

State of Florida



Public Service Commission

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CLERK

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

DATE: June 7, 2007

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Scott) *KS DS PS*
Division of Competitive Markets & Enforcement (Vickery) *PV*
Division of Economic Regulation (Dickens) *BD*

RE: Docket No. 070303-TP – Proposed amendment of Rule 25-4.036, F.A.C., Design and Construction of Plant, and Rule 25-24.515, F.A.C., Pay Telephone Service.

AGENDA: 06/19/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

RULE STATUS: Proposal to Amend Rules

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\070303.RCM.DOC

Case Background

As currently adopted, Rule 25-4.036, Florida Administrative Code (F.A.C.), Design and Construction of Plant, and Rule 25-24.515, F.A.C., Pay Telephone Service, require incumbent local exchange telecommunications companies (LECs) and pay telephone service companies (PATS), to design, construct, install, maintain, and operate their plants and facilities in accordance with the requirements of the National Electrical Safety Code (IEEE C2-2002). Shared tenant service providers (STS), alternative access vendors (AAV), and competitive local exchange telecommunications companies (CLEC) must also comply with the requirements of the National Electrical Safety Code (IEEE C2-2002) as Rule 25-4.036 is incorporated into Rule 25-24.585, F.A.C., Rules Incorporated; Rule 25-24.740, F.A.C., AAV Service Provider Operations; Rules Incorporated; and Rule 25-24.835, F.A.C., Rules Incorporated.

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FPSC-COMMISSION CLERK

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Approximately every three years, the National Fire Protection Association (NFPA) revises the National Electrical Safety Code and issues a new edition. As indicated above, Rules 25-4.036 and 25-24.515 currently reference the 2002 edition of the National Electrical Safety Code. The most current version of the National Electrical Safety Code, however, is the 2007 edition.

This rulemaking was initiated to amend Rules 25-4.036 and 25-24.515 to reflect the 2007 edition of the National Electrical Safety Code (IEEE C2-2007). A Notice of Rule Development appeared in the March 16, 2007, 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, and none was held.

This recommendation addresses whether the Commission should amend the rules to reflect the most current edition of the National Electrical Safety Code (IEEE C2-2007). The Commission has rulemaking authority pursuant to Sections 120.54, 350.127, 364.01, 364.03, 364.337, 364.3375, and 364.339, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-4.036, Florida Administrative Code, Design and Construction of Plant, and Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, to reflect the most current edition of the National Electrical Safety Code, IEEE C2-2007?

Recommendation: Yes. Rule 25-4.036 and Rule 25-24.515 should be amended as set forth in Attachments 1 and 2 of this recommendation. (Scott, Vickery, Dickens)

Staff Analysis: Pursuant to Sections 364.01, 364.03, 364.337, 364.3375, and 364.339, Florida Statutes, the Commission has the authority to ensure that the plants and facilities of telecommunications companies are designed and constructed in accordance with certain national standards. Currently, Rule 25-4.036 and Rule 25-24.515 require that the plant and facilities of LECs and PATS must be designed, constructed, installed, maintained, and operated in accordance with the provisions of the 2002 edition of the National Electrical Safety Code. The most current edition of the National Electrical Safety Code, however, is the 2007 edition. Staff is recommending that Rule 25-4.036 and Rule 25-24.515 be amended to reflect the 2007 edition of the National Electrical Safety Code.

As stated in the Case Background, CLECs, STS, and AAVs will also be affected by the proposed rule amendments as Rule 25-4.036 is incorporated by reference into the rules governing these entities. Thus, the proposed amendments will benefit all Commission regulated telecommunications companies, and ultimately the public, by ensuring that the companies' systems are designed, constructed, installed, maintained, and operated in accordance with standards that minimize the chances of harm to persons and damage to properties.

It appears to staff that there are no significant changes in the National Electrical Safety Code that would have a dramatic impact on the companies. Staff has had no inquiries regarding the Notice of Rule Development and, as stated in the Case Background, no workshop on the proposed amendment to the rules was requested or held.

STATEMENT OF ESTIMATED REGULATORY COSTS

The Florida Administrative Procedure Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). The SERC prepared by staff, found at Attachment 3, states that there should be no significant impact on the Commission, the industry, or small businesses, cities, or counties as a result of the rule amendments. The SERC also states that the Commission would benefit from the rule amendments as the rules will reflect the most current version of the National Electrical Safety Code.

