Florida Cable Telecommunications Association

Steve Wilkerson, President

October 7, 2008

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **Docket No. 080159-TP** – Joint Petition to Initiate Rulemaking to Adopt New Rule in Chapter 25-24, F.A.C., Amend and Repeal Rules in Chapter 25-4, F.A.C., and Amend Rules in Chapter 25-9, F.A.C. By Verizon Florida LLC, BellSouth Telecommunications, Inc. D/B/A AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company D/B/A TDS Telecom, and Windstream Florida, Inc.

Dear Ms. Cole:

Enclosed please find the original and seven copies of the Florida Cable Telecommunications Association, Inc.'s post-workshop comments concerning the PSC Rulemaking Workshop that took place on September 10, 2008. This letter provides an overview of FCTA's positions taken in its comments.

Rather than advocating the increase or maintenance of regulation on our competitors, FCTA has taken no position on the majority of the ILECs' proposals. Of the dozens of proposals the ILECs made, FCTA focused on four: the "competitive trigger" or test; the ILECs' proposal to scrap Florida's PC freeze rule, 25-4.083, F.A.C. (PC Freeze) or replace it with the federal rule; and lastly, their proposals to repeal 25-4.046, F.A.C. (Incremental Cost Data Submitted by Local Exchange Companies) and 25-9.005, F.A.C. (Information to Accompany Filings), designed to deter predatory pricing.

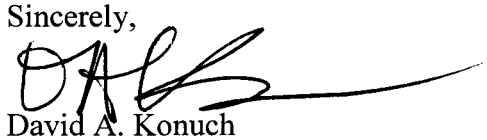
FCTA's prior comments in this docket outlined in detail the "competitive trigger" proposal's numerous flaws, and we direct the Commission's attention to those comments. As to the other rules, the PC freeze and anti-predatory pricing rules exist to promote fair competition. Because the Commission intended these rules to promote fair competition, to use the presence of competition as a reason for repealing the rules, as the ILECs' advocate here, makes no sense. Notably, the FCTA has recently learned that at least one ILEC in Florida is not complying with the current PC freeze rule to the detriment of consumers and competitors. As to the anti-predatory pricing rules, the ILECs have provided no showing whatsoever to support their claim that this anti-trust type rule is unnecessary. The Louisiana PSC staff recently recommended rejecting a similar request by AT&T to repeal Louisiana's price floor rule. *See* Staff's Initial Recommendation, LPSC Docket No. R-30347 – *AT&T Louisiana Ex Parte, In re: Petition for*

Modification of Rules and Regulations Necessary to Achieve regulatory Parity and Modernization, Sept. 17, 2008 at 42 ("Staff sees no advantage . . . to consumers by eliminating this rule and recommends that the Commission retain it.) Repealing or modifying these important rules at this stage could endanger the competition that exists today.

The FCTA cannot actively support proposals for deregulation when it is experiencing anti-competitive practices by ILECs in other areas of the marketplace. A better approach than that proposed by the ILECs, which simply identifies rules to eliminate, is to review existing rules and consider establishing new rules where necessary to address anti-competitive conduct in an effort to foster a competitive market for the benefit of Florida consumers. An example of this approach would be to codify the FCC's affirmation of its long standing prohibition against the anti-competitive practice of retention marketing during the porting window. Considering a rule to reduce the period of time for ports to be completed would also allow customers to change carriers more quickly and reduce the likelihood of anti-competitive practices by overzealous carriers. Eliminating some existing rules that have outlived their purpose can be a prudent exercise, but should not be done without close examination of those rules which will negatively impact the nascent competitive market which is developing in Florida if eliminated. The FCTA respectfully submits the attached comments which highlight those rules which are important to maintain competitive neutrality and encourages the Commission to consider the promulgation of rules, like those related to retention marketing, to ensure a level playing field for providers and the benefits of competition for Florida consumers

If you have any questions whatsoever, please do not hesitate to contact me at (850) 681-1990.

Sincerely,



David A. Konuch
Senior Counsel, Regulatory Law and Technology
Florida Cable Telecommunications Association
246 E. 6th Avenue
Tallahassee, FL 32303
Phone: 850-681-1990
Fax: 850-681-9676

Enclosures

cc: Cynthia Miller
Samantha Cibula
Dale Mailhot

CERTIFICATE OF SERVICE

I hereby certify that the foregoing post-workshop comments of the Florida Cable Telecommunications Association were served by electronic mail delivery this 7th day of October, 2008 to the following:

Cynthia Miller
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

Samantha Cibula
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

Dale Mailhot
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

AT&T of Florida
E. Edenfield, Jr.
Manual A. Gurdian
c/o Mr. Gregory Follensbee
150 South Monroe Street, Suite 400
Tallahassee, FL 32303-1561

Ausley Law Firm
J. Jeffry Wahlen
P.O. Box 391
Tallahassee, FL 32302

Embarq Florida, Inc.
Susan S. Masterton
Mailstop: FLTLH00102
1313 Blairstone Road
Embarq Florida, Inc.
Tallahassee, FL

Joint Telecommunications Companies
Susan F. Clark
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, FL 32301

TDS Telecod/Quincy Telephone
Mr. Thomas M. McCabe
TDS Telecom
1400 Village Square Blvd.
Suite 3, Box 329
Tallahassee, FL 32312-1231

Administrative Procedures Committee
Scott Boyd
Executive Director and General Counsel
Holland Building, room 120
Tallahassee, FL 32399-1300

Communications Workers of America
Gail Marie Perry
PO Box 1766
Pompano Beach, FL 33601

Competitive Carriers of the South, Inc.
Vicki Kaufman
Moyle Flanigan Katz Raymond White & Krasker
1 18 N. Gadsden Street
Tallahassee, FL 32301-1 508

Department of Management Services
Wink Infinger
4030 Esplanade Way, Suite 160C
Tallahassee, FL 32399-0950

Department of Management Services
Carolyn Mason
Communication & Information
Technology
4030 Esplanade Way, Suite 125
Tallahassee, FL 32399-0950

Verizon Florida LLC
Mr. David Christian
106 East College Avenue, Suite 710
Tallahassee, FL 32301-7721

Windstream Florida, Inc.
Mr. James White
4651 Salisbury Road, Suite 151
Jacksonville, FL 32256-6187

Messer Law Firm
Floyd R. Self
2618 Centennial Place
Tallahassee, FL 32308

Intrado Communications, Inc.
Rebecca Ballesteros
1601 Dry Creek Drive
Longmont, CO 80503

Rutledge Law Firm
Marsha E. Rule
215 South Monroe Street, Suite 420
Tallahassee, FL 32302-0551

Tracy Hatch
AT&T Legal
General Attorney
150 S. Monroe Street
Suite 400
Tallahassee, FL

David Konuch

DOCKET NO. 080159-TP – SEPTEMBER 10, 2008, WORKSHOP
ITEM 2 – RULES THAT WOULD NOT APPLY IF THE COMPETITION TEST IS MET

Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
2.a. SERVICE RULES:		
25-4.0185 Periodic Reports. Each local exchange telecommunications company shall file with the Commission's Division of Competitive Markets and Enforcement the information required by Commission Form PSC/CMP 28 (4/05), which is incorporated into this rule by reference. Form PSC/CMP 28, entitled "Engineering Data Requirements," may be obtained from the Commission's Division of Competitive Markets and Enforcement. (1) The information required by schedules 2, 3, 8, 11, 15 and 16 of Form PSC/CMP 28 shall be reported on a quarterly basis by the large LECs and semiannually by the small LECs and shall be filed on or before the end of the month following the reporting period. (2) The information required by Schedule 19 of Form PSC/CMP 28 shall be reported on a semiannual basis and shall be filed on or before the end of the month following the second and fourth quarters. *Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.17, 364.183(1) FS. History–New 12-14-86, Amended 7-20-89, 12-27-94, 3-10-96, 4-3-05.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such reports are not needed in a competitive environment. Competitors of wireline providers are not required to submit such reports.	FCTA: No position.
25-4.023 Report of Interruptions. (1) The Commission shall be informed of any major interruptions to service that affect 1,000 or more subscribers for a period of 30 minutes or more as soon as it comes to the attention of the utility. The Company shall provide the time, the location, the expected duration of the outage and when the interruption is restored. (2) In addition, a copy of all Florida service interruption reports made to the Federal Communications Commission in accordance with the provisions of Part 63 of Chapter 1 of Title 47; Code of Federal Regulations; Notification of Common Carriers of Service Disruptions (Effective April 12, 1996) shall be immediately forwarded to the Commission's Division of Competitive Markets and Enforcement, Bureau of Service Quality. *Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.17, 364.183 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.23, Amended 10-1-96, 4-3-05.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Competitors of wireline providers do not have to meet a similar requirement. FCC regulations specify that wireline communications providers must electronically notify the FCC within 120 minutes of discovering an outage of more than 30 minutes that: "(1) Potentially affects at least 900,000 user minutes of either telephony or paging; (2) Affects at least 1,350 DS3 minutes; (3) Potentially affects any special offices and facilities . . .; or (4) Potentially affects a 911 special facility . . . ." 47 C.F.R. § 4.9(f). The report must include the following information: "[1] [t]he name of the reporting entity; [2] the date and time of onset of the outage; [3] a brief description of the problem; [4] service effects; [5] the geographic area affected by the outage; and [6] a contact name and telephone number . . . ." 47 C.F.R. § 4.11.	FCTA: No position.
25-4.066 Availability of Service. (1) Each telecommunications company shall provide central office equipment and outside plant facilities designed and engineered in accordance with realistic anticipated customer demands for basic local telecommunications service within its certificated area in accordance with its filed tariffs or orders of the Commission, subject to its ability to secure and provide, for reasonable expense, suitable facilities and rights for construction and maintenance of such facilities.	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Companies must provide acceptable arrangements to provide service; otherwise, customers can and will switch to competitors. Competitors of	FCTA: No position.

Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
(2) Where central office and outside plant facilities are readily available, at least 90 percent of all requests for primary service in any calendar month shall normally be satisfied in each exchange of at least 50,00 lines and quarterly in exchanges of less than 50,000 lines within an interval of three working days after receipt of application when all tariff requirements relating thereto have been complied with, except those instances where a later installation date is requested by the applicant or where special equipment or services are involved. (3) If the applicant requests an installation date beyond three working days, the requested date shall be counted as day three for measurement purposes. (4) When an appointment is made in order for the company to gain access to the customer's premises, the mutually agreed upon date will be day three for measurement purposes. Failure of the customer to be present to afford the company representative entry to the premises during the appointment period shall exempt the order for measurement purposes. Whenever a company representative is unable to gain admittance to a customer's premises during the scheduled appointment period, the company representative shall leave a notice, stating the name of the company representative and the date and time the company representative was at the premises. (5) Each telecommunications company shall establish as its objective the satisfaction of at least 95 percent of all applications for new service in each exchange within a 30 day maximum interval and, further, shall have as its objective the capability of furnishing service within each of its exchanges to applicants within 60 days after date of application; except those instances where a later installation date is requested by the applicant or where special equipment or services are involved. (6) Whenever, for any reason, the service installation cannot be made at the time requested by the applicant or within the prescribed interval, the applicant shall be notified promptly of the delay and the reason therefor. (7) Where facility additions are required to make service available, the applicant shall be further advised as to the circumstances and conditions under which service will be provided and as soon as practicable an estimated date when service will be furnished. With respect to applications aged over six months all service dates that result in a further delay due to the company's inability to meet the original estimated date of service shall be identified in the appropriate section of the report of held applications filed with the Commission and shall include an explanation of the reasons therefor. (8) Each company shall report pursuant to Rule 25-4.0185, F.A.C. Periodic Reports, the performance of the company with respect to the availability of service requirements as outlined in Form PSC/CMP 28 (4/05), incorporated into Rule 25-4.0185, F.A.C., by reference and available from the Division of Competitive Markets and Enforcement. Each company shall explain the reasons for all service orders that are not completed within 30 calendar days. *Specific Authority 350.127(2) FS. Law Implemented 364.025, 364.03, 364.14, 364.15, 364.183, 364.185 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.66, Amended 3-10-96, 4-3-05, 4-3-05.*	wireline providers do not have to meet a similar requirement.	

