

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 23, 2008

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Cowdery, Miller, Crbula) *SMC*  
Division of Regulatory Compliance (Mailhot, *SAS* Simmons, Kennedy, Harvey) *DM*  
Division of Economic Regulation (Hewitt) *CH*  
Division of Service, Safety & Consumer Assistance (Moses) *M*

**RE:** Docket No. 080641-TP – Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, F.A.C., pertaining to telecommunications.

Docket No. 080159-TP – Joint petition to initiate rulemaking to adopt new rule in Chapter 25-24, F.A.C., amend and repeal Rules in Chapter 25-4, F.A.C., and amend rules in Chapter 25-9, F.A.C., by Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company d/b/a TDS Telecom, and Windstream Florida, Inc.

**AGENDA:** 1/06/09 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Skop (080641-TP)  
McMurrian (080159-TP)

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\080641.RCM.DOC

## Case Background

On April 8, 2008, in Docket No. 080159-TP, the Commission granted a petition to initiate rulemaking, which was filed on March 14, 2008, by Verizon Florida LLC (Verizon),

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BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T), Embarq Florida, Inc. (Embarq), Quincy Telephone Company d/b/a TDS Telecom (TDS), and Windstream Florida, Inc. (Windstream) (together referred to herein as Joint Petitioners). Joint Petitioners are incumbent local exchange companies (ILECs). As requested by Joint Petitioners, the Commission initiated rulemaking to adopt a new rule, Rule 25-4.008, Streamlined Regulation for Telecommunications Markets and Companies (streamlined regulation rule), and to amend<sup>1</sup> or repeal<sup>2</sup> 18 rules in Chapters 25-4 and 25-9, Florida Administrative Code (F.A.C.). The streamlined regulation rule set forth a test which, if met, would exempt a telecommunications company from an additional 28 rules in Chapter 25-4, F.A.C., 13 rules in Chapter 25-9, F.A.C., and the 7 rules in Chapter 25-14, F.A.C.<sup>3</sup> In addition to the 19 rules requested by Joint Petitioners, staff included 7 additional rules in the notice to initiate rulemaking,<sup>4</sup> which staff believed warranted amendment or repeal.

In their petition to initiate rulemaking (Joint Petition), Joint Petitioners state that the rule adoption, amendment, and repeals are necessary because consumers will be better served by a regulatory environment that fosters continued investment in infrastructure and further development of technological innovations, while preserving important consumer safeguards. Joint Petitioners assert that with the increasing use of wireless, cable telephony, and Voice over Internet Protocol (VoIP), many of the current rules are no longer warranted. They further state in

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<sup>1</sup> Those rules are: Rules 25-4.017, Uniform System of Accounts; 25-4.0174, Uniform System and Classification of Accounts – Depreciation; 25-4.0175, Depreciation; 25-4.0178, Retirement Units; 25-4.022, Complaint – Trouble Reports, Etc.; 25-4.034, Tariffs; 25-4.040, Telephone Directories; Directory Assistance; 25-4.067, Extension of Facilities – Contributions in Aid of Construction; 25-4.079, Hearing/Speech Impaired Persons; 25-9.034, Contracts and Agreements; and 25-9.044, Change of Ownership.

<sup>2</sup> Those rules are: Rules 25-4.006, Issuance of Certificate in the Event of Failure to Furnish Adequate Service; 25-4.007, Reference to Commission; 25-4.019; Records and Reports in General; 25-4.024, Held Applications for Service; 25-4.039, Traffic; 25-4.046, Incremental Cost Data Submitted by Local Exchange Companies; and 25-4.116, Telephone Number Assignment Procedure.

