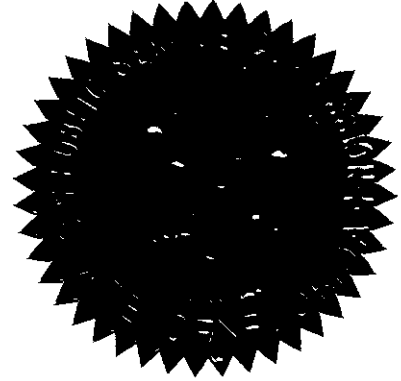


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080641-TP

In the Matter of:
DEVELOPMENT OF RULEMAKING.



VOLUME 1

Pages 1 through 45

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PROCEEDINGS: RULEMAKING WORKSHOP

DATE: Friday, October 10, 2008

TIME: Commenced at 9:38 a.m.
 Concluded at 10:41 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

DOCUMENT NUMBER-DATE

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FLORIDA PUBLIC SERVICE COMMISSION

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1 PARTICIPATING:

2 STAN GREER, representing AT&T Florida.

3 SUSAN CLARK, ESQUIRE, representing the Joint
4 Telecommunications Companies.

5 THOMAS M. MCCABE, representing TDS Telecom and
6 Quincy Telephone.

7 DAVID CHRISTIAN, representing Verizon Florida
8 LLC.

9 BETTYE WILLIS, ESQUIRE, representing
10 Windstream Communications.

11 DE O'ROARK, ESQUIRE, representing Verizon
12 Florida, LLC.

13 VICKI GORDON KAUFMAN, ESQUIRE, representing
14 Competitive Carriers of the South.

15 DAVID KONUCH, representing Florida Cable
16 Telecommunications Association.

17 J. R. KELLY, ESQUIRE, CHARLIE BECK, ESQUIRE,
18 and EARL POUCHER, representing the Citizens of the State
19 of Florida.

20 MIKE TWOMEY, ESQUIRE, representing AARP.

21 CECILIA BRADLEY, ESQUIRE, representing Office
22 of the Attorney General.

23 GAIL MARIE PERRY, representing Communications
24 Workers of America.

25 KATHRYN G. W. COWDERY, DALE MAILHOT, CINDY

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MILLER, RICK MOSES, BETH SALAK, and SALLY SIMMONS, FPSC
Staff.

P R O C E E D I N G S

1
2 MS. COWDERY: Pursuant to notice issued in the
3 September 26, 2008, Florida Administrative Weekly, this
4 time and place have been set for a rule development
5 workshop to amend and repeal certain rules in Chapters
6 25-4 and 25-9 pertaining to telecommunications.

7 I'm Kathryn Cowdery, an attorney with the
8 Office of General Counsel. Staff in attendance are
9 Sally Simmons from Compliance and Tariffs, Beth Salak
10 and Dale Mailhot from Regulatory Compliance, and Rick
11 Moses from Service, Safety and Consumer Assistance.

12 There's a sign-in sheet at the back of the
13 room. If you sign in, it helps us make sure that your
14 name and organization are spelled correctly and that we
15 have your current e-mail address.

16 The rules in the package have been put in the
17 order they appear on the agenda for your convenience and
18 for helping us move through our agenda in a timely and
19 efficient manner. These are the same rules that
20 appeared in the September 25th published notice of rule
21 development. The order of appearance is different, and
22 that's all.

23 Our workshop is being transcribed, so as Dale
24 mentioned, it's important for you to speak clearly.
25 Please identify yourself. This workshop is also being

1 transmitted on audio. This will help people who are
2 listening in to know who is speaking also.

3 I would like to go ahead and take quick
4 appearances of people who are at the table or who think
5 they may speak, if we could start maybe with Ms. Clark.

6 MS. CLARK: I'm Susan Clark. I'm with the law
7 firm of Radey, Thomas, Yon & Clark, and I'm here on
8 behalf of the joint petitioners.

9 MS. WILLIS: Good morning. My name is Bettye
10 Willis. I am here on behalf of Windstream
11 Communications.

12 MR. GREER: Good morning. I'm Stan Greer with
13 AT&T Florida.

14 MR. McCABE: Tom McCabe with TDS Telecom.

15 MR. O'ROARK: De O'Roark with Verizon Florida.

16 MS. KAUFMAN: Vicki Gordon Kaufman with the
17 law firm of Anchors Smith Grimsley on behalf of the
18 Competitive Carriers of the South.

19 MR. KONUCH: Dave Konuch, Florida Cable
20 Telecommunications Association.

21 MR. TWOMEY: Mike Twomey on behalf of AARP.

22 MR. BECK: Good morning. I would like to make
23 an appearance for J. R. Kelly and Earl Poucher and
24 myself, Charlie Beck, all with the Office of Public
25 Counsel.

1 MS. PERRY: I'm Gail Marie Perry with the
2 Communications Workers of America.

3 MS. COWDERY: Okay. Going back to our agenda,
4 we've divided the rules into Group A and B rules. We'll
5 take the groups one at a time. The Group A rule
6 amendments and repeals, we think there may not be much,
7 if any, need for comment, but if you have comments, you
8 know, feel free.

9 And I think we'll let Dale explain the
10 changes, and then the participants will have an
11 opportunity when he's done to comment as they see fit.

12 MR. MAILHOT: If everybody has an agenda and
13 the attachments to it, what I would first like to
14 discuss is the attachment that's labeled "Group A
15 Rules." These are some proposed changes that staff has
16 to the rules as they exist now. For those of you who
17 were here at the September 10th workshop, at the very
18 end of that workshop, I passed out to everybody that I
19 could find a copy of some proposed rule changes, and
20 what you see here under our Group A Rules is virtually
21 identical to what was in that handout.

22 In the meantime, since September 10th, you
23 know, we've worked with a few of the parties, you know,
24 trying to iron out a few of the small differences. So
25 there has been some very minor changes, I believe it's

1 just to Rule 4.034. Other than that, I think that
2 everything in this Group A Rules attachment is identical
3 to what was handed out at that point in time.