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Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
25-4.069 Maintenance of Plant and Equipment. Each telecommunications company shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate, and continuous service at all times. *Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.15 FS. History–Revised 12-1-68, Amended 12-13-82, 9-30-85, Formerly 25-4.69, Amended 4-16-90, 3-10-96.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Competitors of wireline providers do not have to meet a similar requirement.	FCTA: No position, provided that the Commission include language ensuring no action taken in this docket will have any adverse effect on SEEM plan metrics.
25-4.070 Customer Trouble Reports. (1) Each telecommunications company shall make all reasonable efforts to minimize the extent and duration of trouble conditions that disrupt or affect customer telephone service. Trouble reports will be classified as to their severity on a service interruption (synonymous with out-of-service or OOS) or service affecting (synonymous with non-out-of-service or non-OOS) basis. Service interruption reports shall not be downgraded to a service affecting report; however, a service affecting report shall be upgraded to a service interruption if changing trouble conditions so indicate. (a) Companies shall make every reasonable attempt to restore service on the same day that the interruption is reported to the serving repair center. (b) In the event a subscriber's service is interrupted other than by a negligent or willful act of the subscriber and it remains out of service in excess of 24 hours after being reported to the company, an appropriate adjustment or refund shall be made to the subscriber automatically, pursuant to Rule 25-4.110, F.A.C. (Customer Billing). Service interruption time will be computed on a continuous basis, Sundays and holidays included. Also, if the company finds that it is the customer's responsibility to correct the trouble, it must notify or attempt to notify the customer within 24 hours after the trouble was reported. (c) If service is discontinued in error by the telephone company, the service shall be restored without undue delay, and clarification made with the subscriber to verify that service is restored and in satisfactory working condition. (2) Sundays and Holidays: (a) Except for emergency service providers, such as the military, medical, police, and fire, companies are not required to provide normal repair service on Sundays. Where any repair action involves a Sunday or holiday, that period shall be excepted when computing service objectives, but not refunds for OOS conditions. (b) Service interruptions occurring on a holiday not contiguous to Sunday will be treated as in paragraph (2)(a) of this rule. For holidays contiguous to a Sunday or another holiday, sufficient repair forces shall be scheduled so that repairs can be made if requested by a subscriber. (3) Service Objectives: (a) Service Interruption: Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange that contains at least 50,000 lines and will be measured on a monthly basis. For exchanges that contain less than 50,000 lines, the results can be aggregated on a quarterly basis. For any exchange failing to meet this objective, the company shall provide an explanation with its periodic report to the Commission. (b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to insure at least 95 percent of such reports are cleared within 72 hours of the report in each exchange which contains at least 50,000 lines and will be measured on a monthly basis. For exchanges which contain less than 50,000 lines, the results can be aggregated on a quarterly basis. (c) If the customer requests that the service be restored on a particular day beyond the objectives outlined in paragraphs (a) and (b) above, the trouble report shall be counted as having met the objective if the requested date is met. (4) Priority shall be given to service interruptions that affect public health and safety that are reported to and verified by the company and such	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment where companies must provide service with minimal disruption to retain customers, who can and will switch providers if the telecommunications service provided is interrupted frequently. Further, when landline service is disrupted, wireless and other technology options are generally available such that customers are not left completely without telecommunications service.	FCTA: No position.

Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
service interruptions shall be corrected as promptly as possible on an emergency basis. (5) Repeat Trouble: Each telephone company shall establish procedures to insure the prompt investigation and correction of repeat trouble reports such that the percentage of repeat troubles will not exceed 20 percent of the total initial customer reports in each exchange when measured on a monthly basis. A repeat trouble report is another report involving the same item of plant within 30 days of the initial report. (6) The service objectives of this rule shall not apply to subsequent customer reports, (not to be confused with repeat trouble reports), emergency situations, such as unavoidable casualties where at least 10 percent of an exchange is out of service. (7) Reporting Criteria: Each company shall periodically report the data specified in Rule 25-4.0185, F.A.C., Periodic Reports, on Form PSC/CMP 28 (4/05), incorporated into Rule 25-4.0185. F.A.C., by reference and available from the Division of Competitive Markets and Enforcement. *Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.17, 364.18, 364.183, 364.386 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.70, Amended 6-24-90, 3-10-96, 4-3-05.*		

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25-4.071 Adequacy of Service. (1) Each telecommunications company shall provide switching equipment, trunking, and associated facilities within its operating territory for the handling of local and toll traffic, designed and engineered on the basis of realistic forecasts of growth so that during the average busy season busy hour at least 97 percent of all calls offered to any trunk group (toll connecting, inter-office, extended area service) shall not encounter an all-trunk busy condition. (2) Telephone calls to valid numbers should encounter a ring-back tone, line busy signal, or non-working number intercept facility (operator or recording) after completion of dialing. The call completion standards established for such calls by category of call is as follows: (a) Intra-office Calls – 95 percent, (b) Inter-office Calls – 95 percent, (c) Extended Area Calls – 95 percent, and (d) Intra-LATA DDD Calls – 95 percent. (3) All telephone calls to invalid telephone numbers shall encounter an operator or suitable recorded intercept facility, preferably a recording other than the non-working number recording used for valid number calls. (4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C. (5) A line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks, or equipment where the quantity is controlled by the customer is in use. *Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.17, 364.18, 364.183, 364.19, 364.386 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.71, Amended 6-24-90, 3-10-96.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Companies must provide an acceptable level of service; otherwise, customers can and will switch to competitors. Competitors of wireline providers do not have to meet a similar requirement.	FCTA: No position, provided that Commission adopts statement that no action taken in this docket will adversely affect SEEM metrics.
25-4.072 Transmission Requirements. (1) Telecommunications companies shall furnish and maintain the necessary plant, equipment, and facilities to provide modern, adequate, sufficient, and efficient transmission of communications between customers in their service areas. Transmission parameters shall conform to ANSI/IEEE Standard 820 Telephone Loop Performance Characteristics (Adopted 1984) incorporated herein by reference. (2) Accurate dependable milliwatt supplies shall be made a part of each central office. Additionally, for those central offices having an installed line capacity of 1,000 lines or more, the buffered access on a minimum three line rotary group basis shall be a part of the milliwatt supply. (3) Each central office shall be equipped with a minimum of one termination which shall trip ringing and terminate the line on a balanced basis so that end to end noise measurements may be made. *Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.386 FS. History–New 12-1-68, Amended 3-31-76, Formerly 25-4.72, Amended 3-10-96, 4-3-05.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Competitors of wireline providers do not have to meet a similar requirement. In addition, several forums exist to establish standards regarding transmission requirements, including numerous committees of the Alliance for Telecommunications Industry Solutions (ATIS). *See* the ATIS website at www.atis.org. Given the activities of these committees, state rules on transmission quality are not needed.	FCTA: No position, provided that Commission adopts statement that no action taken in this docket will adversely affect SEEM metrics.
25-4.073 Answering Time. (1) Each telephone utility shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide adequate personnel so as to meet the following service criteria under normal operating conditions: (a) At least 90 percent of all calls directed to repair services and 80 percent of all calls to business offices shall be answered within 30 seconds after the last digit is dialed when no menu driven system is utilized. (b) When a company utilizes a menu driven, automated, interactive answering system (referred to as the system or as an Integrated Voice	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment as customers can and will change providers if they are not happy with the manner in which calls to the provider are answered and addressed.	FCTA: No position.

Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
Response Unit (IVRU)), at least 95 percent of the calls offered shall be answered within 15 seconds after the last digit is dialed. The initial recorded message presented by the system to the customer shall include the option of transferring to a live attendant within the first 30 seconds of the message. (c) For subscribers who either select the option of transferring to a live assistant, or do not interact with the system for twenty seconds, the call shall be transferred by the system to a live attendant. At least 90 percent of the calls shall be answered by the live attendant prepared to give immediate assistance within 55 seconds of being transferred to the attendant. (d) The terms "answered" as used in paragraphs (a) and (c) above, shall be construed to mean more than an acknowledgment that the customer is waiting on the line. It shall mean that the service representative is ready to render assistance. (2) Answering time studies using actual data or any statistically valid substitute for actual data shall be made to the extent and frequency necessary to determine compliance with this rule. (3) All telecommunications companies are expected to answer their main published telephone number on a 24 hour a day basis. Such answering may be handled by a special operator at the toll center or directory assistance facility when the company offices are closed. Where after hours calls are not handled as described above, at least the first published business office number will be equipped with a telephone answering device which will notify callers after the normal working hours of the hours of operation for that business office. Where recording devices are used, the message shall include the telephone number assigned to handle urgent or emergency calls when the business office is closed. (4) Each company shall report, pursuant to Rule 25-4.0185, F.A.C. Periodic Reports, the performance of the company with respect to answer time as outlined in Form PSC/CMP 28 (4/05), incorporated into Rule 25-4.0185, F.A.C., by reference and available from the Division of Competitive Markets and Enforcement. *Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.386, 365.171 FS. History–New 12-1-68, Amended 3-31-76, Formerly 25-4.73, Amended 11-24-92, 4-3-05.*		

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25-4.074 Intercept Service. (1) Intercept service shall be engineered to provide a 90 percent completion for changed numbers (with the exception of the 30 day period immediately following an inter-office transfer with directory) and for vacant or non-working numbers. (2) Subscriber lines which are temporarily disconnected for nonpayment of bills shall be placed on intercept (preferably operator intercept). (3) All private branch exchanges and In-Dial Paging Systems, whether provided by the company or customer and which are equipped for direct in-dialing and installed after the effective date of these rules, shall meet the service requirements outlined herein prior to the assignment of a number block by the telephone company. (4) With the exception of numbers that are changed coincident with the issuance of a new directory, intercept service shall be provided by each telephone company in accordance with the following: (a) Intercept service shall be provided for non-working and changed numbers until assigned, re-assigned, or no longer listed in the directory. (b) Any 7-digit number (or other number serving a public safety or other emergency agency) when replaced by the universal emergency number "911" shall be intercepted by either a telecommunications company assistance or a public safety agency operator or special recorded announcement for at least one year or until the next directory issue. Also, intercept service for the universal emergency telephone number "911" shall be provided in central offices where the number is inoperable. The intercept service may be automated with a message indicating the "911" emergency number is inoperable in that area and to consult the directory for the appropriate emergency number or if a directory is not available to dial operator for assistance. *Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.03, 364.051 FS. History–New 12-1-68, Amended 3-31-76, Formerly 25-4.74, Amended 3-10-96.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Competitors of wireline providers do not have to meet a similar requirement.	FCTA: No position.
25-4.083 Preferred Carrier Freeze. (1) A PC Freeze shall not be imposed or removed on 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);	This rule should not apply to competitive markets or Streamlined Regulation companies. The Federal Communications Commission (FCC) has rules that cover this area. *See* 47 C.F.R. §64.1190. Because the FCC's rules go into great detail as to what is required, an additional state level rule is not needed, as apparently recognized by the majority of states that do not have their own rules regarding preferred carrier freezes. Because the statute requires the Commission to adopt rules, the PSC should incorporate by reference the FCC rule and note that a preferred carrier freeze must be established at no charge.	FCTA: Florida's PC freeze rule, Florida PSC Rule 25-4.083, Preferred Carrier (PC) Freeze, is one of the rules the ILECs propose to delete automatically if their proposed competitive test rule is met. A PC freeze prevents a telephone company from switching a customer's service to any competitor. It's designed to prevent slamming, *i.e.*, the unauthorized switching of providers. If the customer's carrier choice is frozen, presumably slamming becomes impossible. The ILECs claim that there is a federal rule, 47 C.F.R. §64.1190, which makes the state rule unnecessary. While there is a federal rule, there is no guarantee all ILECs would interpret is as automatically applying if the state rule is repealed. The ILECs claim this rule should be eliminated if their "competitive trigger" rule is met. As discussed in FCTA's comments, the competitive trigger rule does not provide an effective measure of competition. Moreover, Florida's PC freeze rule exists to ensure that the playing field remains level for competitors. Removing the rule would undermine the very competition that exists today by making it more difficult for customers to switch telephony providers. FCTA noted during the first two workshops how repeal of

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(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 paragraphs (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 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 paragraphs (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 subsection (6) and paragraph (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, 364.01, 364.603 FS. Law Implemented 364.01, 364.603 FS. History–New 9-9-04.*		Florida's PC freeze rule could be used to undermine consumer choice. Without strict rules, carriers can manipulate freezes to the determent of competition. After canvassing FCTA members concerning their experiences with PC freezes in the marketplace, FCTA now possesses evidence that ILECs are today using the PC freeze process to undermine consumer choice. A case in point is FCTA member Cox's experience with Windstream in Florida, Georgia, Arkansas, and Oklahoma. Windstream recently made the decision to place a freeze on all of their local accounts. Customers wishing to port from Windstream to Cox have been unnecessarily delayed because the freeze had to be lifted to allow the port request to process. Almost without exception, Cox's prospective customers had no knowledge that they had ever requested a freeze to be placed on their local service or their long distance service. Cox has had many discussions with Windstream to try to convince them that placing such automatic freezes on local service is in violation of industry practice and in some instances, a violation of regulatory rules. To date, however, to Cox's knowledge, unauthorized PC freezes continue to be imposed by Windstream. Comcast has witnessed similar activities by Windstream concerning PC freezes in Florida and in other states where Windstream operates. Important distinctions exist between the state and federal PC freeze rules that militate in favor of keeping Florida's current PC freeze rule. The state rule offers more stringent and specific safeguards against anticompetitive activity than exist under the federal rule. For instance, the federal rule allows ILECs to solicit customers to install a PC freeze, and to charge for placing the PC freeze and removing it. The Florida PSC rule does not permit soliciting customers to obtain a PC freeze or charging for one. Under the ILECs proposal, there would be no prohibition against offering to install a PC freeze on customers' accounts free of charge, but then tariff an exorbitant rate to remove the PC freeze. That would raise a customer's cost of switching to a competitive provider, which is among the reasons why FCTA opposes this rule change. No basis exists for repealing Florida's PC freeze rule. The ILECs have provided nothing more than bare assertions in support of their view that it is burdensome. Rather, FCTA members' experiences show that, rather than repealing the rule, consumers would benefit by retaining the current rule and that the rule is needed today more than ever.

