

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: January 25, 2018

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Page) *PAP S.M.C.*
Office of Industry Development and Market Analysis (Fogleman) *JF et*
Division of Economics (Ollila) *A.O. PO GS*

RE: Docket No. 20170263-TP – Amendments to Rule 25-4.511, F.A.C., Application for Certificate and repeal of Rule 25-4.512, F.A.C., Application for Approval of Sale or Transfer of Certificate.

AGENDA: 02/06/18 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Section 364.01, Florida Statutes (F.S.), grants the Commission jurisdiction to regulate telecommunications companies. Section 364.3375, F.S., states that a person may not provide pay telephone service without first obtaining a certificate of authority or necessity to provide such service from the Commission. Rule 25-4.511, Florida Administrative Code (F.A.C.), Application for Certificate, and Rule 25-4.112, F.A.C., Application for Approval of Sale or Transfer of Certificate, describe the requirements to apply for a pay telephone certificate or the transfer of a pay telephone certificate.

Staff initiated rulemaking in this docket to modify, streamline and clarify the application form, reduce applicant confusion, and eliminate redundancy in the rules. On October 10, 2017, a Notice of Development of Rulemaking was published in the Florida Administrative Register in

Docket No. 20170263-TP

Date: January 25, 2018

Vol. 43, No. 196. The Commission Notice stated that written requests for a rule development workshop must be submitted by October 24, 2017. No requests for a workshop were received by the Commission.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-4.511, F.A.C., and the repeal of Rule 25-4.512, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, F.S., and Chapter 364, F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-4.511, F.A.C., Application for Certificate, and the repeal of Rule 25-4.512, F.A.C., Application for Approval of Sale or Transfer of Certificate?

Recommendation: Yes. The Commission should propose the amendment of Rule 25-4.511, F.A.C., and the repeal of Rule 25-4.512, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify amended Rule 25-4.511, F.A.C., as a minor violation rule. (Fogleman, Page, Ollila)

Staff Analysis: The proposed amendments to Rule 25-4.511, F.A.C., update, streamline and clarify the procedures for obtaining an original pay telephone certificate or the transfer or sale of such certificate. Repeal of Rule 25-4.512, F.A.C., allows one rule to address both the application for and the sale and transfer of a pay telephone certificate. The rule amendments are discussed below.

Rule 25-4.511, F.A.C., sets forth the requirements and the process to apply for a certificate to provide pay telephone service. Rule 25-4.512, F.A.C., establishes the requirements for the transfer or sale of a pay telephone certificate. Both rules contain links to the application forms and both rules require a nonrefundable application fee of \$250. The nonrefundable application fee of \$250 is unchanged in the proposed amendments.

The proposed amendments to Rule 25-4.511, F.A.C., apply to the original pay telephone certificate and the transfer or sale of the pay telephone certificate. Rule 25-4.512, F.A.C., would be repealed. The results of the proposed amendments to Rule 25-4.511, F.A.C., are the incorporation of the requirements of repealed Rule 25-4.512, F.A.C., and the provision of the same application form for both the application for a certificate and the transfer or sale of a certificate. Subsection (2) of Rule 25-4.511, F.A.C., would be amended to incorporate by reference the current Commission form to be used to obtain the certificate or to transfer or sell a certificate. The proposed amendments to the rule would provide a Department of State hyperlink to access the form.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54, F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation. The SERC analysis also includes whether the rule amendment is likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation.

The SERC concludes that applicants may see cost savings because the proposed amendments clarify the process, eliminate redundancy, and streamline the process. The SERC states that there is no change in the filing fee. Staff believes that the rule amendments will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation.

Further, the SERC concludes that the rule amendments will not likely have an adverse impact on economic growth, private-sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rule amendments do not require legislative ratification pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the rule amendments may bring cost savings to small businesses, small cities and small counties. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

Minor Violation Rules Certificate

Pursuant to Section 120.695, F.S., beginning July 1, 2017, for each rule filed for adoption, the Commission is required to certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. A list of Commission rules designated as minor violation rules is published on the Commission's website, as required by Section 120.569(2), F.S. If the Commission proposes the amendment of Rule 25-4.511, F.A.C., the rule would continue to be considered a minor violation rule. Therefore, for purposes of filing an amended rule for adoption with the Department of State, staff recommends that the Commission certify proposed amended Rule 25-4.511, F.A.C., as a minor violation rule. If the Commission proposes the repeal of Rule 25-4.512, F.A.C., the rule will be deleted from the Commission's list of rules designated as minor violation rules.

Conclusion

For the reasons described above, staff recommends that the Commission should propose the amendment of Rule 25-4.511, F.A.C., and the repeal of Rule 25-4.512, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify proposed amended Rule 25-4.511, F.A.C., as a minor violation rule.

Issue 2: Should this docket be closed?

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

Staff Analysis: If no requests for hearing or comments are filed, the rules as proposed should be filed for adoption with the Secretary of State and the docket should be closed.