4 We would like -- today, what we would try
5 accomplish is to find out from people if they have any
6 disagreement with what's in this Group A attachment.
7 And if you have any disagreement, please feel free to
8 tell us what it is. You know, we would like to know if
9 there's some way to resolve it.

10 Our intention before too long is to take
11 what's in this package that's labeled "Group A Rules,"
12 to take this to agenda, you know, for the Commission to
13 vote on so that we can hopefully, you know, get another
14 group of these rules kind of like behind us in this
15 whole process.

16 I don't know -- I didn't intend to really go
17 through these Group A rules one at a time, but if people
18 have -- if you want to either take five minutes to look
19 at them, or if people prefer just to, you know, give us
20 your comments right now, that would be fine.

21 MS. CLARK: Dale, this is Susan Clark. I
22 think we just have two rules to say something on, and I
23 think Stan was going to cover 4.034, and then Tom McCabe
24 wants to make a comment on 4.202. And other than that,
25 based on your representation that it's the same as what

1 you handed out the last time, those would be our
2 comments for Group A.

3 MR. MAILHOT: Do you want to go ahead and give
4 us your specific comments?

5 MR. GREER: Sure. This is Stan Greer with
6 AT&T.

7 On .034, the tariff rule, it doesn't have a
8 page, so it's the -- where is it? It's right before you
9 get to 25-9.001. It's (6)(f)2, where it says, "used in
10 any proposed changes to the existing tariff shall appear
11 in the right-hand margin of each sheet."

12 We would like to change that to "tariff shall
13 appear on the right hand of each sheet," and essentially
14 just change the word "in" to "on" and then strike the
15 word "margin." And I think I've talked with staff, and
16 I didn't think they had a problem with that.

17 MS. SIMMONS: This is Sally Simmons with
18 staff. The only, I guess, afterthought I would have,
19 Stan, is that I don't know if it should say "on the
20 right-hand side" as opposed to "on the right hand."

21 MR. GREER: That's fine. I don't have a
22 problem with that.

23 MS. SIMMONS: Okay. But I do not have a
24 problem with this modification. I mean, there are
25 instances where certain companies have rates indented in

1 the body of the tariff and they put these symbols right
2 adjacent to those rates so that they do not actually
3 appear in the right-hand margin, but more in the
4 interior to the right of the affected rate. So I do not
5 have any problem with that change at all.

6 MR. GREER: Besides that, that's all I have.
7 I think Tom had one.

8 MR. McCABE: Tom McCabe with TDS Telecom.
9 Rule 25-4.202, on the construction, I spoke with all the
10 small local exchange companies, and there's an objection
11 from them as well as us to remove that rule.

12 Initially when we looked at going into this
13 docket, the idea was that we were going to be treated
14 the same as our competitors are, and it appears that
15 it's going in a little bit different direction than
16 that. And so with that, we don't think that it's in our
17 best interest to give up a rule that was put into place
18 that was designed to minimize some of the burdens that
19 are on the small local exchange companies that was put
20 in through legislation.

21 MR. MAILHOT: Okay. So are you saying at this
22 point that you do not want to repeal that rule?

23 MR. McCABE: Correct.

24 MR. MAILHOT: Okay. We'll look at it again.
25 I mean, our thought was that it is fairly repetitive of

1 what's in the statute, but, you know, we'll review it.

2 MR. McCABE: We'll be glad to talk to you all
3 about it and try to figure out exactly, you know, where
4 it is. The difficulty is -- I mean, we haven't
5 necessarily used that in the past. That does not mean
6 that we might not have to be looking at using that in
7 the future, and so that would be the concern that we
8 have.

9 MR. MAILHOT: Okay. Let us look at that. How
10 about the first rule in that group? Did you have any --

11 MR. McCABE: I don't have a problem with
12 eliminating that, given that it said that you had to --
13 the statute required you to develop rules, and that's
14 what you did, so --

15 MR. MAILHOT: Right.

16 MR. McCABE: That's the only purpose of that.
17 We don't see any problem with elimination.

18 MR. MAILHOT: All right. Well, we'll look at
19 that and get back with everybody on that issue.

20 Any other particular comments on the Group A
21 rules?

22 MS. KAUFMAN: I have a comment. Vicki Kaufman
23 on behalf of Comp South.

24 Most of you know here that Comp South has
25 entered into a stipulation with the ILECs in regard to

1 the market test being withdrawn, and that has happened.
2 Part of that stipulation involves a request that on any
3 of these repeals, amendments, whatever, that the
4 Commission include the same language regarding the SEEMs
5 enforcement plan that was included in the order. I
6 think it was on September 4th, whatever the prior order
7 that was issued on what we called the non-controversial
8 rules, be included in any rulemaking order that's issued
9 as a result of this workshop.

10 MR. KONUCH: This is David Konuch from the
11 Florida Cable Telecommunications Association, and we
12 have just a few questions on the Group A rules. And
13 it's more just a case for us of trying to just
14 understand why certain revisions were made. And I think
15 in most cases it's pretty obvious, but I'm basically
16 trying to make sure I understand everything that was
17 done.

18 At the end when we talk about the exchange
19 schedules, that part of the rules was deleted, I guess.
20 What was the intent of doing that?

21 MR. MAILHOT: Okay. I assume you're talking
22 about -- I think it's like 9.032.

23 MR. KONUCH: Right, that's correct. I'm
24 trying to develop something. I'm just trying to explain
25 it to my members, and I wasn't sure why it was done. It

1 looks fairly innocuous, but I didn't understand why it
2 was done, so I thought I would ask.

3 MS. SIMMONS: This is Sally Simmons with
4 staff. It's our belief that that's covered adequately
5 through the LEC tariff rule. Some of this -- and when I
6 say LEC tariff rule, I'm referring to 25-4.034.

7 And also, some of this information is
8 outdated. It talks about base rate areas, which really
9 wouldn't be applicable today. Also, as far as
10 requirements for maps, there are exchange map
11 requirements in the LEC tariff rule. So we believe that
12 25-9.032 really is not needed anymore.