<sup>3</sup> Those rules are: Rules 25-4.0185, Periodic Reports; 25-4.0201, Audit Access to Records; 25-4.021, System Maps and Records; 25-4.023, Report of Interruptions; 25-4.066, Availability of Service; 25-4.069, Maintenance of Plant and Equipment; 25-4.070, Customer Trouble Reports; 25-4.071, Adequacy of Service; 25-4.072, Transmission Requirements; 25-4.073, Answering Time; 25-4.074, Intercept Service; 25-4.077, Metering and Recording Equipment; 25-4.083, Preferred Carrier Freeze; 25-4.085, Service Guarantee Program; 25-4.107, Information to Customers; 25-4.108, Initiation of Service; 25-4.109, Customer Deposits; 25-4.110, Customer Billing for Local Exchange Telecommunications Companies; 25-4.112, Termination of Service by Customer; 25-4.113, Refusal or Discontinuance of Service by Company; 25-4.114, Refunds; 25-4.115, Directory Assistance; 25-4.117, 800 Service; 25-4.200, Application and Scope; 25-4.202, Construction; 25-4.210, Service Evaluation and Investigation; 25-4.214, Tariff Filings; 25-4.215, Limited Scope Proceedings; 25-9.005, Information to Accompany Filings; 25-9.020, Front Cover; 25-9.022, Table of Contents; 25-9.022, Table of Contents; 25-9.023, Description of Territory Served; 25-9.024, Miscellaneous; 25-9.025, Technical Terms and Abbreviations; 25-9.026, Index of Rules and Regulations; 25-9.027, Rules and Regulations; 25-9.029, Index of Rate or Exchange Schedules; 25-9.030, Rate Schedules, General; 25-9.032, Telephone Utility Exchange Schedules; and 25-9.045, Withdrawal of Tariffs; 25-14.001, General; 25-14.004, Effect of Parent Debt on Federal Corporate Income Tax; 25-14.010, Accounting for Deferred Taxes from Intercompany Profits for Telecommunications Companies; 25-14.011, Procedures for Processing Ruling Requests to be Filed with the Internal Revenue Service; 25-14.012, Accounting for Postretirement Benefits Other Than Pensions; 25-14.013, Accounting for Deferred Income Taxes Under SFAS 109; and 25-14.014, Accounting for Asset Retirement Obligations Under SFAS 143.

<sup>4</sup> Those rules are: Rules 25-4.002, Application and Scope; 25-4.003, Definitions; 25-4.021, System Maps and Records; 25-4.077, Metering and Recording Equipment; 25-4.215, Limited Scope Proceedings; 25-9.001, Application and Scope; and 25-14.001, General.

their petition that technological innovations have enabled intermodal telecommunications technologies to provide multiple competing services using several different platforms (voice, video and data), resulting in increased choices for customers.

On September 26, 2008, in Docket No. 080641-TP, staff initiated rulemaking to examine whether 53 telecommunications rules in Chapters 25-4 and 25-9, F.A.C., should be amended, repealed, or no longer applied to telecommunications companies.<sup>5</sup> Staff evaluated the rules to identify and correct deficiencies in the rules, clarify and simplify rules as necessary, delete obsolete and unnecessary rules, delete rules that are redundant of statutes, improve efficiency, reduce paperwork, decrease costs to government and the private sector, and to consider the impact of the rules on small business.<sup>6</sup> The rulemaking in Docket No. 080641-TP included an examination of the rules that would no longer apply to telecommunications companies if they met the test set forth in Joint Petitioners' streamlined regulation rule in Docket No. 080159-TP.

The rulemakings in Docket Nos. 080159-TP and 080641-TP examined a combined total of 78 rules. Two workshops were held in Docket No. 080159-TP – a staff rule development workshop on May 14, 2008, and a Commission rule development workshop on September 10, 2008. One workshop was held in Docket No. 080641-TP – a staff rule development workshop on October 10, 2008. Joint Petitioners, Competitive Carriers of the South, Inc. (CompSouth), Sprint Nextel, Florida Cable Telecommunications Association (FCTA), Time Warner Telecom of Florida, the Office of Public Counsel (OPC), AARP, the Florida Office of the Attorney General, and the Communications Workers of America (CWA) participated in these workshops.