1 **25-4.511 Application for Original or Transfer of Pay Telephone Certificate.**

2 (1) ~~In order Any person desiring~~ to provide pay telephone service services, ~~must have a~~
3 ~~pay telephone service certificate~~ or transfer of certificate must be granted by the Florida Public
4 Service Commission.

5 (2) ~~Each An~~ applicant shall apply by using ~~submit an application on~~ Form PSC 1021
6 (1/18) PSC/TEL 32 (2/13), entitled “Application Form for Original Authority or Transfer of
7 Authority to Provide to Pay Telephone Service In Within the State of Florida.” The
8 application ~~which~~ is incorporated into this rule by reference and may be obtained from the
9 Commission’s website at

10 <http://www.floridapsc.com/telecommunication/TelecomPATSAApplication>

11 www.floridapsc.com/utilities/telecomm/ or from the Office of Industry Development and

12 Market Analysis Telecommunications. Such form may also be accessed at the Department of
13 State website at: [Dept. of State Hyperlink]

14 <http://www.flrules.org/Gateway/reference.asp?No=Ref-02213>. A non-refundable application
15 or transfer fee of \$250.00 must accompany the filing of each application to cover processing
16 costs. The Commission’s acceptance of the application fee does not imply that the
17 application, transfer, or sale of a certificate will be granted all applications.

18 (3) Certificates authorizing pay telephone service shall not be transferred by the holder
19 without prior Commission approval.

20 ~~(4)(3) An original and one copy of T~~the application shall be filed with the Office of
21 Commission Clerk.

22 ~~(4) Any pay telephone service authority previously granted or granted hereafter is subject~~
23 ~~to the following:~~

24 ~~(a) Authority granted is statewide.~~

25 ~~(5)(b) Authority is to provide both local and intrastate toll pay telephone service. A~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 certificate to provide pay telephone service does not carry with it the authority to provide local
2 exchange ~~or interexchange~~ service. A separate application must be made for ~~such~~ authority to
3 provide this service.

4 *Rulemaking Authority 350.127(2) FS. Law Implemented ~~364.32, 364.33, 364.335, 364.3375~~*
5 *FS. History—New 1-5-87, Amended 9-28-89, 4-7-91, 11-20-91, 12-21-92, 2-1-99, 1-5-06, 5-29-*
6 *08, 2-7-13, Formerly 25-24.511, _____.*

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 **25-4.512 Application for Approval of Sale or Transfer of Certificate.**

2 ~~(1) Certificates of authority or necessity authorizing pay telephone service shall not be~~
3 ~~sold, assigned or transferred by the holder without prior Commission approval.~~

4 ~~(2) A person seeking to obtain a certificate from a sale or transfer from the holder shall~~
5 ~~submit an application jointly with the certificate holder on Commission Form PSC/TEL 32~~
6 ~~(2/13), entitled “Application Form for Authority to Provide Pay Telephone Service Within the~~
7 ~~State of Florida.” The application form may be obtained from the Commission’s website at~~
8 ~~www.floridapsc.com/utilities/telecomm/ or from the Office of Telecommunications. Such~~
9 ~~form may also be accessed at the Department of State website at:~~

10 ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-02214>. A nonrefundable application~~
11 ~~fee of \$250.00 must accompany the filing of all applications to cover processing costs. The~~
12 ~~Commission’s acceptance of the application fee does not imply that the application for sale or~~
13 ~~transfer of a certificate will be granted.~~

14 ~~(3) An original and one copy of the application shall be filed with the Office of~~
15 ~~Commission Clerk.~~

16 ~~(4) An application for sale or transfer of a certificate will be granted if the Commission~~
17 ~~determines that such approval is in the public interest.~~

18 ~~(5) A certificate may be sold or transferred only as a whole.~~
19 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, ~~364.337~~, 364.3375,*
20 *~~364.345~~ FS. History—New 1-5-87, Amended 5-15-89, 1-5-06, 5-29-08, 2-7-13, Formerly 25-*
21 *24.512, Repealed_____.*

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FLORIDA PUBLIC SERVICE COMMISSION
OFFICE OF INDUSTRY DEVELOPMENT
AND MARKET ANALYSIS

APPLICATION FOR ORIGINAL AUTHORITY
OR TRANSFER OF AUTHORITY
TO PROVIDE
PAY TELEPHONE SERVICE
IN THE STATE OF FLORIDA

INSTRUCTIONS

This form should be used as the application for an original certificate to provide authority and approval of transfer or sale of an existing pay telephone certificate (from a Florida certificated company to a non-certificated company). In the case of a transfer, the information shall be provided by the transferee. If you have other questions about completing the form, call **(850) 413-6600**.

Print or type all responses to each item requested in the application. If an item is not applicable, please explain. All questions must be answered. If unable to answer the question in the allotted space, please continue on a separate sheet.