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25-4.085 Service Guarantee Program. A company may petition the Commission for approval of a Service Guarantee Program, which would relieve the company from the rule requirement of each service standard addressed in the approved Service Guarantee Program. When evaluating a Service Guarantee Program for approval, the Commission will consider the Program's benefits to the customers and whether the Program is in the public interest. The Commission shall have the right to enforce the provisions of the Service Guarantee Plan. *Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.01(4), 364.03, 364.035, 364.036, 364.386 FS. History–New 6-14-05.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. The Petitioners understand that, depending on the language of the relevant orders, Commission orders in effect regarding a particular telecommunications company's service guarantee program may remain in effect until such orders expire or are revised by the PSC.	FCTA: No position.
2.b. CUSTOMER RELATIONS RULES:		
25-4.107 Information to Customers. (1) Each company shall provide such information and assistance as is reasonable to assist any customer or applicant in obtaining telephone service adequate to his communications needs. At the time of initial contact, each local exchange telecommunications company shall advise the person applying for or inquiring about residential or single line business service of the rate for the least expensive one party basic local exchange telephone service available to him unless he requests specific equipment or services. Each company shall inform all persons applying for residential service of the availability of the company's installment plan for the payment of service connection charges. The information will be provided at the time of initial contact and shall include, but not be limited to, information on rate amounts and installment time periods and procedures. Upon customer request, the person shall also be given an 800 number to call to receive information on the "No Sales Solicitation" list offered through the Department of Agriculture and Consumer Services, Division of Consumer Services. In any discussion of enhanced or optional services, each service shall be identified specifically, and the price of each service shall be given. Such person shall also be informed of the availability of and rates for local measured service, if offered in his exchange. Local exchange telecommunications companies shall submit copies of the information provided to customer service representatives to the Division of Competitive Competitive Markets and Enforcement for prior approval. (2) At the earliest time practicable, the company shall provide to that customer the billing cycle and approximate date he may expect to receive his monthly billing. *Specific Authority 350.127(2), 364.14(2) FS. Law Implemented 364.025, 364.03, 364.04, 364.051, 364.15, 350.127 FS. History–New 7-5-79, Amended 11-30-86, 11-28-89, 3-31-91, 10-30-91.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment as customers can and will change providers if a provider does not provide telecommunications service adequate to a customer's needs. Further, this rule is not needed because section 364.3382(1), F.S., requires the ILEC, when a residential customer initially requests service, to "advise each residential customer of the least-cost service available to that customer."	FCTA: No position.
25-4.108 Initiation of Service. Any applicant for telephone service may be required to make application in writing in accordance with standard practices and forms prescribed by the utility, provided that the policy adopted by the utility for the initiation of service shall have uniform application and shall be set forth in its filed tariff. Such application shall be considered as notice to the utility that the applicant desires service and upon compliance by the applicant with such other provisions governing utility service as may be in effect, the utility shall undertake to initiate service without unreasonable delay. Each company shall permit residential customers to pay service connection charges in equal monthly installments over a period of at least 3	This rule should not apply to competitive markets or Streamlined Regulation companies. Such a requirement is not needed in a competitive environment. Competitors of wireline providers do not have to meet a similar requirement.	FCTA: No position.

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months. A company may charge a monthly service fee of $1.00 to applicants who elect to pay the service connection charge in installments. *Specific Authority 350.127(2), 364.14(2) FS. Law Implemented 364.025, 364.03, 364.04, 364.051, 364.08, 364.15 FS. History–New 12-1-68, Amended 10-30-91.*		
25-4.109 Customer Deposits. (1) Deposit required; establishment of credit. Each local exchange company's (LEC) tariff shall contain their specific criteria for determining the amount of initial deposit. Each LEC may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the company's rules for prompt payment of bills. Credit will be deemed so established if: (a) The applicant for service has been a customer of any LEC within the last two years and during the last twelve (12) consecutive months of service did not have more than one occasion in which a bill was paid after becoming delinquent and has never had service disconnected for non-payment. (b) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requested. A satisfactory guarantor shall, at the minimum, be a customer of the company with a satisfactory payment record. A guarantor's liability shall be terminated when a residential customer whose payment of bills is secured by the guarantor meets the requirements of subsection (4) of this rule. Guarantors providing security for payment of residential customers' bills shall only be liable for bills contracted at the service address contained in the contract of guaranty. (c) The applicant pays a cash deposit. (d) The applicant for service furnishes an irrevocable letter of credit from a bank or a surety bond. (2) Amount of deposit. The amount of the initial required deposit shall not exceed an amount equal to the charges for one month's local exchange service plus two months estimated toll service provided by or billed by the LEC. If, after ninety (90) days service, the actual deposit is found to be greater than an amount equal to one month's local service plus two months actual average toll service provided by or billed by the LEC, the company shall, upon demand of the subscriber to the Company, promptly refund the difference. These deposit rules apply to local exchange service and toll service provided by or billed by the LEC only and do not apply to special arrangement agreements covering termination equipment installations for which the telephone company may require a reasonable deposit. (3) New or additional deposits. A company may require upon reasonable written notice of not less than 15 days, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills. Provided, however, that the total amount of required deposit should not exceed twice the actual average monthly toll provided by or billed by the LEC plus one month's local service charge, for the 90-day period immediately prior to the date of notice. In the event the customer has had service less than 90 days, then the company shall base its new or additional deposit upon the actual average monthly billing available. When the company has a good reason to believe payment by a nonresidential customer is in jeopardy and toll usage provided by or billed by the LEC is significantly above normal for that customer, the company may request a new or additional deposit. If the deposit requested is not paid within 48 hours, the company may discontinue service. (4) Refund of deposit. After a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the company shall refund the residential customer's deposits and shall, at its option, either refund or pay the higher rate of interest specified below for nonresidential deposits, providing the customer has not, in the preceding 12 months: (a) Made more than one late payment of a bill (after the expiration of 15 days from the date of mailing or delivery by the company); (b) Paid with a check refused by a bank; (c) Been disconnected for nonpayment, or at any time; and	This rule should not apply to competitive markets or Streamlined Regulation companies. Although this rule favors the provider, it is not necessary in a competitive environment. Customer deposits should be governed by tariffs rather than by rule. Because some of the Petitioners currently collect deposits, these companies would need to work with Staff on a transition plan to move from the rule to tariffs and how to handle deposits that have already been collected.	FCTA: No position.

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(d) Used service in a fraudulent or unauthorized manner. (5) Interest on deposit. (a) Each telephone company which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 6 percent per annum. The company shall pay an interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under subsection (4) when the utility elects not to refund such deposit after 23 months. (b) The deposit interest shall be simple interest in all cases and settlement shall be made annually, either in cash or by credit on the current bill. This does not prohibit any company paying a higher rate of interest than required by this rule. No customer depositor shall be entitled to receive interest on their deposit until and unless a customer relationship and the deposit have been in existence for a continuous period of six months. Then he or she shall be entitled to receive interest from the day of the commencement of the customer relationship and the placement of deposit. Nothing in this rule shall prohibit a company from refunding at any time a deposit with an accrued interest. (6) Record of deposits. Each company having on hand deposits from customers or hereafter receiving deposits from them shall keep records to show: (a) The name of each customer making the deposit; (b) The premises occupied by the customer when the deposit was made; (c) The date and amount of deposit; and (d) Each transaction concerning the deposit such as interest payment, interest credited or similar transactions. (7) Receipt for deposit. A non-transferable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost. The deposit receipt shall contain notice that after ninety (90) days service, the subscriber is entitled to refunds of any deposit over and above an amount equal to one month's local service plus two months' average toll service provided by or billed by the LEC. (8) Refund of deposit when service is discontinued. Upon termination of service, the deposit and accrued interest may be credited against the final account of the LEC and the balance, if any, shall be returned promptly to the customer but in no event later than forty-five (45) days after service is discontinued. *Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.07, 364.19 FS. History–New 12-1-68, Amended 4-1-69, 7-20-73, 3-31-76, 6-10-80, 9-16-80, 1-31-84, 10-13-88, 8-29-89, 4-25-94.*		

DOCKET NO. 080159-TP – SEPTEMBER 10, 2008, WORKSHOP
ITEM 2 – RULES THAT WOULD NOT APPLY IF THE COMPETITION TEST IS MET

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25-4.110 Customer Billing for Local Exchange Telecommunications Companies. (1) Each company shall issue bills monthly or may offer customers a choice of billing intervals that includes a monthly billing interval. (2) Each billing party shall set forth on the bill all charges, fees, and taxes which are due and payable. (a) There shall be a heading for each originating party which is billing to that customer account for that billing period. The heading shall clearly and conspicuously indicate the originating party's name. If the originating party is a certificated telecommunications company, the certificated name must be shown. If the originating party has more than one certificated name, the name appearing in the heading must be the name used to market the service. (b) The toll-free customer service number for the service provider or its customer service agent must be conspicuously displayed in the heading, immediately below the heading, or immediately following the list of charges for the service provider. For purposes of this subparagraph, the service provider is defined as the company which provided the service to the end user. If the service provider has a customer service agent, the toll-free number must be that of the customer service agent and must be displayed with the service provider's heading or with the customer service agent's heading, if any. For purposes of this subparagraph, a customer service agent is a person or entity that acts for any originating party pursuant to the terms of a written agreement. The scope of such agency shall be limited to the terms of such written agreement. (c) Each charge shall be described under the applicable originating party heading. (d)1. Taxes, fees, and surcharges related to an originating party heading shall be shown immediately below the charges described under that heading. The terminology for Federal Regulated Service Taxes, Fees, and Surcharges must be consistent with all FCC required terminology. 2. The billing party shall either: a. Identify Florida taxes and fees applicable to charges on the customer's bill and identify the assessment base and rate for each percentage based tax, fee, and surcharge, or b.(i) Provide a plain language explanation of any line item and applicable tax, fee, and surcharge to any customer who contacts the billing party or customer service agent with a billing question and expresses difficulty in understanding the bill after discussion with a service representative. (ii) If the customer requests or continues to express difficulty in understanding the explanation of the authority, assessment base or rate of any tax, fee or surcharge, the billing party shall provide an explanation of the state, federal, or local authority for each tax, fee, and surcharge; the line items which comprise the assessment base for each percentage based tax, fee, and surcharge; or the rate of each state, federal, or local tax, fee, and surcharge consistent with the customer's concern. The billing party or customer service agent shall provide this information to the customer in writing upon the customer's request. (e) If each recurring charge due and payable is not itemized, each bill shall contain the following statement: "Further written itemization of local billing available upon request." (3) Each LEC shall provide an itemized bill for local service: (a) With the first bill rendered after local exchange service to a customer is initiated or changed; and (b) To every customer at least once each twelve months. (4) The annual itemized bill shall be accompanied by a bill stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill stuffer shall be submitted to the Commission's Division of Competitive Markets and Enforcement for prior approval. The itemized bill provided to residential customers and to business customers with less than ten access lines per service location	This rule should not apply to competitive markets or Streamlined Regulation companies. The FCC's Truth-in-Billing requirements cover this area. *See* 47 C.F.R. §§64.2400-64.2401. Together, the FCC's rule and section 364.604, F.S., adequately address customer billing such that a separate state rule is not needed. Indeed, many states now have rules that simply refer to the FCC's rule, that mirror the FCC's rule, or that have only minimal additional requirements. This rule not only adds another unnecessary level of regulation, but also results in unduly lengthy and complex bills, which can be confusing to customers. Further, the Petitioners' competitors do not have to comply with this rule, giving them the competitive advantage of a more understandable and straightforward bill.	FCTA: No position.