The primary focus of the September 10, 2008 Commission rule development workshop was Joint Petitioners' streamlined regulation rule. CompSouth commented at the workshop that, instead of adopting the new rule which would require the Commission to examine the state of

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<sup>5</sup> The 53 rules addressed in Docket No. 080641-TP are: Rules 25-4.002, Application and Scope; 25-4.0185, Periodic Report; 25-4.019, Records and Reports in General; 25-4.020, Location and Preservation of Records; 25-4.0201, Audit Access to Records; 25-4.022, Complaint - Trouble Reports, Etc.; 25-4.023, Report of Interruptions; 25-4.034, Tariffs; 25-4.046, Incremental Cost Data Submitted by Local Exchange Companies; 25-4.066, Availability of Service; 25-4.067, Extension of Facilities - Contributions in Aid of Construction; 25-4.069, Maintenance of Plant and Equipment; 25-4.070, Customer Trouble Reports; 25-4.071, Adequacy of Service; 25-4.072, Transmission Requirements; 25-4.073, Answering Time; 25-4.074, Intercept Service; 25-4.083, Preferred Carrier Freeze; 25-4.085, Service Guarantee Program; 25-4.107, Information to Customers; 25-4.108, Initiation of Service; 25-4.109, Customer Deposits; 25-4.110, Customer Billing for Local Exchange Telecommunications Companies; 25-4.112, Termination of Service by Customer; 25-4.113, Refusal or Discontinuance of Service by Company; 25-4.115, Directory Assistance; 25-4.117, 800 Service; 25-4.200, Application and Scope; 25-4.202, Construction; 25-4.210, Service Evaluations and Investigations; 25-9.001, Application and Scope; 25-9.002, Definitions; 25-9.003, Information to Public; 25-9.004, General Filing Instructions; 25-9.005, Information to Accompany Filings; 25-9.006, Size and Form of Tariffs; 25-9.008, Telephone Utility Tariffs; 25-9.009, Numbering and General Data Required for Each Sheet; 25-9.010, Numbering of Supplements and Additions; 25-9.020, Front Cover; 25-9.021, Title Page; 25-9.022, Table of Contents; 25-9.023, Description of Territory Served; 25-9.024, Miscellaneous; 25-9.025, Technical Terms and Abbreviations; 25-9.026, Index of Rules and Regulations; 25-9.027, Rules and Regulations; 25-9.029, Index of Rate or Exchange Schedules; 25-9.030, Rate Schedules – General; 25-9.032, Telephone Utility Exchange Schedules; 25-9.034, Contracts and Agreements; 25-9.044, Change of Ownership; 25-9.045, Withdrawal of Tariffs. The notices of propose rule development for rules being proposed for amendment or repeal was published in Vol. 34, No. 39, Florida Administrative Weekly, September 26, 2008.

<sup>6</sup> Staff notes that Section 120.74, Florida Statutes (F.S.), requires each agency to review and revise its rules as often as necessary to ensure that its rules are correct and comply with statutory requirements.

competition in the telecommunications market, the Commission should determine whether to repeal or amend each of the individual rules that telecommunications companies would be exempt from if the test set forth in the rule was met.

On October 7, 2008, CompSouth, Sprint Nextel and Joint Petitioners reached a stipulation wherein Joint Petitioners agreed to withdraw from Commission consideration the streamlined regulation rule. In accordance with the stipulation, Joint Petitioners in their post-workshop comments withdrew the streamlined regulation rule from Commission consideration<sup>7</sup> and stated that they instead wanted the Commission to examine individually each rule from which a telecommunications company would have been exempt if the streamlined competition test had been met.<sup>8</sup> As stated above, Docket No. 080641-TP was already established to examine each of these rules.