13 MR. KONUCH: And the other rule that we had an
14 issue with was 25-9.005, and I noticed that (3)(a) of
15 that rule was struck through. And it's my understanding
16 that the reason that was done is to comport with a
17 stipulation and an order that was entered into back in,
18 I guess, '95 or '96. And I was wondering if you could
19 maybe explain just a little bit of where that order is
20 and just what it does just so there's a record of it.

21 For folks who are, you know, just looking at
22 it at a later time, sometimes it can be hard to really
23 connect all the dots. So for my benefit in trying to
24 just make sure I've connected the dots correctly, maybe
25 we could have you talk a little bit about why that

1 particular revision was made.

2 MS. SIMMONS: All right. Certainly. This is
3 Sally Simmons again with staff.

4 There was a docket late in 1995. It was
5 Docket No. 951159, and that docket was set up to
6 basically determine appropriate procedures for
7 implementing the non-basic services portion of the price
8 regulation statute. And in that docket, there was a
9 stipulation among a number of parties that set up
10 non-basic service categories and also specified all the
11 procedures that would be followed. That was Order No.
12 -- oh, I'm getting ahead of myself. I'm sorry.

13 The Commission approved the stipulation among
14 several parties to this docket by Order No.
15 PSC-96-0012-FOF-TL. And within the stipulation, there
16 was a provision that, and I'm quoting, an incremental
17 cost study should not be required. However, a study
18 should be made available upon request by the Commission
19 staff on five working days notice.

20 This particular provision was in conjunction
21 with non-basic tariff filings, and the idea was that
22 while in the past, studies had been provided at the time
23 of filing, in the new price regulation world, the
24 parties through stipulation agreed that that was no
25 longer appropriate and that it would be sufficient if

1 studies were provided upon request to staff. So that's
2 a little bit of the background on that order that you
3 were referencing.

4 MR. KONUCH: And I guess in addition to us
5 talking about it here today, would that be explained in
6 the staff rec, why that particular recommendation was
7 made? I'm just trying to make sure that anyone coming
8 in later on and looking at this can connect all the dots
9 without having the institutional knowledge that perhaps
10 many of us have.

11 MS. SIMMONS: This is Sally Simmons again.
12 Yes, it could be.

13 There's another way of looking at this as
14 well, and this would kind of get us into the Group B
15 rules. But we also believe that there are other ways
16 for staff to obtain the necessary incremental cost
17 information without reliance on 25-9.005. And I could
18 go through that now or later if you would like.

19 MR. KONUCH: Well, is the thought that these
20 two rules would kind of work together?

21 MS. SIMMONS: Yes, that's fair. I'll try to
22 address it briefly.

23 There is a LEC incremental cost rule, Rule
24 25-4.046, and I'm trying to see where it appears on the
25 list. It's in the Group B category. What I would say

1 is that you have that incremental cost rule.

2 Also, there are portions of the statute that
3 are very helpful here. There's Section 364.183 that
4 deals with access to records, and we have Section
5 364.3381 that deals with cross-subsidization. The
6 incremental cost rule together with these two statutory
7 sections staff believes would give us authority to
8 obtain necessary information whenever there's a question
9 about whether or not a rate is compensatory. So it can
10 also be looked at that way.

11 So we have a couple of different ways of
12 looking at it. There is the early 1996 order, which
13 basically said it would not be necessary to file a cost
14 study with a tariff filing. There's that. Also, we
15 have the incremental cost rule, together with sufficient
16 statutory authority, we believe, to ask for information
17 using that rule, and in turn, that staff believes would
18 give us whatever we need in terms of evaluating whether
19 or not a rate is compensatory.

20 MR. MAILHOT: And I think also in Rule 20 --
21 in 9.005, you have to remember that it's a very limited
22 rule. It only applies to when they introduce -- when a
23 company, when an ILEC introduces a new service. It
24 doesn't apply to every tariff filing that they make.

25 So actually, in terms of introducing new

1 services, I'm not sure -- you know, maybe the company
2 remembers, but I don't recall exactly when -- the last
3 time when they've introduced a new service. It has been
4 a long time. The companies quite often might rebundle
5 services or, you know, take existing services and
6 reconfigure them, but in terms of a new service, I think
7 it has been a long time.

8 So it's not a frequently used rule to begin
9 with, you know, so that's another reason it's really not
10 that much concern to us, because we feel that in this
11 situation, even if it is a new service, we can ask for a
12 cost study if we want one, I mean, under the statute.
13 We don't feel that eliminating this rule eliminates any
14 authority or anything like that.

15 MS. SIMMONS: That's correct. This is Sally.
16 I would agree with Dale's comments that really the
17 aspect of 9.005 that perhaps is of concern to FCTA has
18 very narrow applicability, and we believe that there are
19 broader vehicles that can be used, the LEC incremental
20 cost rule, together with the statute that provides
21 access to company records, the cross-subsidization
22 statute. We believe that there is ample basis for
23 requesting the information that might be needed to
24 address any question of whether or not a rate is
25 compensatory.

1 MR. KONUCH: Well, thank you so much for that
2 explanation. And like I said, I'm just trying to make
3 sure I understand everything. I mean, this is
4 incredibly helpful and goes a long way towards helping
5 me make sure that I'm providing the best advice to my
6 clients, so I really appreciate all this explanation.
7 I'm starting to understand this a lot better, so I
8 really appreciate it.

9 Other than that, I don't think that we have
10 any particular comments on the Group A rules. We had
11 commented on some of the tariff rules. I think the
12 initial ILEC proposal was to get rid of them completely,
13 but that was ultimately modified.

14 And I think our position is just, rather than
15 getting rid of them completely, there should be
16 something there to, I guess, serve the same purpose.
17 And I believe that's what the intent of the staff
18 recommendation was, so I don't know that we have any
19 position on those changes at this point.

