

DOCKET NO. 080641-TP

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

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CLERK

I hereby certify:

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

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

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

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

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

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

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[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

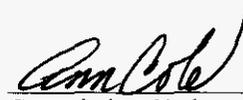
Rule No.

25-4.083

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

Effective: \_\_\_\_\_  
(month) (day) (year)

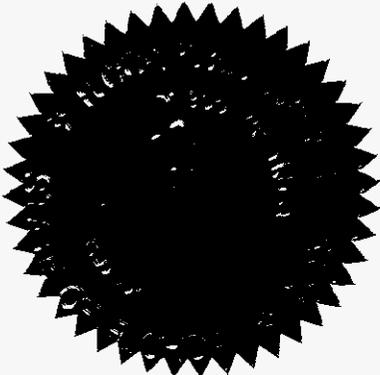
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**25-4.083 Preferred Carrier Freeze.**

(1) A local provider shall make available a PC-Freeze upon a subscriber's request.

~~(2) (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.~~

(3) (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);~~

~~(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~~

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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.~~

(4) In addition to the requirements listed in subsections (1) through (3) above, a local provider shall meet the requirements as prescribed by the Federal Communications Commission in Title 47, Code of Federal Regulations, Part 64, Section 64.1190, Preferred Carrier Freeze, revised as of October 1, 2007, which is hereby incorporated into this rule by reference.

Rulemaking Specific Authority 350.127, 364.01, 364.603 FS. Law Implemented 364.01, 364.603 FS. History--New 9-9-04, Amended \_\_\_\_\_.

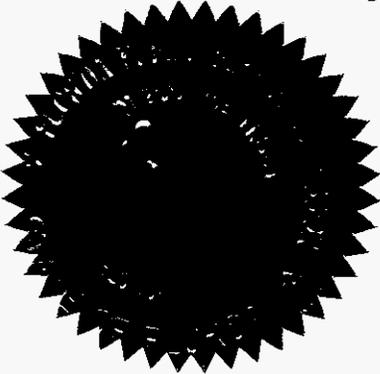
CERTIFICATION OF  
MATERIAL INCORPORATED BY REFERENCE  
IN RULES FILED WITH THE DEPARTMENT OF STATE

Pursuant to Rule 1S-1.005, Florida Administrative Code, I do hereby certify that the attached are true and correct copies of the following materials incorporated by reference in Rule 25-4.083. Under the provisions of subparagraph 120.54(3)(e)(6), F.S., the attached materials take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.

Code of Federal Regulations - 47 Parts 40 to 69

  
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Commission Clerk

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47 C.F.R. Sec. 64.1190, rev. as of October 1, 2007,  
incorporated by reference into Rule 25-4.083

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# Code of Federal Regulations

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**47**

Parts 40 to 69

Revised as of October 1, 2007

**Telecommunication**

authorized carrier must, within 45 days of receiving an order as described in paragraph (b) of this section, inform the subscriber and the relevant governmental agency that issued the order if the unauthorized carrier has failed to forward to it the appropriate charges, and also inform the subscriber of his or her right to pursue a claim against the unauthorized carrier for a refund of all charges paid to the unauthorized carrier.

(f) Where possible, the properly authorized carrier must reinstate the subscriber in any premium program in which that subscriber was enrolled prior to the unauthorized change, if the subscriber's participation in that program was terminated because of the unauthorized change. If the subscriber has paid charges to the unauthorized carrier, the properly authorized carrier shall also provide or restore to the subscriber any premiums to which the subscriber would have been entitled had the unauthorized change not occurred. The authorized carrier must comply with the requirements of this section regardless of whether it is able to recover from the unauthorized carrier any charges that were paid by the subscriber.

(g) When a LEC has assigned a subscriber to a non-affiliated carrier without authorization, and when a subscriber has paid the non-affiliated carrier the charges for the billed service, the LEC shall reimburse the subscriber for all charges paid by the subscriber to the unauthorized carrier and shall switch the subscriber to the desired carrier at no cost to the subscriber. When a LEC makes an unauthorized carrier change to an affiliated carrier, and when the customer has paid the charges, the LEC must pay to the authorized carrier 150% of the amounts collected from the subscriber in accordance with paragraphs (a) through (f) of this section.

[65 FR 47693, Aug. 3, 2000, as amended at 68 FR 19159, Apr. 18, 2003]

**§ 64.1190 Preferred carrier freezes.**

(a) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested

his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(b) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(d) *Solicitation and imposition of preferred carrier freezes.* (1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(i) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(ii) A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the Commission's verification rules in §§ 64.1120 and 64.1130 for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze.

(iii) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(i) The local exchange carrier has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of § 64.1190(d)(3); or

(ii) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose

a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in §§ 64.1190(d)(3)(ii)(A) through (D). Telecommunications carriers electing to confirm preferred carrier 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 preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(iii) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in §§ 64.1190(d)(3)(ii)(A) through (D). The independent third party must not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

(3) *Written authorization to impose a preferred carrier freeze.* A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred carrier freeze.

(i) The written authorization shall comply with §§ 64.1130(b), (c), and (h) of the Commission's rules concerning the form and content for letters of agency.

(ii) At a minimum, the written authorization must be printed with 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 preferred carrier freeze;

(B) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(C) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(D) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(e) *Procedures for lifting preferred carrier freezes.* All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written or electronically signed authorization stating his or her intent to lift a preferred carrier freeze; and

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.

[64 FR 7762, Feb. 16, 1999, as amended at 66 FR 12893, Mar. 1, 2001]

SUMMARY OF RULE

Rule 25-4.083 is amended to require local providers to meet the requirements of the Federal Preferred Carrier Freeze rule, and duplicative provisions of the rule are deleted. In addition, provisions in Sec. 364.603 are implemented.

SUMMARY OF HEARINGS ON THE RULE

An agenda conference was held September 15, at which the written comments provided by FCTA and incumbent local exchange carriers were considered. The Commission voted not to make any change to the proposed rule.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULES

Rule 25-4.083 is amended to require local providers to meet the requirements of the Federal Preferred Carrier Freeze rule, and duplicative provisions of the rule are deleted. Thus, the rule is streamlined. In addition, language to implement Sec. 364.603, F.S., is retained that provides the Preferred Carrier Freeze must be at no charge to the subscriber.

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