Based on information obtained from the workshops in Docket No. 080159-TP and Docket No. 080641-TP, it became apparent that there was agreement among the workshop participants that a number of rules examined in the dockets should be amended or repealed. The Commission voted to propose the amendment and/or repeal of these agreed upon rules at the September 4, 2008<sup>9</sup> and November 13, 2008<sup>10</sup> agenda conferences. Rule 25-14.001, proposed for amendment at the September 4, 2008 agenda conference, was filed for adoption with the Secretary of State on October 30, 2008 and became effective on November 19, 2008. The remainder of the rules proposed for amendment and/or repeal at the September 4, 2008 agenda conference were filed for adoption with the Secretary of State on October 31, 2008 and became effective on November 20, 2008. The rules that were proposed for amendment and/or repeal at the November 13, 2008 agenda conference and are expected to be filed for adoption with the Secretary of State in January, 2009.

On November 14, 2008, Joint Petitioners filed a modification of their Joint Petition wherein they withdrew their request that Rules 25-4.0201, 25-4.085 and 25-4.113 be repealed.

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<sup>7</sup> Staff notes that the Commission need not take any action under Section 120.54, F.S., on the withdrawal of the streamlined regulation rule because the rule had not yet been proposed for adoption by the Commission. By contrast, if the Commission had proposed the adoption of the new rule, Section 120.54(3)(d)1, F.S., would have required that the Commission withdraw the rule prior to adoption.

<sup>8</sup> Pursuant to their post-workshop comments, settlement discussions and the October 7, 2008 Stipulation with Joint Petitioners, CompSouth and Sprint Nextel Corporation agreed, because of changes to the marketplace, to support the Joint Petitioners' requested repeal of Rules 25-4.0185, 25-4.0201, 25-4.023, 25-4.066, 25-4.069, 25-4.070, 25-4.071, 25-4.072, 25-4.073, 25-4.074, 25-4.085, 25-4.107, 25-4.108, 25-4.109, 25-4.110, 25-4.112, 25-4.113, 25-4.115, 25-4.200, 25-4.202, 25-4.210, 25-4.214, and requested amendment to Rule 25-4.083, F.A.C.

<sup>9</sup> At the September 4, 2008 agenda conference, the Commission voted to propose the amendment of Rules 25-4.003, 25-4.017, 25-4.0174, 25-4.0175, 25-4.0178, 25-4.040, 25-4.079, 25-4.215, and 25-14.001, and the repeal of Rules 25-4.006, 25-4.007, 25-4.021, 25-4.024, 25-4.039, 25-4.077, and 25-4.116, F.A.C. Amendment of Rule 25-14.001 resulted in an additional 6 rules in Chapter 25-14 no longer being applicable to price regulated ILECS, however, no amendment to the text of those rules was required. These rules are: Rules 25-14.004, 25-14.010, 25-14.011, 25-14.012, 25-14.013, 25-14.014.

<sup>10</sup> At the November 13, 2008 agenda conference, the Commission voted to propose the amendment of Rules 25-4.020, 25-4.022, 25-4.034, 25-4.115, 25-4.117, 25-9.001, 25-9.002, 25-9.005, 25-9.009, 25-9.022, 25-9.027, 25-9.029, and the repeal of Rules 25-4.019, 25-4.069, 25-4.112, 25-4.200, 25-9.008, and 25-9.032, F.A.C. Amendment of Rule 25-9.001 resulted in 14 additional rules in Chapter 25-9, F.A.C., no longer being applicable to ILECs, however, no change to the text of these rules was required. These rules are: Rules 25-9.003, 25-9.004, 25-9.006, 25-9.010, 25-9.020, 25-9.021, 25-9.023, 25-9.024, 25-9.025, 25-9.026, 25-9.030, 25-9.034, 25-9.044, and 25-9.045.

Docket Nos. 080641-TP, 080159-TP  
Date: December 23, 2008

Joint Petitioners also withdrew their request for repeal of Rules 25-4.0185, 25-4.066, 25-4.070, 25-4.073, 25-4.107, 25-4.108, 25-4.109, and 25-4.110, and instead submitted suggested amendments for these rules. In addition, Joint Petitioners submitted specific suggested amendment language for Rule 25-4.083, consistent with their previous comments in these dockets. Finally, Joint Petitioners modified their suggested amendments to Rule 25-4.067.