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shall be in easily understood language. The itemized bill provided to business customers with ten or more access lines per service location may be stated in service order code, provided that it contains a statement that, upon request, an easily understood translation is available in written form without charge. An itemized bill shall include, but not be limited to the following information, separately stated: (a) Number and types of access lines; (b) Charges for access to the system, by type of line; (c) Touch tone service charges; (d) Charges for custom calling features, separated by feature; (e) Unlisted number charges; (f) Local directory assistance charges; (g) Other tariff charges; and (h) Other nontariffed, regulated charges contained in the bill. (5) All bills rendered by a local exchange company shall clearly state the following items: (a) Any discount or penalty. The originating party is responsible for informing the billing party of all such penalties or discounts to appear on the bill, in a form usable by the billing party; (b) Past due balance; (c) Items for which nonpayment will result in disconnection of the customer's basic local service, including a statement of the consequences of nonpayment; (d) Long-distance monthly or minimum charges, if included in the bill; (e) Long-distance usage charges, if included in the bill; (f) Usage-based local charges, if included in the bill; (g) Telecommunications Access System Surcharge, per subsection 25-4.160(3), F.A.C.; (h) "911" fee per Section 365.171(13), F.S.; and (i) Delinquent date. (6) Each company shall make appropriate adjustments or refunds where the subscriber's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service. (7)(a) Bills shall not be considered delinquent prior to the expiration of 15 days from the date of mailing or delivery by the company. However, the company may demand immediate payment under the following circumstances: 1. Where service is terminated or abandoned; 2. Where toll service is two times greater than the subscriber's average usage as reflected on the monthly bills for the three months prior to the current bill, or, in the case of a new customer who has been receiving service for less than four months, where the toll service is twice the estimated monthly toll service; or		

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3. Where the company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is imminent for that subscriber. (b) The demand for immediate payment shall be accompanied by a bill which itemizes the charges for which payment is demanded, or, if the demand is made orally, an itemized bill shall be mailed or delivered to the customer within three days after the demand is made. (c) If the company cannot present an itemized bill, it may present a summarized bill which includes the customer's name and address and the total amount due. However, a customer may refuse to make payment until an itemized bill is presented. The company shall inform the customer that he may refuse payment until an itemized bill is presented. (8) Each telephone company shall include a bill insert advising each subscriber of the directory closing date and the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. The notice shall be included in the billing cycle closest to 60 days preceding the directory closing date. (9) Annually, each telephone company shall include a bill insert advising each residential subscriber of the option to have the subscriber's name placed on the "No Sales Solicitation" list maintained by the Department of Agriculture and Consumer Services, Division of Consumer Services, and the 800 number to contact to receive more information. (10) Where any undercharge in billing of a customer is the result of a company mistake, the company may not backbill in excess of 12 months. Nor may the company recover in a ratemaking proceeding any lost revenue which inures to the company's detriment on account of this provision. (11) Local Communications Services Tax. (a) The Local Communications Services Tax is comprised of the discretionary communications services tax levied by the governing authority of each municipality and county authorized by Chapter 202, F.S. (b) When a municipality or county levies the Local Communications Services Tax authorized by Chapter 202, F.S., the local exchange company may collect that tax only from its subscribers receiving service within that municipality or county. (c) A local exchange company may not incorporate any portion of the Local Communications Services Tax into its other rates for service. (12) State Communications Services Tax. (a) The State Communications Services Tax is comprised of the Gross Receipts Tax imposed by Chapter 203, F.S., the communications services sales tax imposed by Chapter 202, F.S., and any local option sales tax. (b) A local exchange company may not incorporate any portion of the State Communications Services Tax into its other rates for service. (13) Each LEC shall apply partial payment of an end user/customer bill first towards satisfying any unpaid regulated charges. The remaining portion of the payment, if any, shall be applied to nonregulated charges. (14) All bills produced shall clearly and conspicuously display the following information for each service billed in regard to each company claiming to be the customer's presubscribed provider for local, local toll, or toll service: (a) The name of the certificated company; (b) Type of service provided, i.e., local, local toll, or toll; and (c) A toll-free customer service number. (15) This section applies to LECs that provide transmission services or bill and collect on behalf of Pay Per Call providers. Pay Per Call services		

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are defined as switched telecommunications services between locations within the State of Florida which permit communications between an end use customer and an information provider's program at a per call charge to the end user/customer. Pay Per Call services include 976 services provided by the LECs and 900 services provided by interexchange carriers. (a) Charges for Pay Per Call service (900 or 976) shall be segregated from charges for regular long distance or local charges by appearing separately under a heading that reads as follows: "Pay Per Call (900 or 976) nonregulated charges." The following information shall be clearly and conspicuously disclosed on each section of the bill containing Pay Per Call service (900 or 976) charges: 1. Nonpayment of Pay Per Call service (900 or 976) charges will not result in disconnection of local service; 2. End users/customers can obtain free blocking of Pay Per Call service (900 or 976) from the LEC; 3. The local or toll-free number the end user/customer can call to dispute charges; 4. The name of the IXC providing 900 service; and 5. The Pay Per Call service (900 or 976) program name. (b) Pay Per Call Service (900 and 976) Billing. LECs and IXCs who have a tariff or contractual relationship with a Pay Per Call (900 or 976) provider shall not provide Pay Per Call transmission service or billing services, unless the provider does each of the following: 1. Provides a preamble to the program which states the per minute and total minimum charges for the Pay Per Call service (900 and 976); child's parental notification requirement is announced on preambles for all programs where there is a potential for minors to be attracted to the program; child's parental notification requirement in any preamble to a program targeted to children must be in language easily understandable to children; and programs that do not exceed $3.00 in total charges may omit the preamble, except as provided in subparagraph (11)(b)3.; 2. Provides an 18 second billing grace period in which the end user/customer can disconnect the call without incurring a charge; from the time the call is answered at the Pay Per Call provider's premises, the preamble message must be no longer than 15 seconds. The program may allow an end user/customer to affirmatively bypass a preamble; 3. Provides on each program promotion targeted at children (defined as younger than 18 years of age) clear and conspicuous notification, in language understandable to children, of the requirement to obtain parental permission before placing or continuing with the call. The parental consent notification shall appear prominently in all advertising and promotional materials, and in the program preamble. Children's programs shall not have rates in excess of $5.00 per call, and shall not include the enticement of a gift or premium; 4. Promotes its services without the use of an autodialer or broadcasting of tones that dial a Pay Per Call (900 or 976) number; 5. Prominently discloses the additional cost per minute or per call for any other telephone number that an end user/customer is referred to either directly or indirectly; 6. In all advertising and promotional materials, displays charges immediately above, below, or next to the Pay Per Call number, in type size that can be seen as clearly and conspicuously at a glance as the Pay Per Call number. Broadcast television advertising charges, in Arabic numerals, must be shown on the screen for the same duration as the Pay Per Call number is shown, each time the Pay Per Call number is shown. Oral representations shall be equally as clear; 7. Provides on Pay Per Call services that involve sales of products or merchandise clear preamble notification of the price that will be incurred if the end user/customer stays on the line, and a local or toll free number for consumer complaints; and 8. Meets internal standards established by the LEC or IXC as defined in the applicable tariffs or contractual agreement between the LEC and the IXC; or between the LEC/IXC and the Pay Per Call (900 or 976) provider which when violated, would result in the termination of a		

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transmission or billing arrangement. (c) Pay Per Call (900 and 976) Blocking. Each LEC shall provide blocking where technically feasible of Pay Per Call service (900 and 976), at the request of the end user/customer at no charge. Each LEC or IXC must implement a bill adjustment tracking system to aid its efforts in adjusting and sustaining Pay Per Call charges. The LEC or IXC will adjust the first bill containing Pay Per Call charges upon the end user's/customer's stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will be made if necessary to reflect calls billed in the following month which were placed prior to the Pay Per Call service inquiry. At the time the charge is removed, the end user/customer may agree to free blocking of Pay Per Call service (900 and 976). (d) Dispute resolution for Pay Per Call service (900 and 976). Charges for Pay Per Call service (900 and 976) shall be automatically adjusted upon complaint that: 1. The end user/customer did not receive a price advertisement, the price of the call was misrepresented to the consumer, or the price advertisement received by the consumer was false, misleading, or deceptive; 2. The end user/customer was misled, deceived, or confused by the Pay Per Call (900 or 976) advertisement; 3. The Pay Per Call (900 or 976) program was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the end user/customer was disconnected or cut off from the service; 4. The Pay Per Call (900 and/or 976) service provided out-of-date information; or 5. The end user/customer terminated the call during the preamble described in subparagraph 25-4.110(11)(b)2., F.A.C., but was charged for the Pay Per Call service (900 or 976). (e) If the end user/customer refuses to pay a disputed Pay Per Call service (900 or 976) charge which is subsequently determined by the LEC to be valid, the LEC or IXC may implement Pay Per Call (900 and 976) blocking on that line. (f) Credit and Collection. LECs and IXCs billing Pay Per Call (900 and 976) charges to an end user/customer in Florida shall not: 1. Collect or attempt to collect Pay Per Call service (900 or 976) charges which are being disputed or which have been removed from an end user's/customer's bill; or 2. Report the end user/customer to a credit bureau or collection agency solely for non-payment of Pay Per Call (900 or 976) charges. (g) LECs and IXCs billing Pay Per Call service (900 and 976) charges to end users/customers in Florida shall implement safeguards to prevent the disconnection of phone service for non-payment of Pay Per Call (900 or 976) charges. (16) Companies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC Freeze is available. Existing customers must be notified annually that a PC Freeze is available. (17) The customer must be given notice on the first or second page of the customer's next bill in conspicuous bold face type when the customer's presubscribed provider of local, local toll, or toll service has changed. (18) If a customer notifies a billing party that they did not order an item appearing on their bill or that they were not provided a service appearing on their bill, the billing party shall promptly provide the customer a credit for the item and remove the item from the customer's bill, with the exception of the following: (a) Charges that originate from: 1. Billing party or its affiliates; 2. A governmental agency;		

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3. A customer's presubscribed intraLATA or interLATA interexchange carrier; and (b) Charges associated with the following types of calls: 1. Collect calls; 2. Third party calls; 3. Customer dialed calls for; and 4. Calls using a 10-10-xxx calling pattern. (19)(a) Upon request from any customer, a billing party must restrict charges in its bills to only: 1. Those charges that originate from the following: a. Billing party or its affiliates; b. A governmental agency; c. A customer's presubscribed intraLATA or interLATA interexchange carrier; and 2. Those charges associated with the following types of calls: a. Collect calls; b. Third party calls; c. Customer dialed calls; and d. Calls using a 10-10-xxx calling pattern. (b) Customers must be notified of this right by billing parties annually and at each time a customer notifies a billing party that the customer's bill contained charges for products or services that the customer did not order or that were not provided to the customer. (c) Small local exchange telecommunications companies as defined in Section 364.052(1), F.S., are exempted from this subsection. (20) Nothing prohibits originating parties from billing customers directly, even if a charge has been blocked from a billing party's bill at the request of a customer. *Specific Authority 350.127, 364.604(5) FS. Law Implemented 350.113, 364.03, 364.04, 364.05, 364.052, 364.17, 364.19, 364.602, 364.604 FS. History–New 12-1-68, Amended 3-31-76, 12-31-78, 1-17-79, 7-28-81, 9-8-81, 5-3-82, 11-21-82, 4-13-86, 10-30-86, 11-28-89, 3-31-91, 11-11-91, 3-10-96, 12-28-98, 7-5-00,*		