Based on the foregoing, staff recommends that the Commission propose the amendment of Rule 25-4.036 and Rule 25-24.515 as set forth in Attachments 1 and 2 of this recommendation.

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Issue 2: Should this docket be closed?

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

Staff Analysis: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

1 25-24.515 Pay Telephone Service.

2 (1) For the purposes of this section, the term "direct free" shall mean without requiring
3 the use of a coin, paper money, credit card, or any other form of payment, even if the payment
4 will be returned.

5 (2) Pay telephone stations shall be lighted during the hours of darkness when light
6 from other sources is not adequate to read instructions and use the instrument.

7 (3) Each pay telephone station shall return any deposited amount if the call is not
8 completed, except messages to a Feature Group A access number.

9 (4) Each pay telephone station shall permit direct free access to the universal telephone
10 number "911" where operable.

11 (5) Each pay telephone station shall permit direct free access to dialtone.

12 (6) Each pay telephone station shall permit direct free access to toll free numbers (e.g.,
13 800, 877, and 888).

14 (7) Each pay telephone station shall complete calls to local and long distance directory
15 assistance.

16 (8) Each pay telephone station shall complete calls to the responsible party for repairs
17 or refunds by direct free access.

18 (9) Each pay telephone station shall be equipped with a legible sign, card, or plate of
19 reasonable permanence which shall identify the following:

20 (a) The telephone number and location address of the pay telephone station, name and
21 certificate number of the certificate holder, the party responsible for repairs and refunds,
22 address of responsible party, free phone number of responsible party, clear dialing instructions
23 (including notice of the lack of availability of local or toll services), and the local coin rate.

24 (b) For those pay telephone stations that will terminate conversation after a minimum

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existing law.

1 elapsed time, notice shall be included on the sign card as well as an audible announcement 30
2 seconds prior to termination of the phone call.

3 (10) Each pay telephone station that provides access to any interexchange company
4 shall provide coin free access, except for Feature Group A access, to all locally available
5 interexchange companies. The pay telephone station shall provide such access through the
6 forms of access purchased by locally available long distance carriers such as 10XXX+0,
7 10XXXX+0, 101XXXX+0, 950, toll free (e.g., 800, 877, and 888) access.

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

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

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

18 (b) A pay telephone provider may petition the Commission for an exemption from the
19 incoming call requirement for a period that shall not exceed two years from the effective date
20 of the Order granting the exemption. Requests for exemption from the requirement that each
21 pay telephone station allow incoming calls shall be accompanied by a completed Form
22 PSC/CMP-2 (02/99), entitled "Request to Block Incoming Calls," which is incorporated into
23 this rule by reference and may be obtained from the Commission's Division of Competitive
24 Markets and Enforcement. The form requires an attestation from the owner of the pay

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

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

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

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

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

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

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

4 (18)(a) Except as provided in paragraph (18)(b) below, each pay telephone station shall
5 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 of the ADA
6 Accessibility Guidelines for Buildings and Facilities, Appendix A to 28 CFR Part 36, (July 1,
7 2003 Edition), which sections are incorporated by reference into this rule. This rule does not
8 apply to public text telephone and closed circuit telephones.

9 (b) Pay telephones shall not be installed where the required “clear floor or ground
10 space” provided for in ADA Accessibility Guidelines for Buildings and Facilities sections
11 4.2.4.1, 4.2.4.2, and 4.31.2 would be reduced by a vehicle parked in a designated parking
12 space.

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

15 (20) Toll Fraud Liability.

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

23 (b) A company providing interexchange telecommunications services or local
24 exchange telecommunications services shall not collect from a pay telephone provider for

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1 charges for collect or third number billed calls, if the line to which the call was billed was
2 subscribed to incoming call screening and the call was placed after the effective date of the
3 incoming call screening order.

4 (c) Any calls billed through the provider of local exchange telecommunications
5 services or directly by an interexchange company, or through a billing agent, which have been
6 identified as not collectible as described in paragraphs (20)(a) and (b) above, must be removed
7 from any pay telephone provider's bill after the pay telephone provider gives notice of the
8 fraudulent charges to the billing party. Pay telephone providers shall give such notice to the
9 provider of local exchange telecommunications services and the interexchange company in
10 writing no later than the due date of the bill.

