

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-**

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**DATE:** November 23, 2004

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Office of the General Counsel (Stern)  
Division of Competitive Markets & Enforcement (Pruitt, Watts)  
Division of Economic Regulation (Hewitt)

**RE:** Docket No. 041017-TI – Revisions to intrastate interexchange telecommunications company rules in Chapters 25-4 and 25-24, F.A.C., to reflect 2003 statutory changes.

**AGENDA:** 12/07/04 – Regular Agenda – Rule Proposal - Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\041017.RCM.DOC

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### Case Background

During the 2003 Regular Session, the Florida Legislature enacted the Tele-Competition Innovation and Infrastructure Enhancement Act (Act) which took effect May 23, 2003. Pursuant to the Act, intrastate interexchange companies (IXCs) are no longer included in the definition of a telecommunications company and are no longer bound by many sections of Chapter 364, Florida Statutes including Section 364.337, Florida Statutes, pertaining to IXC certification. Section 364.3376, Florida Statutes, was also amended in 2003 to exclude operator services provided by an IXC from the jurisdiction of the Commission, unless the Commission finds it to be in the public interest.

According to Section 364.02(13), Florida Statutes, as amended in 2003, IXCs are still liable for taxes under Chapters 202 (Communications Services Tax), 203 (Gross Receipts Tax) and 212 (Tax on Sales, Use, and Other Transactions), Florida Statutes. The companies must still pay any fees subject to Sections 364.025 (Universal Service) and 364.336 (Regulatory Assessment Fees), Florida Statutes. In addition to the taxes and fees, IXCs are still subject to:

(1) intrastate switched network access rates, (2) tariff requirements, (3) penalties for violation of Commission rules and orders, or violation of applicable parts of Chapter 364, Florida Statutes, (4) underground excavation damage prevention, (5) anti-slamming procedures, (6) bill requirements, (7) pay per call blocking, (8) cramming restrictions, and (9) current company contact information.

At the July 15, 2003 Internal Affairs meeting, Commissioners approved a procedure for company registration in lieu of formal IXC certification. Staff proposes that the registration process, approved at the Internal Affairs meeting, be incorporated into the IXC rules. The majority of the rule revisions proposed in this recommendation concern the registration process. Staff also proposes that it is in the public interest for the operator services provided by IXCs at payphones and in confinement facilities to be under the jurisdiction of this Commission. Other proposed revisions remove requirements that are antiquated or no longer have statutory authority.

The Notice of Proposed Rule Development was published in the August 6, 2004 issue of the Florida Administrative Weekly. A workshop date was scheduled, but no one requested a workshop.

The Statement of Estimated Regulatory Cost (SERC) is in Attachment A, the proposed rule revisions are in Attachment B, and the IXC Registration Form, PSC/CMP 31, is in Attachment C.

### **Discussion of Issues**

**Issue 1:** Should the Commission propose the rule revisions to Chapters 25-4 and 25-24, Florida Administrative Code, contained in Attachment B?

**Recommendation:** Yes, the Commission should propose the rule revisions because they implement the 2003 amendments to Chapter 364, Florida Statutes. **(STERN, PRUITT, WATTS, HEWITT)**

**Staff Analysis:** Numerous sections of Chapters 25-4 and 25-24, Florida Administrative Code, require revision as a result of the amendments to Chapter 364, Florida Statutes. The proposed revisions are summarized below.

- 25-4.003      Definitions - The definitions are revised for consistency with other parts of the rules. The only substantive changes are to the definitions involving IXC's.
- 25-4.044      Private Line/Special Access Cost Manual – Repealed. No longer required due to price cap regulations and elimination of statutory authority for IXC's.
- 25-4.079      Hearing/Speech Impaired Persons - Eliminates the IXC requirement of toll discount for TDD users due to elimination of statutory authority.
- 25-4.115      Directory Assistance – Eliminates the IXC requirement for 50 free directory assistance calls for the disabled due to elimination of statutory authority.
- 25-4.118      Local, Local Toll, or Toll Provider Selection – Moves the disclosure requirements of Rule 25-24.490(3) to this section so that all disclosure requirements are in the same section.
- 25-24.455      Scope and Waiver - This section was amended to eliminate reference to Section 364.337, Florida Statutes, which is no longer binding on IXC's.
- 25-24.465      Terms and Definitions; Rule Incorporated - Format change only.
- 25-24.470      Certificate of Public Convenience and Necessity Required – Changes the certification requirements to a registration procedure, which requires IXC's to provide a tariff and contact information on Form PSC/CMP 31.
- 25-24.4701     Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited – Repealed.
- 25-24.471      Application for Certificate – Repealed.
- 25-24.472      Improper Use of a Certificate – Repealed.
- 25-24.473      Application for Approval of Assignment or Transfer of Certificate – Repealed.