Of the 78 rules examined in Docket Nos. 080159-TP and 080641-TP, the Commission has taken action on 54 rules, and the Joint Petitioners have withdrawn their requests for adoption of the streamlined competition rule and for repeal of 7 rules.<sup>11</sup> Sixteen rules remain in Docket Nos. 080159-TP and 080641-TP, which are the subject of this recommendation. Specifically, this recommendation addresses whether the Commission should propose repeal of Rules 25-4.046, 25-4.071, 25-4.072, and 25-4.108, and amendment of Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.066, 25-4.067, 25-4.070, 25-4.071, 25-4.073, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110.

The Commission has jurisdiction pursuant to Section 120.54 and Chapter 364, F.S.

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<sup>11</sup> Joint Petitioners have withdrawn their requests for repeal of Rules 25-4.0201, 25-4.085, 25-4.113, 25-4.114, 25-4.202, 25-4.210, and 25-4.214.

### **Discussion of Issues**

**Issue 1:** Should the Commission propose the repeal of Rules 25-4.046, 25-4.071, 25-4.072, and 25-4.108?

**Recommendation:** The Commission should propose repeal of Rules 25-4.046 and 25-4.108 as set forth in Attachment A. However, the Commission should not propose the repeal of Rules 25-4.071 and 25-4.072. Staff also recommends that the notice of rulemaking contain language stating that none of the rule repeals are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan. (Cowdery, Miller, Mailhot, Simmons, Harvey, Moses)

**Staff Analysis:** Staff recommends that the Commission propose the repeal of Rules 25-4.046 and 25-4.108, as set forth in Attachment A. However, the Commission should not propose the repeal of Rules 25-4.071 and 25-4.072.

The primary basis for Joint Petitioners' petition is that competition is sufficient to ensure that customers receive quality service. According to Joint Petitioners, the rules are not necessary and are instead a barrier to competition. Below is a more comprehensive discussion of Joint Petitioners' competition arguments, responses of rulemaking participants, and staff's discussion of the competition arguments, as well as a discussion and recommendation on each of the individual rules addressed in Issue 1.

#### **Joint Petitioners' Competition Arguments**

Joint Petitioners submit that Subsections (4) (b), (f), (g), and (h) of Section 364.01, F.S., give the Commission the authority to initiate rulemaking to make needed changes to the Commission's telecommunications rules in order to encourage competition, to ensure all telecommunications providers are treated fairly, and to eliminate rules delaying or impairing the transition to competition. Joint Petitioners argue that failing to repeal these service quality rules ignores the competition that they face as ILECs and that this results in harm to the consumer. Joint Petitioners presented detailed information and argument regarding the competition they experience in Florida from cable telephone service, VoIP, and wireless service. They state that in the competitive telecommunications market, it is harmful when a rule is applied to some competitors and not others, and that the Commission has a statutory responsibility to eliminate any rules or regulations that will delay or impair the transition to competition.

As support that telecommunications competition is thriving in Florida, Joint Petitioners provided data stating that, from June 2001 to December 2007, residential ILEC access lines declined from 8.3 million to 5.7 million, a decrease of almost one-third. They point out that this occurred during a time when Florida's population was growing.

Joint Petitioners dispute the argument that ILECs' access line losses have been offset by gains in business lines. They state that on the basis that those business lines are special access lines used by ILEC competitors to provide residential and business services, any growth in their

use is another indicator that other providers are providing service, which is reflected in the business line loss information.

Joint Petitioners state that the number of wireless subscribers has more than doubled since 2001. They state that it is estimated that over 15 percent of Florida customers have disconnected their wireline service in favor of wireless only.