20 MR. MAILHOT: I think as a general
21 explanation, what we've tried to do in 4.034, the tariff
22 rule, is take all the rules that, you know, previously
23 were in 25-9 and boil them down and get what we think is
24 important and necessary and kind of condense that all
25 into just a few paragraphs, you know, to make it easier

1 for everyone to understand what's supposed to be in
2 their tariffs and what requirements -- you know, what we
3 consider to be true requirements of a tariff or a tariff
4 filing. That's what our intent was. You know, there
5 are things in 25-9 that we don't believe we need or are
6 no longer useful or may even be duplicative of what's
7 already in 25-4, so that's why we're comfortable with
8 making the changes that we've proposed here.

9 Mike, any comments or questions?

10 MR. TWOMEY: Yes, just briefly. AARP supports
11 the proposed revisions to the rules by staff.

12 MR. BECK: Likewise, we very much agree with
13 the approach that Dale just mentioned.

14 MR. MAILHOT: Ms. Perry?

15 MS. PERRY: Gail Marie Perry with the
16 Communication Workers. I did have a question. I
17 thought somebody else had asked it in regards to
18 25-4.202, the construction. Is that covered elsewhere
19 in the rule or in the statutes?

20 And my only concern is, I know that my workers
21 are very excited because of the new technology that is
22 blooming forth in the state, and this here takes care of
23 what's in the ground already, kind of like oversight of
24 what's in the ground already, of the facilities in the
25 ground. And again, with the new technology that's

1 moving forward with many companies across the state, I
2 just don't want what is there to be overlooked. And if
3 it's covered elsewhere, I'll be quiet.

4 MR. MAILHOT: Yes. I think what may be a
5 little bit confusing is the title of that rule where it
6 says "construction." It's really not -- it doesn't mean
7 like construction of plant. It's really referring to
8 construction of these rules.

9 MS. PERRY: Okay.

10 MR. MAILHOT: Yes, it's kind of misleading.
11 If nothing else, maybe we ought to change the title.

12 But anyway, our thought on that rule was that
13 it is more or less duplicative or doesn't add much to
14 what's already in the statute in terms of, you know, how
15 a small local exchange company is supposed to be
16 regulated. But, you know, we'll look at that in
17 response to Tom's concern. You know, if it actually
18 does add something or they feel they need it, you know,
19 we'll think about it.

20 MS. PERRY: Thank you.

21 MR. MAILHOT: And we just had somebody else
22 come in.

23 MS. BRADLEY: Yes. This is Cecilia Bradley,
24 Office of the Attorney General.

25 MR. MAILHOT: Okay. Does anybody else have

1 any comments, concerns, or questions about what we've
2 included in the Group A rules here?

3 MS. SIMMONS: Dale, I was just going to make a
4 quick comment to Ms. Perry, and that is, you might want
5 to take a look at Section 364.052(2)(b), Florida
6 Statutes. That might give you some comfort.

7 MS. PERRY: Thank you.

8 MS. COWDERY: I think we're ready to move on
9 to the Group B rules. Staff has reviewed all the
10 written comments to the Group B rules which were
11 previously submitted following workshops in Docket
12 080159. And we will take those comments into
13 consideration in this rulemaking, but we will also go
14 through these rules now to take any comments,
15 specifically, if you've got any alternative language
16 proposals which are not already addressed in your
17 previously submitted contracts.

18 So, Dale, do you want to go through them?

19 MR. MAILHOT: On the Group B rules, what's
20 listed there are primarily the remaining rules that were
21 in the ILECs' original petition that I believe now in
22 the revised petition, they're primarily on what the
23 ILECs have asked to be repealed, what's been included as
24 Attachment 1 on the revised petition or the stipulation.

25 And staff at this point doesn't have any real

1 good suggestions or good alternatives to put forward,
2 so, you know, we just wanted to know today. If anybody
3 has any thoughts or ideas, you know, other than what's
4 in their written comments that they would like to
5 propose, we would like to hear about it.

6 Now, there are -- it appears from looking at
7 the most recently filed comments that there are perhaps
8 two or three of these rules that are in the Group B
9 rules that we might want to discuss. We did have an
10 alternative, and the petitioners, you know, may have
11 their own alternative to simply repealing a couple of
12 these rules. So there are two or three that we're
13 prepared to discuss, but the majority of these, we're
14 just really looking for any comments that anyone might
15 have, whether they're the general comments or specific
16 comments about these rules.

17 I don't know if -- I don't really think we
18 necessarily want to go through them one by one, but if
19 people have specific rules they want to discuss, you
20 know, we can go through them randomly almost, if you
21 want. As I said, you know, we have two or three that
22 we're prepared to discuss, but beyond that, we really
23 don't have much for positions on these.

24 MS. COWDERY: I'm going to suggest that maybe
25 we go through a little bit in the order of how they

1 appear on Group B just to have our comments a little
2 consolidated. You know, we could start out with Rule
3 25-4.002 and 4.006. We'll just start with those two if
4 anyone has any comments they would like to make.

5 MR. GREER: This is Stan Greer with AT&T.
6 Before we get to that point, Dale, do you envision
7 moving any of these Group B rules to your Group A list?
8 I mean, looking at the comments that were filed, it
9 appears that some of them may be able to, but I don't
10 know what your thoughts are.

11 MR. MAILHOT: There might be one or two that,
12 you know, if everybody says, "Yeah, that's what we ought
13 to do," then --

14 MR. GREER: For instance, like .002, you had
15 it in your original list that you handed out after the
16 last workshop, where your thought was to keep that rule
17 with the pieces where you were adding residential just
18 so they could all be addressed at one time?

19 MR. MAILHOT: Yes. You're talking about the
20 -- it's hard to address 4.002 without addressing four or
21 five other rules with it, so that was our thought, that
22 somehow those will go together. We won't just try to
23 take 4.002 by itself.

24 MR. GREER: Okay. Okay.

25 MS. COWDERY: Does anybody have any comments

1 on those first two rules?

2 MR. KONUCH: Which rules are you referring to?

3 MS. COWDERY: The first two on the agenda
4 under Group B, and they would be the first two in order
5 on the Group B rule handout. One is 25-4.002,
6 Application and Scope, and 25-4.046, Incremental Cost
7 Data Submitted by Local Exchange Companies.