- 25-24.474 Cancellation of a Certificate – Changes cancellation of a certificate to cancellation of registration for a rule, order or statute violation and provides for voluntary cancellation of registration.
- 25-24.475 Company Operations; Rules Incorporated - Combines all of the customer service rules from other rules into this rule. Cites rules on required relay discounts, billing, carrier selection, and preferred carrier freeze. Provides that operator services requirements in Part XIII of Chapter 25-24, Florida Administrative Code, shall apply to IXCs for calls from payphones and confinement facilities. Section 364.3376, Florida Statutes, was amended to require that in order for operator services requirements to apply to IXCs, the Commission had to find it in the public interest. Payphones are used by many persons as the sole form of telecommunications, therefore, staff recommends that the rate cap be retained. Inmates do not have a choice of carriers, therefore, staff also recommends that the rate cap be retained for confinement facilities.
- 25-24.480 Records and Reports; Rules Incorporated – Requires payment of regulatory assessment fees and provides for record keeping for Commission review and reimbursement for out-of-state travel. Eliminates references to rules that no longer apply to IXCs and eliminates references to rules that were moved to other sections.
- 25-24.485 Tariffs - Clarifies that initial tariffs must be filed with the Division of the Commission Clerk and Administrative Services. Eliminates reference to IXCs selling service to other carriers. Eliminates the requirement of posting notice in a public area of the IXC office that its tariff and services list is available for viewing. Updates the division name. The remaining changes reflect use of the term “registration” instead of “certificate,” and simplify the filing requirements for tariffs (e.g., eliminating the requirement that the tariff be filed on 3 hole paper, reducing the number of copies, eliminating required symbols for tariff changes, revising promotional requirements).
- 25-24.490 Customer Relations; Rules Incorporated – This section was replaced with the recently adopted Toll Free Number Transfers rule.
- 25-24.491 Notice to Customers Prior to Increase in Rates or Charges – Repealed due to elimination of statutory authority.
- 25-24.600 Application and Scope - Makes the rule applicable to IXCs, and eliminates the requirement that every company providing operator services must also comply with the rules in Part X of Chapter 25-24, Florida Administrative Code, (Rules Governing Telephone Service Provided by Interexchange Telephone Companies). Part X does not apply to competitive local exchange companies (CLECs) and local exchange companies (LECs).

- 25-24.610 Terms and Definitions; Rules Incorporated – Eliminates reference to rule concerning record retention that does not apply to IXCs or CLECs.
- 25-24.640 Service Requirements for Call Aggregators - Adds the term “registration” to the list of the types of names that can be used when posting the name of the operator service provider on the tent card in hotels and motels.
- 25-24.835 Rules Incorporated – Adds requirements for CLECs to update company information. This is not a new requirement. This was previously required through referencing Rule 25-24.480(2), FAC. Adds provisions for alternatives for staff reimbursement by CLECs for out-of-state travel to review CLECs’ records.
- 25-24.840 Service Standards – Moves an operator service standard for CLECs from Rule 25-24.471(4), Florida Administrative Code, into this rule because staff proposes deletion of Rule 25-24.471(4).
- 25-24.900 Scope – Minor typographical change.
- 25-24.905 Terms and Definitions – Minor typographical change.
- 25-24.910 Certificate of Public Convenience and Necessity Required – Adds registration to the requirements for providing prepaid calling services.
- 25-24.915 Tariffs or Price Lists – Changes the requirement that tariffs for prepaid calling card service include the billing minute to instead require that they include the billing increment. Adds the requirement that the tariffs include all other rates terms and conditions.
- 25-24.920 Standards for Prepaid Calling Services and Consumer Disclosure – Adds registered name to cards. Changes billing minute to billing increment and adds rates, terms, and conditions to the materials that the consumers can view prior to purchasing a card. Provides that the value of a card cannot be reduced by more than the charges specified in the tariff.
- 25-24.930 Adequacy of Service – Repealed. No statutory authority for IXCs.
- 25-24.940 Penalties – Minimum Repealed. Section 364.285, Florida Statutes provides for penalties for violations of Commission rules.

#### STATUTORY AUTHORITY

The specific legal authority for these rules is Section 350.127, Florida Statutes, which confers rulemaking authority on the Commission. The laws being implemented are Sections 364.02(13), 364.025, 364.336, 364.04, 364.10(3), 364.285, 364.163, 364.501, 364.603, and 364.604, Florida Statutes.

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STATEMENT OF ESTIMATED REGULATORY COSTS (SERC)

Small IXCs would have the same benefits as larger IXCs with reduced reporting and fewer rules to contend with. Small cities and counties should have no impact from the changes.

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**Issue 2:** Should the docket be closed?

**Recommendation:** Yes. If no request 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.  
**(STERN)**

**Staff Analysis:** If no request for hearing or comments are filed, the rules as proposed may be filed for adoption with the Secretary of State without further Commission action. The docket may then be closed.

MKS

Attachment