According to TDS, there are approximately 255 million wireless subscribers nationally, which is about 84% of the population. TDS states that in Florida, there are approximately 15.5 million subscribers, which equates to a population penetration of about 85%. Also, they state that it has been reported that there are a little over one million residential VoIP subscribers in Florida. TDS notes that “[t]he other problem that we have is that the Florida Commission does not have any jurisdiction over our strongest competitors, such as cable telephony and wireless providers.”

Joint Petitioners dispute the suggestion of CWA and AARP that reported line losses were caused by the disconnection of secondary lines. They state that from 2002 to 2007, AT&T’s line losses were primary residential lines, and 73% of Embarq’s residential access line loss was due to the loss of primary lines.

Joint Petitioners argue in general that telephone companies know that they must deliver high quality service in order to retain their customers, but that quality of service may not require meeting the standards set forth in Commission rules. Joint Petitioners assert that the quality of service rules are arbitrary, were adopted in a different environment, and do not make sense in a competitive environment. They assert that consumers do not value those requirements. Several ILECs stated during workshops in these dockets that they had conducted surveys or studies regarding what quality of service levels consumers expect, and that customers do not demand the type of customer service levels required by the current rules. Staff notes, however, that none of the ILECs provided a copy of any surveys or studies to support their claims.

According to Joint Petitioners, customers may change service providers if the lowering of service standards is not acceptable to them. On the other hand, Joint Petitioners agree that wireless, cable telephone service, and VoIP are not exact substitutes for wireline service, and, this being the case, a customer who does not like the quality of the ILEC’s wireline service may not be able to go somewhere else and get the exact service. They state that whether a telephone service may be considered an exact substitute for wireline service depends on what type of service a customer is seeking in terms of services, technology, or cost.

Joint Petitioners state that OPC and AARP have a misplaced concern that, although competition exists in Florida, competitive providers may not offer rates, terms and conditions that are comparable to the ILECs’ basic service. The concern is misplaced, they state, because there are a sufficient number of low cost comparable offerings in the market from which consumers may choose. As two examples, they cite to the Commission’s Report on the Status of Competition in the Telecommunications Industry as of December 31, 2007 (Report on Competition), which states that: “customers appear to have access to services at a variety of rates as competitors have developed pricing strategies to gain customers” and that these low price

offerings “may include overall discounts and/or matching an ILEC’s price,” while “[o]ther carriers have adopted a strategy of bundling basic local service with discounted toll service or vertical features (call waiting, caller ID, etc.) to compete with ILECs.” Joint Petitioners quote from the Report on Competition that communication alternatives to ILEC wireline services are being provided by competitive local exchange companies (CLECs), VoIP, and wireless providers, and that “the Commission concludes that many Floridians are obtaining alternative services at rates, terms, and conditions acceptable to consumers.”

AT&T specifically points out that it has a service guarantee program. The company asserts that the program more than satisfies customer service requirements.

Windstream argues that the quality of service rules should be applied when customer complaints dictate that there is a problem with their service. Windstream states that many of the rules are antiquated, are no longer applicable, and are not needed to protect the public interest. The company states that customer choice protects the public in today’s environment and that regulatory parity is needed in Florida. Windstream argues that it has no opportunity to provide poor service because its customers demand quality service and it is in the business of giving customers what they demand.

Verizon filed workshop comments in order to provide more detailed information about Verizon and its Tampa Bay service territory. Verizon first argues that by any measure, competition in its service territory is intense. It states that cable telephone companies, VoIP and wireless carriers have engaged in aggressive marketing campaigns. Verizon points to the Report on Competition, showing that from 2004 to 2007, Verizon’s residential switched access lines decreased from 1.58 to 1.07 million. Second, Verizon argues that competition drives Verizon to satisfy its customers. Third, Verizon argues that it complies with the Commission’s service quality rules, specifically 25-4.070, and that those rules no longer provide an accurate gauge of customer demands and expectations. Verizon provided a chart showing the percentage of customers each year from 2001 to 2007 (82.5% - 85.6%, respectively) who stated that they were satisfied or more than satisfied with Verizon’s performance.