Once completed, submit the **original and one copy** of this form along with a **non-refundable** fee of **\$250.00** to:

Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770

APPLICATION

This is an application for (check one):

Original certificate (new company).

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate rather than apply for a new certificate.

Please provide the following:

1. Full name of company (including fictitious name, etc. that must match identically what is on file with the Florida Department of State, Division of Corporations registration):

2. The Florida Secretary of State corporate registration number:

3. F.E.I. Number: _____

4. Structure of organization:

The company will be operating as a:
(Check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> General Partnership |
| <input type="checkbox"/> Foreign Corporation | <input type="checkbox"/> Foreign Partnership |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Limited Partnership |
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Other, please specify below: |
-

If a partnership, a copy of the partnership agreement.

If a foreign limited partnership, proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS). The Florida registration number is:

5. Who will serve as point of contact to the Commission in regard to the following?

(a) This application:

Name: _____
Title: _____
Street Name & Number: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____

(b) Ongoing operations of the company:

(This company liaison will be the point of contact for FPSC correspondence. This point of contact can be updated if a change is necessary but this must be completed at the time the application is filed).

Name: _____
Title: _____
Street Name & Number: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Company Homepage: _____

(c) Optional secondary point of contact or liaison:

(This point of contact will not receive FPSC correspondence but will be on file with the FPSC).

Name: _____
Title: _____
Street Address: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____

6. Physical address for the applicant that will do business in Florida:

Street address: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____

THIS PAGE MUST BE COMPLETED AND SIGNED

REGULATORY ASSESSMENT FEE: I understand that all telecommunications companies must pay a regulatory assessment fee. A minimum annual assessment fee, as defined by the Commission, is required.

RECEIPT AND UNDERSTANDING OF RULES: I understand the Florida Public Service Commission's rules, orders, and laws relating to the provisioning of pay telephone service in Florida.

APPLICANT ACKNOWLEDGEMENT: By my signature below, I, the undersigned owner or officer, attest to the accuracy of the information contained in this application and attached documents. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules, orders and laws.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "**Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083.**"

I understand that any false statements can result in being denied a pay telephone certificate, transfer of a certificate or approval of sale of a certificate in Florida.

COMPANY OWNER OR OFFICER

Print Name: _____
Title: _____
Telephone No.: _____
E-Mail Address: _____

Signature: _____ Date: _____

CERTIFICATE TRANSFER

As current holder of Florida Public Service Commission Certificate Number _____,
I have reviewed this application and join in the applicant's request for a transfer of the
certificate.

sale

transfer

COMPANY OWNER OR OFFICER OF TRANSFEREE

Print Name: _____
Title: _____
Street/Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____

Signature: _____ Date: _____

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: December 13, 2017

TO: Pamela H. Page, Senior Attorney, Office of the General Counsel

FROM: Suzanne M. Ollila, Economic Analyst, Division of Economics *AMO*

RE: Statement of Estimated Regulatory Costs (SERC) for Proposed Amendments to Rule 25-4.511 (Application for Certificate) and for Proposed Repeal of Rule 25-4.512 (Application for Approval of Sale or Transfer of Certificate), Florida Administrative Code (F.A.C.)

Both rules concern pay telephone service. The purpose of the rulemaking is to streamline, update, and clarify Rules 25-4.511 and 25-4.512, F.A.C., resulting in the repeal of Rule 25-4.512, F.A.C. Rule 25-4.511, F.A.C., establishes the requirements and processes necessary to apply for a certificate to provide pay telephone service. Rule 25-4.512, F.A.C., establishes the requirements for transfer or sale of a pay telephone certificate. Both rules contain links to their application forms and both rules require a nonrefundable application fee of \$250. The proposed amendments to Rule 25-4.511, F.A.C., incorporate the requirements of Rule 25-4.512, F.A.C., update and clarify language, and provide for the same application form for both the application for a certificate and transfer of a certificate (the link to the application would continue to be available in the amended rule). The nonrefundable application fee of \$250 is unchanged in the proposed amendments.

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-4.511 and 25-4.512, F.A.C.

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector job creation or employment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector investment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Productivity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Innovation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis:

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

2 (number of applications for certificates in 2016).

(2) A general description of the types of individuals likely to be affected by the rule.

Utilities, other companies, and governmental entities who wish to provide pay telephone service.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

Applicants may see cost savings because amendments clarify the process, eliminate redundancy, and streamline the process. There is no change in the filing fee.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

Applicants may see cost savings because amendments clarify the process, eliminate redundancy, and streamline the process. There is no change in the filing fee.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

Applicants may see cost savings because amendments clarify the process, eliminate redundancy, and streamline the process. There is no change in the filing fee.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

No impact on small cities or small counties.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

Applicants may see cost savings because amendments clarify the process, eliminate redundancy, and streamline the process. There is no change in the filing fee.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide

a statement of the reason for rejecting that alternative.