8 MR. GREER: This is Stan Greer with AT&T
9 Florida. We still believe -- on .046, we still believe
10 the statute gives you sufficient authority, and you
11 don't need that rule.

12 MS. COWDERY: Nothing further?

13 MR. KONUCH: This is Dave Konuch from Florida
14 Cable Telecom Association.

15 Could you just provide a little bit of the
16 rationale behind the proposed revisions to 4.046? I
17 think I understand what the intent of it was, but I want
18 to make sure that I just follow the purpose behind these
19 proposals.

20 MS. SIMMONS: This is Sally Simmons with
21 staff. What we were attempting to do is simply add a
22 little bit of clarification. The way the rule reads at
23 the moment, the trigger for application of the rule is
24 not terribly clear. It basically is describing what a
25 LEC is expected to provide when they submit an

1 incremental cost study, but it really doesn't describe
2 what is the trigger for that action, so we tried to
3 clarify that.

4 And it's also my recollection that we thought
5 there were some time frames that perhaps were not really
6 spelled out in the rule, and we were trying to eliminate
7 some ambiguity. But as far as the real substance of the
8 rule, we're not suggesting doing anything significant to
9 it.

10 I guess in response a little bit to
11 Mr. Greer's comment, it's true that there is statutory
12 authority to obtain information of this sort. Staff
13 believes, however, it's helpful to have the specifics
14 delineated in this rule, because we believe there would
15 be less disagreement when we have a situation where
16 incremental cost data needs to be supplied, and we
17 believe it might eliminate some back and forth by having
18 the rule as opposed to not having the rule.

19 MR. GREER: This is Stan Greer with AT&T. I
20 understand the logic that you have. Unfortunately, you
21 know, the statute gives you the ability to ask for the
22 data. Generally when we have this kind of data that
23 we're providing you, it's in two instances. It's when
24 we file a tariff that you ask to see some cost support,
25 and it's when we are in a complaint and we're in some

1 type of dispute proceeding, whether it's arbitration or
2 whether it's an actual complaint process, that you ask
3 for that information, and you tell us what you want and
4 how you want it.

5 If we don't provide that information or have
6 sufficient information to support what we're dealing
7 with in a given complaint or the tariff, then, of
8 course, we lose. And it just doesn't make sense to have
9 a rule that duplicates the statute.

10 MS. SIMMONS: I guess the only -- this is
11 Sally Simmons again. I guess the only follow-up comment
12 I would really have is that there are instances when
13 staff is reviewing tariff filings that we believe we do
14 need some more information, and particularly in those
15 situations, we believe it would be helpful to retain the
16 specificity. It's not often that we go to that level of
17 detail, but having that put forth in a rule we believe
18 is helpful.

19 I guess in the final analysis, it's somewhat
20 in the eyes of the beholder, but I just wanted to make a
21 few comments about why staff believes the specificity
22 can be helpful. And we do not really see any detriment
23 at this point.

24 MS. CLARK: To that point, I would say that
25 when you ask for the information, you could ask for that

1 specificity -- I'm sorry. Susan Clark. You could ask
2 for that specificity when you make the request. The
3 only thing I would note is that it's my understanding
4 that at least -- maybe I'm wrong, that AARP and OPC and
5 AG are comfortable with repealing that rule.

6 MR. GREER: And this is Stan Greer with AT&T.
7 Is there a detriment? I don't know. But the way that
8 you ought to be looking at the rules is, is it
9 necessary, not is it a detriment, or is it that you're
10 complying with it today, so there's not a big problem.
11 It's is it necessary in a competitive environment. This
12 one is clearly not, especially since you have statutory
13 authority to request whatever information you need.

14 MR. MAILHOT: Well, we'll look at that. I
15 mean, we're still considering what to do.

16 MR. GREER: Sure.

17 MR. MAILHOT: You know, we're just kind of
18 looking for any new comments primarily.

19 MS. SALAK: And I agree with Mr. Mailhot. We
20 are still looking at what to do.

21 I would just suggest to you that it's almost
22 more of a matter of a streamlining measure, that, you
23 know, we know up front what we want and what we're going
24 to need. You know, we're not going to ask for -- are
25 you saying that because you know what we're going to

1 want and going to need, you're going to have to have it
2 all ready before you file?

3 MR. GREER: Well, in my cases, I know what
4 you're wanting, and I know what you need, and if I don't
5 keep that in the format that you want it or need it, I'm
6 going to have a hard time when I bring a case over here
7 before you winning or losing. So, I mean --

8 MS. SALAK: Mr. Greer, I'm sure you know what
9 we want and what we need, but you're not always going to
10 be there. It's just -- people turn over, and it's just
11 a matter of letting the companies be aware of what we
12 want. That was all I was saying. And I understand that
13 you know what we want right now.

14 MR. GREER: Yes, sure.

15 MS. SALAK: But I won't always be doing this,
16 and you won't always be doing this.

17 MR. GREER: Well, who knows.

18 (Laughter.)

19 MR. GREER: My boss may be tapping me on the
20 shoulder here pretty soon, so you're right, I may not.

21 SPEAKER IN AUDIENCE: You just said you will
22 be here for a long time, so we thought we would put it
23 on the record.

24 MR. BECK: Can I address this also? I had a
25 discussion earlier this week with staff, and there's a

1 couple of rules where -- I would like to call them
2 scrivener's errors, but when going through the rules, we
3 had a couple errors in there. Our overall intent is to
4 support the staff. So our comments on 25-4.046 says the
5 rule may be repealed, but that was an error just in
6 going back and forth on my part. We agree with staff on
7 that. There is also another one, 25-9.045 regarding
8 withdrawal of tariffs, and again, we agree with staff on
9 that as well.

10 MR. GREER: This is Stan Greer with AT&T.
11 Dale, on .002, we have a -- the way I read what you're
12 doing, you're essentially applying back in the business
13 to various pieces of the rule, pieces of the rules. We
14 believe that's okay with certain rules. We don't
15 necessarily agree that you ought to apply business back
16 in for all the ones that you just identify a residence
17 for.