### **OPC, AARP, Attorney General’s Response**

OPC believes that the service rules largely define what people have received and expect to receive from telephone service and that consumers today pay for, expect, and demand quality service. No changes to the quality of service rules should be made that would give consumers something less than what they should be receiving today. OPC states that Florida enjoys a high standard of quality of service because of regulations. Further, OPC believes that quality of service in the telecommunications industry is decreasing, and has not been up to the standards set by rule. In its opinion, companies in 2001 were largely meeting or surpassing all the Commission’s repair service rules on a statewide basis, but by 2007, companies were almost uniformly failing the requirements of these rules. OPC is concerned about degradation of the quality of the service that is being provided today. OPC states that no compelling evidence or convincing arguments were presented for elimination of the quality of service rules, and that the ILECs must carry the burden of going forward to show why any particular rule should be eliminated or changed.



OPC is concerned that the competitive alternatives to wireline service are not being offered at comparable rates, terms, and conditions. OPC states that, for instance, competitive alternatives such as Vonage require a customer to pay for a broadband connection. OPC points to the Report on Competition, which states that 63.3 percent of wireline subscribers in Florida also subscribe to broadband, leaving about 40 percent of wireline customers without broadband service.

AARP believes that modifying the quality of service requirements for ILECs would result in a diminished level of efforts by ILECs to maintain the quality of service at existing levels. Not only would it reduce the impetus for ILECs to meet those requirements, but, given that these rules represent the only regulatory bar for all providers of telecommunications services, it could result in the unintended consequence of impacting customers throughout Florida by lowering the bar for all providers. AARP rejects the notion of adopting the lowest common denominator of service standards in the name of efficiency. Finally, AARP disagrees with the ILECs' argument that quality of service rules should not apply to a competitive market because that argument presumes a finding of a competitive market.

The Office of the Attorney General cautions that many people do not consider broadband, VoIP, or cable as competition to wireline phones because the services provided are not comparable. The Office of the Attorney General states that there is a segment of Florida's population that relies on landline phones whether or not wireless or cable telephone service is available, and that there is a segment of Florida's population that does not have available to it alternatives to landlines due to location or cost considerations. The Office of the Attorney General believes that substituting competition for regulation would be premature at this point in time, and would result in a decline in service quality.

### **CWA's Response**

CWA takes the general position that landline telephone service is the backbone of the telecommunications industry. CWA states that the maintenance of this backbone, attention to correct billing, and customer service are of vital importance to Florida citizens. CWA believes that the Commission's service quality and other public reporting rules continue to be necessary to serve the public interest in encouraging affordable, quality, universal telephone service. In its post-workshop comments, CWA states that competition alone does not always serve to protect consumers. CWA states:

In fact, providers frequently respond to growing competition in local telecommunications markets by directing capital and human resources precisely to those markets where competition is most intense -- the market for high-end business and residential customers. At the same time, these same providers neglect customers that generate less revenue and where there is little if any competitive choice. In these markets and for these customers, market forces alone do not provide sufficient discipline over price and service. Further, even in competitive markets, public disclosure and reporting is an important consumer safeguard. Markets function best when consumers have access to comprehensive

information about the goods and services they are purchasing, including the quality of service and price of those services.

Additionally, CWA quotes from the Federal Communications Commission (FCC)<sup>12</sup>: “[W]e believe that even in a robustly competitive environment, public disclosure of quality of service information can be an important way to safeguard consumer interest.”

CWA does not dispute that rule amendments might be appropriate, but argues that the service rules should not be repealed and the Commission should not do away with oversight of maintenance.

### **Staff Analysis**

While it is correct, as argued by Joint Petitioners, that Section 364.01(4), F.S., states that the Commission should encourage competition, Section 364.01(4), F.S., also requires the Commission to protect the public health, safety, and welfare by ensuring that adequate basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices. Thus, Section 364.01 requires the Commission to balance the policy of encouraging the development of competition with customer protection considerations.