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

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

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

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

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

24 (22) Pay telephone stations located in confinement facilities shall be exempt from the

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

6 (23) Pay telephone facilities shall be designed, constructed, installed, maintained and
7 operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-~~2002~~
8 2007) and the National Electrical Code (NEPA 70-2005), which are incorporated by reference.
9 Specific Authority 350.127(2) FS.

10 Law Implemented 364.03, 364.035, 364.063, 364.15, 364.337, 364.3375, 364.345 FS.

11 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-
12 99, 12-23-02, 4-5-05, 12-29-05.

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1 25-4.036 Design and Construction of Plant.

2 (1) The plant and facilities of the utility shall be designed, constructed, installed, maintained
3 and operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-
4 ~~2002~~ 2007) and the National Electrical Code (NFPA 70-2005), which is incorporated herein
5 by reference, pertaining to the construction of telecommunications facilities.

6 (2) Compliance with these codes and accepted good practice is necessary to insure as far as
7 reasonably possible continuity of service, uniformity in the quality of service furnished and
8 the safety of persons and property.

9 Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15 FS. History-
10 Revised 12-1-68, Amended 4-19-77, Formerly 25-4.36, Amended 2-5-86, 3-26-91, 5-3-94, 12-
11 23-02, 12-29-05

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

DATE: June 6, 2007
TO: Office of General Counsel (Scott)
FROM: Division of Economic Regulation (Dickens) *BD PS*
RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rule 25-4.036, Design and Construction of Plant, F.A.C., and Rule 25-24.515 (23), Pay Telephone Service, F.A.C.

DETAILED DESCRIPTION OF THE PROPOSED RULE

The proposed changes to Rules 25-4.036 (23), Florida Administrative Code, Design and Construction of Plant, and 25-24.515, Florida Administrative Code, Pay Telephone Service would require plant and facilities of a telephone company to be designed, constructed, installed, maintained and operated in accordance with the provisions of the updated 2007 Edition of the National Electrical Safety Code (IEEE C2-2007), pertaining to the construction of telecommunications facilities. The rule will require all providers of telecommunication services in Florida to be in full compliance with the updated provisions about safety and security as promulgated in the most recent edition of the National Electrical Safety Code. These revisions update the current rule which requires compliance with the 2002 National Electrical Safety Code.

Compliance with the National Electrical Safety Code by the telecommunications industry would insure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished and the safety of persons and property.

IMPACT ON THE PSC

There should be no negative impact on the Commission resulting from implementation of the proposed rules.

There is no direct benefit to the Commission resulting from the implementation of the proposed rules. Other state and local government entities should not be negatively impacted.

ENTITIES AFFECTED BY ADOPTION OF PROPOSED RULE

The proposed rule amendments require compliance for all 10 incumbent local exchange companies (ILEC), 373 competitive local exchange companies, 31 shared tenant service companies, 291 pay telephone companies and 35 alternative access vendors operating in Florida.

The proposed rules would benefit telephone company customers by requiring such entities to comply with the new standards that help mitigate against harm to persons or personal property damage. This tangible benefit for Florida ratepayers will foster service reliability and uniformity from their respective providers. -12-

There should be no negative impacts on small businesses, small cities, or small counties.

COST/BENEFIT IMPACTS ON ENTITIES CAUSED BY ADOPTION OF PROPOSED RULE

There should be minimal transactional costs to the telecommunications industry in Florida. The proposed rule amendments seek compliance so that companies are providing the most efficient range of telecommunication services which reflect state-of-the-art engineering standards as promulgated by the National Electrical Safety Code 2007.

Customers should have no transactional costs. They could benefit indirectly by the higher safety provisions embedded in the most recent edition of the National Electrical Safety Code 2007.

The proposed rule amendments apply to all telecommunications companies in Florida, irrespective of size. This finding means that small telecommunications businesses are not exempt from the IEEE-2007 Safety Code requirements. There are no known lower cost alternatives to satisfy the objective of the proposed rule amendments.

There should be no negative impact for small cities, and small county entities resulting from implementation of the rule amendments.

ADDITIONAL COMMENTS REGARDING ADOPTION OF PROPOSED RULE

There are no other pertinent comments regarding the application of the proposed rule.

BD:kb

cc: Mary Andrews Bane
Chuck Hill
Paul Vickery
Hurd Reeves