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25-4.112 Termination of Service by Customer. Any customer may be required to give reasonable notice of his intention to discontinue service. Until the telephone utility shall be notified, the customer may be held responsible for charges for telephone service. *Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.19 FS. History–New 12-1-68.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Although this rule favors the provider, it is not necessary in a competitive environment.	FCTA: No position.
25-4.113 Refusal or Discontinuance of Service by Company. (1) As applicable, the company may refuse or discontinue telephone service under the following conditions provided that, unless otherwise stated, the customer shall be given notice and allowed a reasonable time to comply with any rule or remedy any deficiency: (a) For non-compliance with or violation of any state or municipal law, ordinance, or regulation pertaining to telephone service. (b) For the use of telephone service for any other property or purpose than that described in the application. (c) For failure or refusal to provide the company with a deposit to insure payment of bills in accordance with the company's regulations. (d) For neglect or refusal to provide reasonable access to the company for the purpose of inspection and maintenance of equipment owned by the company. (e) For noncompliance with or violation of the Commission's regulations or the company's rules and regulations on file with the Commission, provided 5 working days' written notice is given before termination. (f) For nonpayment of bills for telephone service, including the telecommunications access system surcharge referred to in subsection 25-4.160(3), F.A.C., provided that suspension or termination of service shall not be made without 5 working days' written notice to the customer, except in extreme cases. The written notice shall be separate and apart from the regular monthly bill for service. A company shall not, however, refuse or discontinue service for nonpayment of a dishonored check service charge imposed by the company, nor discontinue a customer's Lifeline local service if the charges, taxes, and fees applicable to dial tone, local usage, dual tone multifrequency dialing, emergency services such as "911," and relay service are paid. No company shall discontinue service to any customer for the initial nonpayment of the current bill on a day the company's business office is closed or on a day preceding a day the business office is closed. (g) For purposes of paragraphs (e) and (f), "working day" means any day on which the company's business office is open and the U.S. Mail is delivered. (h) Without notice in the event of customer use of equipment in such manner as to adversely affect the company's equipment or the company's service to others. (i) Without notice in the event of hazardous conditions or tampering with the equipment furnished and owned by the company. (j) Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of service, the company may, before restoring service, require the customer to make, at his own expense, all changes in facilities or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the loss in revenues resulting from such fraudulent use. (2) In case of refusal to establish service, or whenever service is discontinued, the company shall notify the applicant or customer in writing of the reason for such refusal or discontinuance. (3) Service shall be initiated or restored when the cause for refusal or discontinuance has been satisfactorily adjusted. (4) The following shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer: (a) Delinquency in payment for service by a previous occupant of the premises, unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer shall benefit from	This rule should not apply to competitive markets or Streamlined Regulation companies. Although this rule favors the provider, it is not necessary in a competitive environment.	FCTA: No position.

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such new service. (b) Delinquency in payment for service by a present occupant who was delinquent at another address and subsequently joined the household of the customer in good standing. (c) Delinquency in payment for separate telephone service of another customer in the same residence. (d) Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residence service or vice versa. (e) Failure to pay for a service rendered by the company which is not regulated by the Commission. (f) Failure to pay the bill of another customer as guarantor thereof. (g) Failure to pay a dishonored check service charge imposed by the company. (5) When service has been discontinued for proper cause, the company may charge a reasonable fee to defray the cost of restoring service, provided such charge is set out in its approved tariff on file with the Commission. *Specific Authority 350.127, 427.704(8) FS. Law Implemented 364.03, 364.19, 364.604, 427.704 FS. History–Revised 12-1-68, Amended 3-31-76, 10-25-84, 10-30-86, 1-1-91, 9-16-92, 1-7-93, 1-25-95, 7-5-00.*		

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25-4.114 Refunds. (1) Applicability. With the exception of deposit refunds, all refunds ordered by the Commission shall be made in accordance with the provisions of this Rule, unless otherwise ordered by the Commission. (2) Timing of Refunds. Refunds must be made within ninety (90) days of the Commission's order unless a different time frame is prescribed by the Commission. Unless a stay has been requested in writing and granted by the Commission, a motion for reconsideration of an order requiring a refund will not delay the timing of the refund. In the event that a stay is granted pending reconsideration, the timing of the refund shall commence from the date of the order disposing of any motion for reconsideration. This Rule does not authorize any motion for reconsideration not otherwise authorized by Chapter 25-22, F.A.C. (3) Basis of Refund. Where the refund is the result of a specific rate change, including interim rate increases, and the refund can be computed on a per customer basis, that will be the basis of the refund. However, where the refund is not related to specific rate changes, such as a refund for overearnings, the refund shall be made to customers of record as of a date specified by the Commission. In such case, refunds shall be made on the basis of access lines. Per customer refund refers to a refund to every customer receiving service during the refund period. Customer of record refund refers to a refund to every customer receiving service as of a date specified by the Commission. (4) Interest. (a) In the case of refunds which the Commission orders to be made with interest, the average monthly interest rate until the refund is posted to the customers account shall be based on the thirty (30) day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of $1,000 as regularly published in the Wall Street Journal. (b) This average monthly interest rate shall be calculated for each month of the refund period: 1. By adding the published interest rate in effect for the last business day of the month prior to each month of the refund period and the published rate in effect for the last business day of each month of the refund period divided by twenty-four (24) to obtain the average monthly interest rate; 2. The average monthly interest rate for the month prior to distribution shall be the same as the last calculated average monthly interest rate. (c) The average monthly interest rate shall be applied to the sum of the previous month's ending balance (including monthly interest accruals) and the current month's ending balance divided by two (2) to accomplish a compounding effect. (d) Interest Multiplier. When the refund is computed for each customer, an interest multiplier may be applied against the amount of each customer's refund in lieu of a monthly calculation of the interest for each customer. The interest multiplier shall be calculated by dividing the total amount refundable to all customers, including interest, by the total amount of the refund, excluding interest. For the purpose of calculating the interest multiplier, the utility may, upon approval by the Commission, estimate the monthly refundable amount. (e) Commission staff shall provide applicable interest rate figures and assistance in calculations under this Rule upon request of the affected utility. (5) Method of Refund Distribution. For those customers still on the system, a credit shall be made on the bill. In the event the refund is for a greater amount than the bill, the remainder of the credit shall be carried forward until the refund is completed. If the customer so requests, a check for any negative balance must be sent to the customer within ten (10) days of the request. For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less that $1.00 will be made to these customers.	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment. Competitors of wireline providers do not have to comply with a similar requirement. However, because this rule is only applicable when the Commission orders a refund, the Petitioners do not object to leaving it in place and are agreeable to removing it from the list of rules that would be inapplicable under the competition test.	FCTA: No position.

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(6) Security for Money Collected Subject to Refund. In the case of money being collected subject to refund, the money shall be secured by a bond unless the Commission specifically authorizes some other type of security such as placing the money in escrow, approving a corporate undertaking, or providing a letter of credit. The Commission may require the company to provide a report by the 10th of each month indicating the monthly and total amount of money subject to refund as of the end of the preceding month. The report shall also indicate the status of whatever security is being used to guarantee repayment of the money. (7) Refund Reports. During the processing of the refund, monthly reports on the status of the refund shall be made by the 10th of the following month. In addition, a preliminary report shall be made within thirty (30) days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. The above reports shall specify the following: (a) The amount of money to be refunded and how that amount was computed; (b) The amount of money actually refunded; (c) The amount of any unclaimed refunds; and (d) The status of any unclaimed amounts. (8) With the last report under subsection (7) of this rule, the company shall suggest a method for disposing of any unclaimed amounts. The Commission shall then order a method of disposing of the unclaimed funds. *Specific Authority 350.127(2) FS. Law Implemented 364.05(4), 364.055(2), 364.07, 364.08, 364.19 FS. History–New 8-18-83.*		

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25-4.115 Directory Assistance. (1) Directory assistance service provided by any telephone company shall be subject to the following: (a) Charges for directory assistance shall be reflected in tariffs filed with the Commission and shall apply to the end-user. (b) The tariff shall state the number of telephone numbers that may be requested by a customer per directory assistance call. (2) Charges for calls within a local calling area or within a customer's Home Numbering Plan Area (HNPA) shall be at rates prescribed in the general service tariff of the local exchange company originating the call and shall be subject to the following: (a) There shall be no charge for directory assistance calls from lines or trunks serving individuals with disabilities. As used in this rule, "disability" means, with respect to an individual – A physical or mental impairment that prohibits a customer from using the telephone directory. (b) The same charge shall apply for calls within a local calling area and calls within an HNPA. (c) The tariff shall state the number of calls per billing month per individual line or trunk to the number designated for local directory assistance (i.e., 411, 311 or 611) for which no charges will apply. The local exchange company shall charge for each local directory assistance call in excess of this allowance. The charge shall not apply for calls from pay stations. (d) The local exchange company shall apply the charge for each call to the number designated for long distance directory assistance within the customer's HNPA (i.e., 1 + (850) 555-1212). *Specific Authority 350.127 FS. Law Implemented 364.02, 364.025, 364.03, 364.04, 364.07, 364.08 FS. History–New 6-12-86, Amended 6-3-90, 5-31-93, 11-21-95, 5-8-05.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment.	FCTA: No position.
25-4.117 800 Service. Telephone companies are prohibited from billing to or collecting from the originating caller any charges for calls to an 800 service subscriber. *Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.04, 364.051 FS. History–New 3-5-90.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment. At the May workshop, Staff asked if the ILECs would bill for 800 service if this rule did not apply. Participants also discussed whether FCC regulations precluded such billing. The FCC defines a "Toll Free Number" as "[a] telephone number for which the toll charges for completed calls are paid by the toll free subscriber. The toll free subscriber's specific geographic location has no bearing on what toll free number it can obtain from the SMS [Service Management System] database." 47 C.F.R. § 52.101(d). Federal law therefore prohibits billing to the originating caller for toll free numbers such as 800, 888 and 877 and no state rule is required to prevent such billing.	FCTA: No position.
2.c. TARIFF RULES:		
25-9.005 Information to Accompany Filings. (1) Except in the case of schedules published under authority of an order of the Commission that sets rates, charges or conditions of service, each letter of transmittal shall be accompanied by the following items in connection with each service classification in which any change is proposed:	This rule should not apply to competitive markets or Streamlined Regulation companies. Cost information has to be available but is not required to be filed, even for basic service.	FCTA: The ILECs' proposal rule would exempt telephone companies from demonstrating that their rates are not below their incremental cost when filing new tariffs.