18 I mean, I've got a list of them if you want me
19 to give them to you, but we can -- you know, that's up
20 to you, however you want to deal with that. Clearly,
21 regulatory assessment fees, it makes sense to have it
22 for res and bis.

23 MR. MAILHOT: Is it different than the list
24 that you previously filed?

25 MR. GREER: I don't recall what I've filed

1 lately, I've had so many lists and spreadsheets.

2 MR. MAILHOT: Is this a short list?

3 MR. GREER: Ten or 12.

4 MR. MAILHOT: What?

5 MR. GREER: Ten or 12.

6 MR. MAILHOT: That are residential only?

7 MR. GREER: No. This is the ones that it
8 doesn't apply to, that we think it shouldn't apply to
9 business -- I mean, we're okay with business applying.
10 I'm sorry.

11 MR. MAILHOT: Okay.

12 MR. GREER: I have not made a residential
13 list, no.

14 MR. MAILHOT: Well, maybe we can talk about
15 that, you know, because what I'm trying figure out is
16 which rules should we say, "These rules are residential
17 only." I mean, I recognize there's other changes or
18 repeals that you want to those rules, but --

19 MR. GREER: I understand. And those are
20 clearly -- the ones you have identified as residential,
21 those clearly make sense. It's the ones that we believe
22 that there's some that you have applied res and bis to.
23 But I just made a business list, the ones that I thought
24 were okay for business to apply to, not the other way
25 around. I maybe should have done it the other way.

1 MS. COWDERY: Well, I would say certainly give
2 us anything you think you want us to consider.

3 MS. CLARK: I can do that now. What I can
4 tell you is the ones that we think also apply to
5 business are 25-4.0161, Regulatory Assessment Fee,
6 25-4.017 -- I'm going to skip the 25 -- 4.0171, 4.0174,
7 4.0175, 4.0178, 4.020, 4.0201, 4.022.

8 MR. MAILHOT: Susan, could you slow down for a
9 second? I'm up to .020.

10 MS. CLARK: Okay. And the next one is 4.0201,
11 4.022, 4.078, and 4.081. I guess having said that, you
12 know, we're comfortable with the notion that that should
13 also apply to business, we would not be comfortable with
14 any of the other rules.

15 MR. MAILHOT: Okay. We'll go back and look
16 and --

17 MS. CLARK: Compare notes?

18 MR. MAILHOT: Yes. I think the last time that
19 we talked about this, we were down to just one or two
20 rules that I think we had some question --

21 MR. GREER: You're right. There were only a
22 few that we had a discrepancy on.

23 MS. COWDERY: Any more comments on just
24 looking at 4.002 and 4.046?

25 MS. KAUFMAN: This is Vicki Kaufman. I just

1 want to make my same general comment that I made in Part
2 A, which is that we would request that any changes that
3 occur to these Part B rules include that same language
4 about it not impacting or affecting the SEEM mechanism.

5 MS. MILLER: Excuse me. Cindy Miller. I
6 think the language was not intended to impact --

7 MS. KAUFMAN: We put the exact language from
8 that order in our stipulation, so whatever that exact
9 language is, we would just like to see the same language
10 in any rulemaking order. I was --

11 MS. MILLER: Thank you.

12 MS. KAUFMAN: -- paraphrasing. Thank you.

13 MS. COWDERY: Okay. And this is in the order
14 as opposed to in the notice? I know in the stipulation,
15 the language used was to put that SEEMs language in the
16 notice of proposed rulemaking as it was last time. Is
17 that acceptable?

18 MS. KAUFMAN: That is acceptable.

19 MS. COWDERY: Thank you. All right. Then the
20 next group is harder to break up because of some of the
21 same type of issues. We've got a list of rules now that
22 starts with 25-4.0815, Periodic Reports, and I think we
23 even started getting into these a little bit, and then
24 going down the line all the way to 25-4.085, Service
25 Guarantee Program.

1 We've got some related issues on some of these
2 rules, but if you have anything specific, any
3 alternative language. Anything Dale wants to add?

4 MR. MAILHOT: Yes. I think most people
5 realize that the first rule on the list, 25-4.0815,
6 Periodic Records, that the issue there is primarily just
7 a fallout of other rules, because the other rules
8 specify what information the companies have to file on a
9 regular basis. And so whatever is -- that's why it's
10 kind of intertwined with about three other rules. And
11 it's just, like I say, a fallout of what's decided in
12 these other rules.

13 The next one on the list, 4.023, we would kind
14 of like to spend a minute or two discussing that,
15 because we have -- we've proposed some language, some
16 alternative language in 4.023.

17 The companies would still be required to --
18 the rule title is "Report of Interruptions," and
19 primarily what the companies do is, when they have an
20 interruption of a certain size and duration, they supply
21 the Commission with information, and that's regardless,
22 I believe, of the cause of the interruption.

23 And what we're doing, you know, we kind of
24 looked at how we use these reports and when it's most
25 important to us, and we pretty much determined that, you

1 know, if the companies still report to us during times
2 of named storms, you know, hurricane, tropical storm,
3 something like that, that that's when we're most
4 interested, I believe, in receiving this information.
5 And it's partly for our own information, partly so we
6 can respond to outsiders.

7 We have some suggested language here, and the
8 companies are working on some of their own suggested
9 language, and so I just wanted to make everybody aware
10 that there may be a change to this rule, you know,
11 that's acceptable to the companies and staff.

12 I don't -- I wouldn't think that this would
13 impact most of the other parties that directly, but if
14 anybody has any comments on this, you know, if we do
15 change it, at least along the lines of what staff has
16 proposed here -- you know, it may not be exactly what
17 staff has proposed, because as I said, the companies
18 have a little bit of alternative language on the
19 information that they want to report.

20 We would like to get everybody's comments to
21 see if they have any big problems or big disagreement
22 with this sort of a change to this rule. I mean, if
23 not, we will continue to try to work with the companies
24 to resolve the language in this rule.

