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| State of Florida  pscSEAL | | 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)  Office of Industry Development and Market Analysis (Fogleman)  Division of Economics (Ollila) | | |
| 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 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.

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

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

(2) Each ~~An~~ applicant shall apply by using ~~submit an application on~~ Form PSC 1021 (1/18) ~~PSC/TEL 32 (2/13)~~, entitled “Application ~~Form~~ for Original Authority or Transfer of Authority to Provide to Pay Telephone Service In ~~Within~~ the State of Florida.~~,~~” The application ~~which~~ is incorporated into this rule by reference and may be obtained from the Commission’s website at <http://www.floridapsc.com/telecommunication/TelecomPATSApplication>[~~www.floridapsc.com/utilities/telecomm/~~](http://www.floridapsc.com/utilities/telecomm/) or from the Office of Industry Development and Market Analysis ~~Telecommunications~~. Such form may also be accessed at the Department of State website at: [Dept. of State Hyperlink] [~~http://www.flrules.org/Gateway/reference.asp?No=Ref-02213~~](http://www.flrules.org/Gateway/reference.asp?No=Ref-02213). A non-refundable application or transfer fee of $250.00 must accompany the filing of each application to cover processing costs. The Commission’s acceptance of the application fee does not imply that the application, transfer, or sale of a certificate will be granted ~~all applications~~.

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

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

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

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

(5)~~(b)~~ ~~Authority is to provide both local and intrastate toll pay telephone service.~~ A certificate to provide pay telephone service does not carry with it the authority to provide local exchange ~~or interexchange~~ service. A separate application must be made for ~~such~~ authority to provide this service.

*Rulemaking Authority 350.127(2) FS. Law Implemented ~~364.32~~, 364.33, 364.335, 364.3375 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, 5-29-08, 2-7-13, Formerly 25-24.511, \_\_\_\_\_\_\_\_\_\_\_\_\_.*

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

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

~~(2) A person seeking to obtain a certificate from a sale or transfer from the holder shall submit an application jointly with the certificate holder on Commission Form PSC/TEL 32 (2/13), entitled “Application Form for Authority to Provide Pay Telephone Service Within the State of Florida.” The application form may be obtained from the Commission’s website at~~ [~~www.floridapsc.com/utilities/telecomm/~~](http://www.floridapsc.com/utilities/telecomm/) ~~or from the Office of Telecommunications. Such form may also be accessed at the Department of State website at:~~ [~~http://www.flrules.org/Gateway/reference.asp?No=Ref-02214~~](http://www.flrules.org/Gateway/reference.asp?No=Ref-02214)~~. A nonrefundable application fee of $250.00 must accompany the filing of all applications to cover processing costs. The Commission’s acceptance of the application fee does not imply that the application for sale or transfer of a certificate will be granted.~~

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

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

~~(5) A certificate may be sold or transferred only as a whole.~~

*Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, ~~364.337,~~ 364.3375, ~~364.345~~ FS. History–New 1-5-87, Amended 5-15-89, 1-5-06, 5-29-08, 2-7-13, Formerly 25-24.512, Repealed \_\_\_\_\_\_\_\_\_\_\_.*