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(a) As applicable, a tabulation in typical bill form setting forth, at representative consumption levels, the charges applicable under the present and proposed rates, together with the differences expressed in dollars and in percent; (b) The estimated gross increase or decrease in annual revenues resulting therefrom, if ascertainable. (2) In addition to the foregoing, Telephone Companies, Electric utilities and gas utilities shall provide the following: (a) A description of the service or equipment and its functions; (b) A statement of the justification for the change and documentation supporting that justification; (c) If a service or type of equipment is proposed to be limited or discontinued, a description of other service or equipment options available to customers. (d) A company may request a waiver of any of the requirements of this subsection upon a written application showing that the requirement is inordinately burdensome or unnecessary for analysis of its filing. The directors of the Divisions of Economic Regulation and Competitive Markets and Enforcement, respectively, will dispose of any such request. A company may request Commission review of a denial of a waiver. (3)(a) When a local exchange telephone company whose annual revenues from regulated telecommunications operations are $100,000,000 or more files a tariff to introduce a new service, incremental cost data shall be filed sufficient to demonstrate that the proposed rates for the service are not below incremental cost. When a local exchange telephone company whose annual revenues from regulated telecommunications services are less than $100,000,000 files a tariff for a new service, it shall provide incremental cost data, if available, or otherwise demonstrate that the proposed rates for the service are not below that local exchange company's incremental cost. (b) Where the change involves a rate or charge and the electric, gas, or telephone utility elects to make a cost study, the utility shall file a cost information statement containing a summary of the cost study performed, including: 1. All underlying assumptions; 2. The cost study number, if assigned; 3. The cost of providing the service or equipment; 4. The proposed contribution above or below direct cost, stated in both dollars and percent; 5. A statement as to why each above-cost or below-cost contribution rate was chosen; and 6. The anticipated effect of the change on the company's rate of return. (4) Whenever a new or additional service classification or rate schedule is filed with the Commission, the information required by subsection (1) above need not be furnished. In lieu thereof, a statement shall be filed stating the purpose and reason for the new service classification or schedule and, if determinable, the estimated annual revenue to be derived therefrom and the estimated number of customers to be served thereby. (5) The company shall provide a coded copy of each tariff sheet filed showing changes to the existing tariff sheet. Changes shall be indicated by inserting and underlining new words; words to be deleted shall be lined through with hyphens. (6) The provisions of paragraph (1)(b) and subsections (2) and (3) shall not apply to telephone interexchange carriers granted exemptions by Order No. 13678, issued September 13, 1984. *Specific Authority 350.127(2) FS. Law Implemented 364.05, 364.3381, 366.06, 367.081 FS. History–Repromulgated 1-8-75, 10-22-75, Amended 1-18-82, 8-8-85, Formerly 25-9.05, Amended 5-24-94.*	The Petitioners recognize that some cost requirements, imposed by statutes, would still have to be met, even if this rule was made inapplicable to Streamlined Regulation companies.	Like the PC freeze rule, this rule exists to promote fair competition, and is in the nature of an antitrust prohibition. This rule implements a statute and contains a methodology, *i.e.*, incremental cost, for creating a price floor for individual services. It is an antitrust type rule designed to prohibit predatory pricing and appears to implement a statutory provision. The ILECs identified this rule as one that should be deleted irrespective of whether competition exists, but did not quantify the burdens the rule placed on them or explain the legal basis for repealing a rule that implements a statute. In fact, this rule expresses the legislature's intent to ensure fair competition. No incentive exists to price below cost unless competition exists, and thus, the existence of competition heightens this rule's importance. The Louisiana PSC staff recently recommended rejecting a request by AT&T to repeal Louisiana's price floor rule. *See* Staff's Initial Recommendation, LPSC Docket No. R-30347 – *AT&T Louisiana Ex Parte, In re: Petition for Modification of Rules and Regulations Necessary to Achieve regulatory Parity and Modernization*, Sept. 17, 2008 at 42 ("Staff sees no advantage . . . to consumers by eliminating this rule and recommends that the Commission retain it.) The ILECs have provided no showing whatsoever to support their claim that this anti-trust type rule is unnecessary. The ILECs propose abolishing this rule and permitting competitors to seek the same information through a complaint proceeding. That would accomplish nothing other than shifting the burden of proof from the ILEC to the competitor to demonstrate whether the rates were above cost and not predatory, and would be contrary to the legislative purpose for this provision. In contrast, the compromise proposal of requiring a competitor to file a complaint to challenge an alleged below cost rate after the fact would accomplish very little, as litigating an antitrust case is notoriously difficult and time consuming. A procedure for waiver of this rule is already built into the rule. Moreover, the ILECs have asserted that staff often does waive this rule, which further undermines the ILECs assertion that the rule is burdensome and should be repealed.

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25-9.020 Front Cover. The front cover shall adequately identify the volume as the rate book or tariff filed by the particular utility with the Florida Public Service Commission governing the sale of the specific utility service provided. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.20.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Several other rules from Chapter 25-9 have also been included for that same reason. However, rules providing a format to allow the appropriate tracking of tariffs should remain in effect for Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.021 Title Page. The title sheet shall be a repetition of the front cover except that it shall be Sheet No. 1 of the rate book (upper right-hand corner) and shall have thereon the general information required by Rule 25-9.009, F.A.C., of these regulations. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.21.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.022 Table of Contents. (1) In rate books of less than thirty (30) sheets, the table of contents may serve as a detailed subject index for the entire volume or for all sections the size of which does not require an individual index. (2) In the larger rate books the major sections will be individually indexed in accordance with Rules 25-9.007 and 25-9.008, F.A.C. In these larger rate books the table of contents will serve as an index or guide to the separate sections as set out in said two rules. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.22.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.023 Description of Territory Served. (1) A brief, general description and/or map (8 1/2" × 11" inches) of the territory served by the utility shall be provided in this section. (2) Where the brevity of the description permits, this data may be placed on the title page (Rule 25-9.021, F.A.C., above) in which case this section may be omitted. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.23.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.024 Miscellaneous. There should be placed in this section any information or data of a general nature which the utility believes pertinent or informative and which does not belong under any of the specified captioned sections. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.24.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.025 Technical Terms and Abbreviations. This section shall contain full and concise information as to the meaning of all technical and special terms and abbreviations and of all reference marks used in the regulations or rate schedules. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.25.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.

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25-9.026 Index of Rules and Regulations. There shall be set forth in this section a detailed index of the utility's rules and regulations to facilitate ready reference to any particular rule. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.26.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.027 Rules and Regulations. (1) This section shall include all rules, regulations, practices, services, classifications, exceptions and conditions made or observed relative to the utility service furnished which are general and apply to all or many of the rate schedules or exchange areas served. (2) The regulations shall be lettered or numbered and titled so that convenient reference can be made to them. (3) If a general regulation does not apply to a particular schedule, classification or exchange, that fact should be clearly stated. *Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.27.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.029 Index of Rate or Exchange Schedules. (1) This section shall provide an index to facilitate prompt reference to any particular rate schedule or to any given exchange. (2) In cases where the rate sections for which this index is provided contain less than twelve (12) sheets, this section may be omitted. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.29.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.030 Rate Schedules – General. (1) All standard rate schedules governing service to customers shall be placed in and made a part of this section, except special contracts. (2) In case all the information pertaining to an individual rate schedule cannot be placed on one sheet, place the note "Continued to Sheet No. ____" at the bottom of the sheet and "Continued from Sheet No. ____" at the top of the next sheet. *Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.04, 366.05(1), 367.041(2) FS. History–Repromulgated 1-8-75, Formerly 25-9.30.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.032 Telephone Utility Exchange Schedules. (1) Local rates for no more than one exchange area shall appear on a single sheet. (2) Local exchange schedules shall be arranged alphabetically and the sequence of arrangement of information for each schedule shall be as follows: (a) Application of and exceptions to general regulations and rates shall be clearly stated. (b) Rates and services within the base rate area. (c) Rates and services outside the base rate area but within the exchange service area. (d) Miscellaneous local rates and services if not shown in or if they differ from the general rates and services otherwise applicable. (e) Map and/or written description of base rate area. (f) Map and/or written description of exchange service area. *Specific Authority 350.127(2), FS. Law Implemented 364.04 FS. History–Repromulgated 1-8-75, Formerly 25-9.32.*	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations prohibiting predatory pricing.
25-9.045 Withdrawal of Tariffs. Every public utility desiring to withdraw or cancel any tariff or any provision of a tariff which is considered no longer effective or necessary shall file with the Commission an informal application setting forth its reasons for desiring to withdraw or cancel such tariff or tariff provision, and	This rule should not apply to competitive markets or Streamlined Regulation companies.	FCTA: The ILECs should specify in detail what would replace the tariff system. CLECs currently are required to file price lists. Some form of price notification will remain necessary for the ILECs to comply with statutes and Commission regulations

Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
requesting permission to withdraw same. *Specific Authority 364.20, 367.121 FS. Law Implemented 364.05 FS. History–Repromulgated 1-8-75, Formerly 25-9.45.*		prohibiting predatory pricing.
2.d. SMALL LECs, ACCOUNTING & AUDIT ACCESS RULES:		
25-4.0201 Audit Access to Records. This rule addresses the reasonable access to utility and affiliate records provided by Section 364.183(1), F.S., for the purposes of management and financial audits. (1) The audit scope, audit program and objectives, and audit requests are not constrained by relevancy standards narrower than those provided by Section 364.183(1), F.S. (2) Reasonable access means that company responses to audit requests for access to records shall be fully provided within the time frame established by the auditor. In establishing a due date, the auditor shall consider the location of the records, the volume of information requested, the number of pending requests, the amount of independent analysis required, and reasonable time for the utility to review its response for possible claims of confidentiality or privilege. (3) In those instances where the utility disagrees with the auditor's assessment of a reasonable response time to the request, the utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the Prehearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision. (4) The utility and its affiliates shall have the opportunity to safeguard their records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to utility or affiliate records. (5) Reasonable access to records includes reasonable access to personnel to obtain testimonial evidence in response to inquiries or through interviews. (6) Nothing in this rule shall preclude Commission auditors from making copies or taking notes. In the event these notes relate to documents for which the company has asserted confidential status, such notes shall also be given confidential status. (7) Form PSC/RCA 6-R (2/95), entitled "Audit Document and Record Request/Notice of Intent" is incorporated by reference into this rule. This form is used by auditors when requests are formalized. This form documents audit requests, the due dates for responses, and all Notices of Intent to Seek Confidential Classification. *Specific Authority 350.127(2) FS. Law Implemented 364.183(1) FS. History–New 3-1-95.*	This rule should not apply to competitive markets or Streamlined Regulation companies. Competitors of wireline providers are generally not required to meet such requirements. Section 364.183, F.S., would continue to apply to assure PSC access to books and records. This rule adds little substance to the statute. Section 364.183, F.S., provides the PSC with broad authority to obtain records by specifying, "The commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the commission's jurisdiction." Section 364.183(1), F.S. The statute specifies that the PSC shall have access to the records of a company's affiliated companies and can request that the company "file records, reports or other data directly related to matters within the commission's jurisdiction in the form specified by the commission . . . ." *Id.* In other words, carriers are required to provide whatever the PSC requests and in the form specified. The statute also provides that certain documents shall be kept confidential. *Id.* In short, the rule is unnecessary because the statute provides all the direction that is necessary for conducting audits. If Staff wants to outline in greater detail the process to be used for an audit, it could be described in the letters sent to companies initiating an audit or could be added to Staff's Administrative Procedures Manual.	FCTA: No position.
25-4.200 Application and Scope. The purpose of this part is to adopt streamlined procedures for regulating small local exchange companies as required by Section 364.052, F.S. This part shall apply to all small local exchange companies, except as otherwise noted. *Specific Authority 350.127(2) FS. Law Implemented 364.052 FS. History–New 3-10-96.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment.	FCTA: No position.

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ITEM 2 – RULES THAT WOULD NOT APPLY IF THE COMPETITION TEST IS MET

Rules Not Applicable to Competitive Markets or Streamlined Regulation Companies	ILEC Comments	Intervenor Comments
25-4.202 Construction. (1) The intent of this Part is to minimize the regulation of small LECs with respect to audits, investigations, service standards, cost studies, periodic reports, evaluations, and discovery. Where the rules contained in this Part conflict with other provisions in Chapter 25, F.A.C., the conflicting rules shall be construed so that the less burdensome requirement will apply. (2) When determining whether regulatory requirements should be imposed on small local exchange companies, the Commission and its staff shall weigh the requirement's benefits against the cost of compliance by considering factors such as the amount of data and resources available, the relative amount of precision needed, and whether the use of outside consultants is necessary. *Specific Authority 350.127(2) FS. Law Implemented 364.052 FS. History–New 3-10-96, Amended 1-31-00.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment.	FCTA: No position.
25-4.210 Service Evaluations and Investigations. (1) Commission staff shall not conduct a service evaluation of a small local exchange company more frequently than every four years unless there is a compelling reason to do so. Reasons sufficiently compelling to justify service evaluations on a more frequent basis include, but are not limited to, poor results on the most recent service evaluation, a material number of customer complaints received by the Commission against a small local exchange company, service quality deficiencies indicated by the service quality reports filed by the small local exchange company with the Commission, reports of significant rule violations affecting service by a small local exchange company, or a complaint from a county or city regarding violation of one of the Commission's service standards. (2) During the course of undocketed generic investigations involving issues of general applicability to all or a part of the telecommunications industry, the following shall apply: (a) Commission staff shall coordinate data requests to small local exchange companies and weigh the benefit that would be gained from the information against the cost of compliance to determine whether the information is needed. (b) Upon receipt of a Commission staff data request, a small local exchange company may request to decline to respond if the small local exchange company does not have responsive data that will materially contribute to the resolution of the issue under review, or where responding to the data request would be unduly costly or otherwise burdensome. In such event, the small local exchange company shall notify the staff within a reasonable time after receipt of the request and shall state the basis for requesting to not respond. Any dispute arising from a small local exchange company's notification under this subsection shall be resolved by the Director of the division issuing the data request or the Director's designee. *Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.052, 364.15, 364.18 FS. History–New 3-10-96.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment.	FCTA: No position.
25-4.214 Tariff Filings. Tariff filings for new services and changes to an existing service that are submitted by small local exchange companies subject to the Commission's rate base and rate of return regulation shall go into effect on the 30th day following the day of filing unless: (1) The company requests a later effective date; or (2) The Commission suspends or denies the filing prior to the 30th day. *Specific Authority 350.127(2) FS. Law Implemented 364.04, 364.052 FS. History–New 3-10-96.*	This rule should not apply to competitive markets or Streamlined Regulation companies. This rule is not necessary in a competitive environment.	FCTA: No position.