25 MR. GREER: Dale, this is Stan Greer with

1 AT&T. Do you want me to give you -- tell you what the
2 language is that we're proposing?

3 MR. MAILHOT: That would be fine.

4 MR. GREER: Okay. Okay.

5 MR. MAILHOT: I mean, that way everybody --

6 MR. GREER: Is aware --

7 MR. MAILHOT: Of what it is.

8 MR. GREER: On .023, the last sentence where
9 it says, "The company shall provide the time, the
10 location, the expected duration of the outage, and when
11 the interruption is restored," creates some concern for
12 us, because in a hurricane situation or tropical storm
13 type situation, those kinds of things are more dependent
14 on when we can get back in to repair facilities, to do
15 evaluations, so I can't give you a report on specific
16 restoration.

17 What we're proposing is, "The company shall
18 provide information on the impacted area and the status
19 of company facility outages." That's the sentence we
20 would propose to change with that last sentence that you
21 have in .023.

22 MS. COWDERY: Can you repeat that sentence one
23 more time?

24 MR. GREER: Sure. "The company shall provide
25 information on the impacted area and status of company

1 facility outages." We today provide reports to the
2 state EOC. And I know in at least in AT&T's situation,
3 sometimes the staff asks for a little more detail, which
4 is fine with us if we're able to come up with the detail
5 that they're looking for.

6 MR. MAILHOT: Have you had a chance to talk
7 with all the companies, I mean, in terms of could they
8 all report -- I mean, if this was the language, could
9 all of the companies report this sort of information?

10 MR. GREER: Well, I'm not sure about the small
11 LECs, whether or not they file reports. I believe they
12 do with the state EOC when there's a hurricane type
13 situation. And really, that's kind of the information,
14 you know, how many central offices are on battery
15 backup, how many are down, that kind of thing. I
16 believe all the companies are okay with the verbiage
17 that I proposed.

18 MR. MAILHOT: Okay. Well, we'll think on it
19 and --

20 MR. GREER: Sure.

21 MR. MAILHOT: You know, there may be -- you
22 know, we may offer some tweaking of that language or
23 whatever, but I just want all the parties to be aware,
24 or all interested persons to be aware of what we're
25 considering doing with this rule.

1 MS. COWDERY: Ms. Perry.

2 MS. PERRY: I'm probably -- Gail Marie Perry
3 with the Communications Workers. I probably am asking
4 an out-of-order question again, but does this mean that
5 this is changing for reporting just for hurricanes or
6 storms, or will this do away with major cable cuts in
7 areas that would be reported?

8 MR. MAILHOT: Yes, it would.

9 MS. PERRY: It would do away with it?

10 MR. MAILHOT: It would do away with the
11 reporting of it, yes.

12 MS. COWDERY: Okay. Do we have other
13 comments? I guess Dale may have -- you've got a couple
14 more you want to go through?

15 MR. MAILHOT: I think most of the next four or
16 five or six rules, we have everybody's written comments.
17 They're on availability of service, CIAC, customer
18 trouble reports, adequacy of service, transmission
19 requirements, answering time, intercept service. We
20 really -- on that group of rules that I just read, we
21 really don't have any significant alternative to
22 propose. Our intention is just to try to keep working
23 with the companies and the parties to see if there's
24 some common ground we can reach on any of these rules.

25 Probably the next one worth discussing for a

1 minute or two is Rule 25-4.083, which is the Preferred
2 Carrier Freeze, unless anybody has any comments on any
3 of the others in between.

4 MR. BECK: I do, Dale. This is Charlie Beck
5 with the Office of Public Counsel, and I would like to
6 just make a few comments on the stipulation that was
7 entered into between the ILECS and the CLECs. Part of
8 their stipulation says that none of the proposed rule
9 changes are intended to have any impact on the current
10 service quality measures and the associated
11 self-effectuating enforcement mechanisms.

12 I've taken a look at that a bit, and I'm no
13 expert on these, but I've looked at BellSouth and
14 Verizon's. And it's -- for example, AT&T and BellSouth,
15 the service quality measure describes in detail the
16 measurements produced to evaluate the quality of service
17 delivered to BellSouth's wholesale customers.

18 And when you look at some of what they are and
19 that they have affirmed in their stipulation, there are
20 some similarities, to say the least, to the retail
21 service quality measurements that they're proposing to
22 eliminate. For example, the AT&T one has a whole series
23 of service quality measurements on maintenance and
24 repair. Some of them include percent missed repair
25 appointments, customer trouble report rate, maintenance

1 average duration, out of service over 24 hours. Of
2 course, it's very similar to the retail one.

3 So what they've done, it seems to me, is
4 affirmed the appropriateness and necessity of those
5 measurements on the wholesale side, and it seems a bit
6 anomalous that having done that for the wholesale side,
7 they then want to eliminate it on the residential side.

8 The SEEM payments, I gather, are payments that
9 the ILECs make to their customers, in this case, the
10 CLECs, when they miss those service quality measures.
11 You know, in one sense, it's very similar to a service
12 guarantee plan. It's kind of like a service guarantee
13 plan for wholesale customers.

14 So I think the stipulation is important, at
15 least in our view, as an affirmation of the necessity and
16 appropriateness of measuring service quality and having
17 consequences flow for them. And we think that same
18 basic direction should also apply to the retail sector
19 as well.

20 MR. TWOMEY: AARP agrees with what Mr. Beck
21 just said, of course.

22 MS. CLARK: Dale, I don't know if you want to
23 get into a debate on this issue. We would disagree.
24 We've stated our position that we don't think these
25 retail -- these service rules should apply for the

1 reasons we've given over and over again.

2 MS. PERRY: The Communications Workers of
3 America also agree with the Public Counsel.

4 MR. GREER: This is Stan Greer with AT&T. I
5 mean, the SEEMs requirements are a totally different
6 animal than the rule's service requirements for retail.
7 They were entered into as a mechanism in the 271 cases,
8 and that is just a different avenue to deal with service
9 quality than the retail rules. It's not a confirmation
10 that there's a retail rule.

11 Will we ever come back and ask for a change in
12 the SEEMs requirements? Maybe. But they should be kept
13 separate. They're not the same. They were developed in
14 different environments.

