notice.

SUMMARY OF HEARINGS ON THE RULE

No hearing was requested and none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

In 2003 there were 619 telecommunications companies that were delinquent in paying their regulatory assessment fees ("RAF"). Of those, dockets were established for the 134 companies that had not paid after staff's efforts to contact the companies and collect the fee without an order by the Commission were unsuccessful. Depending on when during the collection process the fee is actually collected, the collection costs for delinquent RAF range from \$200 to \$430 per company. The proposed rule amendment is intended to streamline the RAF collection process, significantly reduce the cost to the Commission for collecting RAF, and help ensure consistent treatment of certificated and registered telecommunications companies. By adopting a rule that specifies the penalties to be levied for each offense, more aspects of the RAF collection process can be handled administratively and more efficiently, resulting in a decrease in enforcement costs for collection of delinquent RAFs.

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