DOCKET 080159-TP – SEPTEMBER 10, 2008 WORKSHOP
ITEM 3 – OTHER PROPOSED RULE REVISIONS

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
25-4.019 Records and Reports in General. ***(1) Each utility shall furnish to the Commission at such times and in such form as the Commission may require, the results of any required tests and summaries of any required records. The utility shall also furnish the Commission with any information concerning the utility's facilities or operations which the Commission may reasonably request and require. All such data, unless otherwise specified, shall be consistent with and reconcilable with the utility's annual report to the Commission.*** ***(2) Where a telephone company is operated with another enterprise, records must be separated in such manner that the results of the telephone operation may be determined at any time.*** ***(3) Upon notification to the utility, members may, at reasonable times, make personal visits to the company offices or other places of business within or without the State and may inspect any accounts, books, records, and papers of the company which may be necessary in the discharge of Commission duties. Commission staff members will present Commission identification cards as the written authority to inspect records. During such visits the company shall provide the staff member(s) with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable with the accommodations provided the company's outside auditors.*** **Specific Authority 350.127(2) FS. Law Implemented 364.18, 364.183, 364.386 FS. History–Revised 12-1-68, Amended 5-4-81, Formerly 25-4.19.**	~~*25-4.019 Records and Reports in General.*~~ ~~***(1) Each utility shall furnish to the Commission at such times and in such form as the Commission may require, the results of any required tests and summaries of any required records. The utility shall also furnish the Commission with any information concerning the utility's facilities or operations which the Commission may reasonably request and require. All such data, unless otherwise specified, shall be consistent with and reconcilable with the utility's annual report to the Commission.***~~ ~~***(2) Where a telephone company is operated with another enterprise, records must be separated in such manner that the results of the telephone operation may be determined at any time.***~~ ~~***(3) Upon notification to the utility, members may, at reasonable times, make personal visits to the company offices or other places of business within or without the State and may inspect any accounts, books, records, and papers of the company which may be necessary in the discharge of Commission duties. Commission staff members will present Commission identification cards as the written authority to inspect records. During such visits the company shall provide the staff member(s) with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable with the accommodations provided the company's outside auditors.***~~ **Specific Authority 350.127(2) FS. Law Implemented 364.18, 364.183, 364.386 FS. History–Revised 12-1-68, Amended 5-4-81, Formerly 25-4.19.**	***This rule should be repealed. It is not necessary as it adds little to Sections 364.18, 364.183 and 364.185, F.S. The Petitioners understand they would still be required to provide information in accordance with the applicable statutes.***	FCTA: No position.
25-4.022 Complaint - Trouble Reports, Etc. (1) Each telephone company shall maintain for at least six (6) months a record of all signed written complaints made by its subscribers regarding service or errors in billing, as well as a record of each case of trouble or service interruption that is reported to repair service. This record shall include the name and/or address of the subscriber or complainant, the date (and for reported trouble, the time) received, the nature of the complaint or trouble reported, the result of any investigation, the disposition of the complaint or	**25-4.022 Complaint - Trouble Reports, Etc.** (1) Each telephone company shall maintain for at least six (6) months a record, in either electronic or paper format, of all signed written complaints made by its subscribers regarding service or errors in billing~~, as well as a record of each case of trouble or service interruption that is reported to repair service~~. This record shall include the name and/or address of the subscriber or complainant, the date (and for reported trouble, the time) received, the nature of the complaint or trouble reported, the result of any investigation, the disposition of the complaint or service problem, and the	This rule should be revised. Maintenance of records of "trouble" or service interruption is not needed in today's competitive environment because customers will simply switch providers if a provider is not responsive to complaints or has frequent service interruptions. The requested revisions also reflect the fact that many records	FCTA: No position.

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
service problem, and the date (and for reported trouble, the time) of such disposition. (2) Each signed letter of complaint shall be acknowledged in writing or by contact by a representative of the company. *Specific Authority 350.127(2), 364.17 FS. Law Implemented 364.051, 364.17, 364.183, 364.20 FS. History–Revised 12-1-68, Formerly 25-4.22*	date (and for reported trouble, the time) of such disposition. (2) Each signed letter of complaint shall be acknowledged in writing or by <u>other means of</u> contact by a representative of the company. *Specific Authority 350.127(2), 364.17 FS. Law Implemented 364.051, 364.17, 364.183, 364.20 FS. History–Revised 12-1-68, Formerly 25-4.22*	are now stored electronically. Rules 25-4.020(3)(a) and 25-22.032(1), F.A.C., already require a telecommunications company to maintain certain records for a minimum of three and two years, respectively. At the May workshop, the Office of Public Counsel (OPC) stated that all "complaints," regardless of the means by which they were transmitted to a company, should be kept in accordance with this rule and expressed concern that the proposed rule revision would require only signed, written complaints to be maintained and tracked by a company. This concern appears to be based on a misunderstanding of the purpose of the rule change and about the Petitioners' current practices. This rule focuses on the requirements associated with maintaining signed, written complaints. The Petitioners currently track trouble reports electronically, generally entering them into the notes field on a customer's account or as part of a company's "trouble tracker." The Petitioners also have internal record retention policies requiring this information to be maintained. The proposed revision does not mean that the information on trouble reports would not be captured or maintained, but clarifies that the requirements of this rule would apply to signed, written complaints and that other	

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
		tracking and retention processes would be used for other complaints received.	

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Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
25-4.034 Tariffs. (1) Each telecommunications company shall maintain on file with the Commission tariffs which set forth all rates and charges for customer services, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relation of customer and utility. Tariff filings shall be in compliance with the requirements of Chapter 25-9, F.A.C., of the Commission rules entitled "Construction and Filing of Tariffs by Public Utilities." (2) Each company shall file, as an integral part of its tariff, maps defining the exchange service areas. These maps shall delineate the boundaries in sufficient detail that they may be located in the field and shall embrace all territory included in the certificate of convenience and necessity. (3) Each telecommunications company shall maintain on file in each of its business offices, available for public inspection upon request, a copy of the local exchange tariff for exchanges under the administration of that office, its general exchange tariff, and its schedule of intrastate toll rates. Each business office shall likewise make available a copy of Chapter 25-4, F.A.C., of the Florida Public Service Commission Rules and Regulations for public inspection upon request. *Specific Authority 350.127(2) FS. Law Implemented 364.04, 364.163 FS. History–New 3-31-76, Amended 11-29-82, Formerly 25-4.34, Amended 9-13-88, 4-16-90, 3-10-96.*	**25-4.034 Tariffs.** (1) Each telecommunications company shall maintain on file with the Commission tariffs which set forth all rates and charges for customer services, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relation of customer and utility. Tariff filings shall be in compliance with the requirements of Chapter 25-9, F.A.C., of the Commission rules entitled "Construction and Filing of Tariffs by Public Utilities." (2) Each company shall file, as an integral part of its tariff, maps defining the exchange service areas. These maps shall delineate the boundaries in sufficient detail that they may be located in the field and shall embrace all territory included in the certificate of convenience and necessity. ~~(3) Each telecommunications company shall maintain on file in each of its business offices, available for public inspection upon request, a copy of the local exchange tariff for exchanges under the administration of that office, its general exchange tariff, and its schedule of intrastate toll rates. Each business office shall likewise make available a copy of Chapter 25-4, F.A.C., of the Florida Public Service Commission Rules and Regulations for public inspection upon request.~~ *Specific Authority 350.127(2) FS. Law Implemented 364.04, 364.163 FS. History–New 3-31-76, Amended 11-29-82, Formerly 25-4.34, Amended 9-13-88, 4-16-90, 3-10-96.*	This rule should be revised to delete subsection (3), which is obsolete and unnecessary. Companies do not have business offices to the extent they did 10-20 years ago and records are now routinely stored electronically. Customers can request a copy of a tariff and a copy will be printed and provided in accordance with Section 364.04(1), F.S. The Petitioners will continue to provide customers with reasonable access to or copies of information regarding their services, including tariffs, if desired. Petitioners have ample incentive to comply with such requests, given the competitive pressures they face.	FCTA: No position.
25-4.046 Incremental Cost Data Submitted by Local Exchange Companies. (1) Incremental cost yields the appropriate price floor for pricing of individual services. This rule sets forth requirements for incremental cost data submitted by local exchange companies (LECs) to the Commission. (2) For each service for which an incremental cost study has been performed by or for a LEC and the LEC submits incremental cost data based on the study, the LEC shall provide: (a) An executive summary that includes, at a minimum: 1. An overview of the incremental cost study(ies) performed, a description	~~**25-4.046 Incremental Cost Data Submitted by Local Exchange Companies.**~~ ~~(1) Incremental cost yields the appropriate price floor for pricing of individual services. This rule sets forth requirements for incremental cost data submitted by local exchange companies (LECs) to the Commission.~~ ~~(2) For each service for which an incremental cost study has been performed by or for a LEC and the LEC submits incremental cost data based on the study, the LEC shall provide:~~ ~~(a) An executive summary that includes, at a minimum:~~ ~~1. An overview of the incremental cost study(ies) performed, a description of all~~	This rule should be repealed and the issue should be addressed on a complaint basis. Section 364.3381, F.S., covers the issue of the availability of this information if a complaint arises and, even without the rule, Staff can make a request for data and companies must comply. *See* section 364.3381(3), F.S., ("The commission shall have continuing oversight jurisdiction	FCTA: Like the PC freeze rule, this rule exists to promote fair competition, and is in the nature of an antitrust prohibition. This rule implements a statute and contains a methodology, *i.e.,* incremental cost, for creating a price floor for individual services and sets forth a format to help Staff understand the cost information. It is an antitrust type rule designed to prohibit predatory pricing and appears to implement a statutory provision. The ILECs identified this rule as one that should be deleted irrespective of whether competition exists, but did not quantify the burdens the rule placed on them or explain the legal basis for repealing a rule that implements a statute. In fact, this

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
of all cost models used, and a summary of the cost study results; 2. A discussion which demonstrates that the cost study methodology employed comports with accepted economic theory regarding incremental cost; 3. A discussion demonstrating the reasonableness of the assumptions made regarding the conditions projected to be in effect during the study's planning horizon; and 4. A discussion demonstrating the manner in which the service will be provisioned during the planning horizon. (b) A list of all factors and their values used in the study including, but not limited to, utilization factors, annual charge factors, expense factors and supporting structures factors. At Commission staff's request, supporting work papers showing the derivation of all factors used in the study shall be provided on 5 days' notice. (c) Where identifiable, the amount of any group-specific costs shall be identified but not added into the results for an individual service. Group-specific costs are those costs related to the provision of a group of services but not causally attributable to any specific service; (d) The amount and types of costs that are causally apportioned (as opposed to directly assigned) to individual services shall be identified and the LEC shall describe and provide support for the method of apportionment used; and (e) For new services which may have a significant revenue impact or where a rate restructure of an existing service is being proposed that may have either significant customer or revenue impact, a narrative or flowchart indicating the sequence of analyses performed leading to the cost results shall be provided. At Commission staff's request, all relevant work papers supporting the cost study shall be provided on 5 days' notice. (3) For each service for which a LEC submits incremental cost data not based on an incremental cost study performed by or for that LEC, the LEC shall provide a discussion demonstrating the reasonableness of using the surrogate cost data as the price floor for its service. *Specific Authority 350.127(2) FS. Law Implemented 364.3381 FS. History–New 5-24-95.*	~~cost models used, and a summary of the cost study results;~~ ~~2. A discussion which demonstrates that the cost study methodology employed comports with accepted economic theory regarding incremental cost;~~ ~~3. A discussion demonstrating the reasonableness of the assumptions made regarding the conditions projected to be in effect during the study's planning horizon; and~~ ~~4. A discussion demonstrating the manner in which the service will be provisioned during the planning horizon.~~ ~~(b) A list of all factors and their values used in the study including, but not limited to, utilization factors, annual charge factors, expense factors and supporting structures factors. At Commission staff's request, supporting work papers showing the derivation of all factors used in the study shall be provided on 5 days' notice.~~ ~~(c) Where identifiable, the amount of any group-specific costs shall be identified but not added into the results for an individual service. Group-specific costs are those costs related to the provision of a group of services but not causally attributable to any specific service;~~ ~~(d) The amount and types of costs that are causally apportioned (as opposed to directly assigned) to individual services shall be identified and the LEC shall describe and provide support for the method of apportionment used; and~~ ~~(e) For new services which may have a significant revenue impact or where a rate restructure of an existing service is being proposed that may have either significant customer or revenue impact, a narrative or flowchart indicating the sequence of analyses performed leading to the cost results shall be provided. At Commission staff's request, all relevant work papers supporting the cost study shall be provided on 5 days' notice.~~ ~~(3) For each service for which a LEC submits incremental cost data not based on an incremental cost study performed by or for that LEC, the LEC shall provide a discussion demonstrating the reasonableness of using the surrogate cost data as the price floor for its service.~~ *Specific Authority 350.127(2) FS. Law Implemented 364.3381 FS. History–New 5-24-95.*	over cross-subsidization, predatory pricing, or other similar anticompetitive behavior and may investigate, upon complaint or its own motion, allegations of such practices."). Thus, if the issue arises, it can be handled appropriately on a complaint basis.	rule expresses the legislature's intent to ensure fair competition. No incentive exists to price below cost unless competition exists, and thus, the existence of competition heightens this rule's importance. The ILECs propose abolishing this rule and permitting competitors to seek the same information through a complaint proceeding. That would accomplish nothing other than shifting the burden of proof from the ILEC to the competitor to demonstrate whether the rates were above cost and not predatory, and would be contrary to the legislative purpose for this provision. In contrast, the compromise proposal of requiring a competitor to file a complaint to challenge an alleged below cost rate after the fact would accomplish very little, as litigating an antitrust case is notoriously difficult and time consuming. Accordingly, this rule should be retained.