15 MR. MAILHOT: So I think at this point, you
16 don't want to repeal any of these rules.

17 MR. BECK: No. We maintain our position on
18 the retail rules.

19 MR. MAILHOT: Okay. Rule 4.083, Preferred
20 Carrier Freeze. I think there were suggestions and
21 alternatives and comments maybe filed on that one in
22 written comments, and so I just wanted to stop there for
23 a second and see if anybody had anything further to say.

24 MR. GREER: This is Stan Greer with AT&T.
25 Other than what we filed in our comments, that they'll

1 mirror the FCC rules, no.

2 MR. KONUCH: FTCA has nothing beyond what was
3 in our written comments on this rule.

4 MR. MAILHOT: All right.

5 MS. COWDERY: Did anybody have anything on
6 25-4.085? Dale, you have nothing additional to add?

7 Then I think we could move on to the next
8 grouping of rules and let Dale address that.

9 MR. MAILHOT: The next group there is
10 primarily customer service rules, and we do have the
11 comments on there. And of that group of -- it looks
12 like six rules, I think the only one that we're somewhat
13 prepared to offer a reasonable alternative to or discuss
14 further as of right now is Rule 25-4.117. It's about
15 800 service.

16 And right now -- it's just a short rule, which
17 I can't find.

18 MS. COWDERY: Right near the end.

19 MR. MAILHOT: Anyway, it's a short rule, and
20 what it says right now, the rule says that you cannot
21 bill the originator of the call to an 800 service.

22 The FCC has a similar but not identical rule
23 that says that you bill calls to the subscriber to the
24 service, which is the person who owns the 800 -- or the
25 person who subscribes to the 800 number. There's a

1 little bit of a different thrust to the two rules, and
2 our recommendation is that our rule is maybe a little
3 more protective of the customer, and therefore, we think
4 it should be retained and basically just updated to
5 reflect that there's more than just 800 numbers now.
6 There's, I guess, 866 and 877 or 888 or something.

7 Anyway, does anybody have any particular
8 comments on that rule, if we think about moving that
9 into what we've called the Group A rules, basically
10 taking that modification before the Commissioners?

11 MR. GREER: This is Stan Greer with AT&T.
12 Since the FCC's rule is somewhat unclear, I don't think
13 the ILECs have a problem with the changes you're
14 proposing on .117.

15 MR. BECK: We agree with them as well.

16 MS. COWDERY: Okay. Do we have any other
17 comments on that group of rules from 25-4.107 through
18 25-4.113, anything different than what has been
19 submitted in your written comments?

20 MR. MAILHOT: The last two rules on the access
21 to records, we don't have any particular suggestions
22 there.

23 The very last rule on the list, 25-4.210,
24 Service Evaluations and Investigations, I had asked the
25 companies if -- okay. Considering that you're looking

1 at or asking not to repeal the other rule that's related
2 to small companies, does that change your position, or
3 do you want to think about this rule a little bit more?

4 I'm going to be honest with you. This rule,
5 to me at least, seems to provide more protection and
6 direction for the small companies than the other rule
7 did, so do we need to consider working on this rule in
8 the sense of how to modify it, or is it still a rule
9 that you want repealed?

10 You can have time to think about this, but --
11 I mean, you don't have to decide today, because we don't
12 have a suggestion today. But if you would, think about
13 that issue.

14 MR. McCABE: Yes. Okay.

15 MR. MAILHOT: Okay. Just so we know whether
16 to continue trying to work with that rule or do
17 something about it or whatever.

18 MS. COWDERY: Do we have any other comments on
19 any of the Group B rules, or have we covered everything?

20 MR. MAILHOT: I think that's about all that
21 staff wanted to cover. I mean, if anybody at this point
22 still wants to make any comments here today, that's
23 fine. You know, we're here to listen.

24 MS. COWDERY: We are transcribing this
25 workshop, and the transcript will be available in two

1 weeks on Monday, October 20th. Written requirements
2 (sic) are not required. However, if anyone has a
3 specific comment they would like to make as to a rule,
4 we would ask you -- a Group B rule in particular, we
5 would ask you to submit them by Monday, October 27th. I
6 don't think that would be a hardship on anyone,
7 considering how we've whittled things down at this
8 point.

9 Staff will be preparing a recommendation for
10 an upcoming agenda, and you'll all receive a copy of
11 this.

12 MR. MAILHOT: And as far as the comments go,
13 we do have, you know, everybody's comments from prior
14 workshops. So, you know, you don't need to feel
15 obligated to go through every rule and comment on them
16 unless there's something, you know, you feel that you
17 need to say.

18 MS. COWDERY: Okay. Well, thank you for your
19 participation, and this workshop --

20 MS. CLARK: Kathy?

21 MS. COWDERY: Did you have something?

22 MS. CLARK: I just wanted some clarification.
23 Do I understand that you are -- you may be moving
24 forward in a separate recommendation for the Group A, or
25 are you going to wait until when you have resolution on

1 all of them?

2 MS. COWDERY: Well, I would say it's not hard
3 and fast decided, but we're considering moving ahead
4 with Group A.

5 MS. CLARK: Okay.

6 MS. COWDERY: But we're not -- it's not
7 completely decided.

8 MS. CLARK: Thank you.

9 MS. KAUFMAN: Kathy, that was sort of my
10 question also. Vickie Kaufman. It's anticipated that
11 the rec you'll take on October 30th, subject to
12 discussion, is only on the Group A rules?

13 MS. COWDERY: Okay. We don't have a date set
14 at this point.

15 MS. KAUFMAN: Oh, okay. I thought that that
16 date was --

17 MS. COWDERY: We initially had some dates that
18 we were looking at. You know, we're -- it will be
19 upcoming fairly shortly.

20 MS. KAUFMAN: Thank you.

21 MS. COWDERY: And we'll let you know.

22 Okay. This workshop is adjourned.

23 (Proceedings concluded at 10:41 a.m.)

24

25

CERTIFICATE OF REPORTER


STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 44 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 20th day of October, 2008.


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