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ITEM 3 – OTHER PROPOSED RULE REVISIONS

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25-4.067 Extension of Facilities - Contributions in Aid of Construction. (1) Each telecommunications company shall make reasonable extensions to its lines and service and shall include in its tariffs filed with the Commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to serve applicants for service within its certificated area. (2) This line extension policy shall have uniform application and shall provide the proportion of construction expense to be borne by the utility in serving the immediate applicant shall be not less than five times the annual exchange revenue of the applicants. (3) If the cost which the servicing utility must bear under subsection (2) above (or has provided in its tariff) equals or exceeds the estimated cost of the proposed extension, the utility shall construct it without cost to the subscribers initially served. If the estimated cost of the proposed extension exceeds the amount which the utility is required to bear, the excess cost may be distributed equitably among all subscribers initially served by the extension. However, no portion of construction shall be assessed to the applicant for the provision of new plant where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is to be used to serve subscribers in general except in those instances where the applicant requests that facilities be constructed by other than the normal serving method. The company's tariffs shall provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of five years or such lesser period as the subscriber and company may mutually agree upon. (4) Line extension tariffs shall also contain provisions designed to require that all subscribers served by a line extension during the first five years after it is constructed shall pay their pro rata share of the costs assignable to them. (5) No company shall be required to extend facilities for new service unless the right-of-way necessary for the construction of line extension is provided by the applicant or group of applicants. Where pole attachments may be made in lieu of new construction costs, the company may charge the subscriber the expense or rental charges for such attachments, provided that the	**25-4.067 Extension of Facilities - Contributions in Aid of Construction.** (1) Each telecommunications company shall make reasonable extensions to its lines and service and shall include in its tariff filed with the Commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to serve applicants for service within its certificated area, to the extent such tariffs are required to be filed with the Commission. (2) This line extension policy shall have uniform application and shall provide the proportion of construction expense to be borne by the utility in serving the immediate applicant shall be not less than five times the annual ~~exchange~~ revenue that would be generated by providing basic local telecommunications service~~of the applicants~~. ~~(3) If the cost which the servicing utility must bear under subsection (2) above (or has provided in its tariff) equals or exceeds the estimated cost of the proposed extension, the utility shall construct it without cost to the subscribers initially served. If the estimated cost of the proposed extension exceeds the amount which the utility is required to bear, the excess cost may be distributed equitably among all subscribers initially served by the extension. However, no portion of construction shall be assessed to the applicant for the provision of new plant where the new plant parallels and reinforces existing plant or is constructed on or along any public road or highway and is to be used to serve subscribers in general except in those instances where the applicant requests that facilities be constructed by other than the normal serving method. The company's tariffs shall provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of five years or such lesser period as the subscriber and company may mutually agree upon.~~ ~~(4) Line extension tariffs shall also contain provisions designed to require that all subscribers served by a line extension during the first five years after it is constructed shall pay their pro rata share of the costs assignable to them.~~ (3~~5~~) No company shall be required to extend facilities for new service unless the right-of-way necessary for the construction of line extension is provided by the applicant or group of applicants. Where pole attachments may be made in lieu of new construction costs, the company may charge the subscriber the expense or rental charges for such attachments, provided that the applicant may elect to pay excess construction costs as though the service were provided without the use of attachments.	This rule should be revised to reflect that the revenue to be considered in determining whether CIAC is required is the revenue from the provision of basic local service. Subsections (3) and (4) are deleted as they are more properly covered in tariffs or in published terms and conditions.	FCTA: No position.

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
applicant may elect to pay excess construction costs as though the service were provided without the use of attachments. (6) Except as provided in filed tariffs, the ownership of all facilities constructed as herein provided shall be vested in the telecommunications company and no portion of the expense assessed against the applicant shall be refundable by the company. (7) Nothing in this rule shall be construed as prohibiting any utility from establishing an extension policy more favorable to customers as long as no undue discrimination is practiced between customers under the same or substantially the same circumstances and conditions. (8) In the event that a company and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review. *Specific Authority 350.127(2), 364.10 FS. Law Implemented 364.025, 364.03, 364.07, 364.08, 364.15 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.67, Amended 3-10-96.*	(4~~6~~) Except as provided in filed tariffs, the ownership of all facilities constructed as herein provided shall be vested in the telecommunications company and no portion of the expense assessed against the applicant shall be refundable by the company. (5~~7~~) Nothing in this rule shall be construed as prohibiting any utility from establishing an extension policy more favorable to customers as long as no undue discrimination is practiced between customers under the same or substantially the same circumstances and conditions. (6~~8~~) In the event that a company and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review. *Specific Authority 350.127(2), 364.10 FS. Law Implemented 364.025, 364.03, 364.07, 364.08, 364.15 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.67, Amended 3-10-96.*		

DOCKET 080159-TP – SEPTEMBER 10, 2008 WORKSHOP
ITEM 3 – OTHER PROPOSED RULE REVISIONS

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
25-9.034 Contracts and Agreements. (1) Wherever a special contract is entered into by a utility for the sale of its product or services in a manner or subject to the provisions not specifically covered by its filed regulations and standard approved rate schedules, such contract must be approved by the Commission prior to its execution. Accompanying each contract shall be completed and detailed justification for the deviation from the utility's filed regulations and standard approved rate schedules. If such special contracts are approved by the Commission, a conformed copy of the contract shall be placed on file with the Commission before its effective date. The provisions of this rule shall not apply to contracts or agreements governing the sale or interchange of commodity or product by or between a public utility and a municipality or R. E. A. cooperative, but shall otherwise have application. (2) Each utility shall make provision to file with the Commission a conformed copy of all such special contracts which are currently in effect and which have not been previously filed. (3) If the number and size of such special contracts warrant, they may be placed in a separate binder. *Specific Authority 366.05(1), 367.121 FS. Law Implemented 366.05(1), 367.041(2) FS. History–Amended 6-27-73, Repromulgated 1-8-75, Formerly 25-9.34.*	**25-9.034 Contracts and Agreements.** (1) Wherever a special contract is entered into by a utility for the sale of its product or services in a manner or subject to the provisions not specifically covered by its filed regulations and standard approved rate schedules, such contract must be approved by the Commission prior to its execution. Accompanying each contract shall be completed and detailed justification for the deviation from the utility's filed regulations and standard approved rate schedules. If such special contracts are approved by the Commission, a conformed copy of the contract shall be placed on file with the Commission before its effective date. The provisions of this rule shall not apply to contracts or agreements <u>entered into by telecommunications companies or agreements</u> governing the sale or interchange of commodity or product by or between a public utility and a municipality or R. E. A. cooperative, but shall otherwise have application. (2) Each utility shall make provision to file with the Commission a conformed copy of all such special contracts which are currently in effect and which have not been previously filed. (3) If the number and size of such special contracts warrant, they may be placed in a separate binder. *Specific Authority 366.05(1), 367.121 FS. Law Implemented 366.05(1), 367.041(2) FS. History–Amended 6-27-73, Repromulgated 1-8-75, Formerly 25-9.34.*	This rule should be revised. As is clear from the citations in the "Law Implemented" section, this rule was never intended to apply to telecommunications companies. The PSC at one time required ILECs to file quarterly Contract Service Arrangement Reports, but lifted that requirement in 2001. *See In re: Elimination of certain reporting requirements for incumbent local exchange telecommunications companies*, Docket No. 010634-TL, Order No. PSC-01-1588-PAA-TL (July 31, 2001). The proposed change clarifies the rule's intended scope and makes it consistent with the Commission's order.	FCTA: No position.
25-9.044 Change of Ownership. (1) In case of change of ownership or control of a utility which places the operation under a different or new utility, or when its name is changed, the company which will thereafter operate the utility business must adopt and use the rates, classifications and regulations of the former operating company (unless authorized to change by the Commission), and shall, within ten (10) days, issue and file a notice adopting, ratifying, and making its own all rates, rules, classifications and regulations of the former operating utility on file with the Commission and effective at the time of such change of ownership or control. (2) New utility. Within thirty (30) days after the filing of such adoption	**25-9.044 Change of Ownership.** (1) In case of change of ownership or control of a utility which places the operation under a different or new utility, or when its name is changed, the company which will thereafter operate the utility business must adopt and use the rates, classifications and regulations of the former operating company (unless authorized to change by the Commission), and shall, within ten (10) days, issue and file a notice adopting, ratifying, and making its own all rates, rules, classifications and regulations of the former operating utility on file with the Commission and effective at the time of such change of ownership or control. (2) New utility. Within thirty (30) days after the filing of such adoption notice by a public utility which then had no tariff on file with the Commission, said utility shall	This rule should be revised as noted to indicate that as to telecommunications companies, this rule applies only to rate-of-return regulated local exchange telecommunications companies.	FCTA: No position.

Existing Rule	ILEC Proposed Revisions to Rule	ILEC Comments	Intervenor Comments
notice by a public utility which then had no tariff on file with the Commission, said utility shall issue and file in its own name the tariff of the predecessor utility then in effect and adopted by it, or make application to the Commission for such other tariff as it may propose to put into effect in lieu thereof. (3) Utility already in business. Within thirty (30) days after the filing of such adoption notice by a public utility which then had a tariff on file with the Commission, said utility shall issue and file in its own name rate schedules and regulations on additional or revised sheets of its existing tariff, or by a complete reissue of its existing tariff, which shall set out the rates and regulations of the predecessor utility then in effect and adopted by it, or make application to the Commission for such other rates and regulations as it may propose to put into effect in lieu thereof. *Specific Authority 350.127(2), 364.335, 367.121 FS. Law Implemented 364.04 FS. History–Repromulgated 1-8-75, Formerly 25-9.44.*	issue and file in its own name the tariff of the predecessor utility then in effect and adopted by it, or make application to the Commission for such other tariff as it may propose to put into effect in lieu thereof. (3) Utility already in business. Within thirty (30) days after the filing of such adoption notice by a public utility which then had a tariff on file with the Commission, said utility shall issue and file in its own name rate schedules and regulations on additional or revised sheets of its existing tariff, or by a complete reissue of its existing tariff, which shall set out the rates and regulations of the predecessor utility then in effect and adopted by it, or make application to the Commission for such other rates and regulations as it may propose to put into effect in lieu thereof. (4) Regarding public utilities that are telecommunications companies, this rule shall apply only to rate-of-return regulated local exchange telecommunications companies. *Specific Authority 350.127(2), 364.335, 367.121 FS. Law Implemented 364.04 FS. History–Repromulgated 1-8-75, Formerly 25-9.44.*		