There is no statute which exempts ILECs from Commission regulation due to the presence of competition in the telecommunications market, however competition may be defined. Moreover, rulemaking is not a matter of agency discretion, and Section 120.54(1)(a), F.S., requires that each agency statement defined as a rule by Section 120.52, F.S.,<sup>13</sup> must be adopted as a rule.

Staff believes that the question before the Commission in reviewing these rules for repeal should not be solely whether the rule is needed because competition exists in the telecommunications market, but whether a statutory responsibility of the Commission is being implemented by a particular rule, and whether the rule is necessary for the proper implementation of that statute. The purpose of the rules in Chapter 25-4 is to define reasonable service standards that will promote the furnishing of adequate and satisfactory local and long distance service to the public and establish the rights and responsibilities of both the utility and customers.<sup>14</sup> As discussed more specifically below, staff recommends that the Commission should propose the repeal of Rules 25-4.046 and 25-4.108, and that the Commission should not propose the repeal of Rules 25-4.071 and 25-4.072.

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<sup>12</sup> FCC, NPRM, In the Matter of 2000 Biennial Review – Telecommunications Service Quality Reporting Requirements, CC Docket No. 00-229, page 11.

<sup>13</sup> Subsection 120.52(16) defines “rule” as “each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency or solicits any information not specifically required by statute or by the existing rule.”

<sup>14</sup> Rule 25-4.002, Application and Scope, F.A.C.

**a. Rule 25-4.046, Incremental Cost Data Submitted by Local Exchange Companies**

Rule 25-4.046 (p. 46) sets forth requirements for incremental cost data submitted to the Commission by local exchange telecommunications companies (LECs). This rule implements, in part, Section 364.3381, F.S., Cross-subsidization.

Joint Petitioners argue that Rule 25-4.046 should be repealed, and any issues should be addressed on a complaint basis or when requested by the Commission. Joint Petitioners argue that staff may request incremental cost data pursuant to Section 364.3381(3), F.S., which states:

The commission shall have continuing oversight jurisdiction over cross-subsidization, predatory pricing, or other similar anticompetitive behavior and may investigate, upon complaint or its own motion, allegations of such practices.

Joint Petitioners state that the statute gives the Commission the ability to address cross-subsidization and discrimination as it relates to the pricing of services. Joint Petitioners argue that this rule is unnecessary since Section 364.3381, F.S., gives the Commission authority to request the incremental cost data.

Joint Petitioners state that they are not aware of any instance where cost information has not been provided when requested by staff. Joint Petitioners state that cost data is provided when the staff asks for such data to complete its review of a tariff filing. Staff notes that this data is evaluated to determine whether the rates appear to be compensatory. Joint Petitioners contend that in these cases, Rule 25-4.046 does not apply because the Commission established by order what information should be included with nonbasic service tariff filings by price cap LECs.<sup>15</sup> Joint Petitioners also state that cost data is provided when there is a complaint or other proceeding before the Commission, usually as part of the normal discovery process.

Sprint Nextel argues that the Commission should not exempt ILECs from Rule 25-4.046. The company asserts that this rule is necessary because it was promulgated to implement Section 364.3381, F.S., which prohibits ILECs from subsidizing nonbasic services with revenues received from basic services.<sup>16</sup>

CompSouth states in its June 20, 2008 post-workshop comments that it does not object to repeal of Rule 25-4.046, which implements Section 364.3381, F.S., so long as ILECs provide the cost information the rule currently requires in the event that there is a carrier complaint or a Commission investigation alleging cross-subsidization, predatory pricing, or other anticompetitive behavior without precondition. CompSouth states that neither the Commission nor CompSouth should be put in the position of having to argue with an ILEC, after a complaint has been filed or an investigation initiated, that incremental cost information has not been retained, that it is not relevant, or that the complainant or staff is not entitled to it.

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<sup>15</sup> See Order No. PSC-96-0012-FOF-TL, Docket No. 951159-TL, issued Jan. 4, 1996, In re: Investigation to determine categories of non-basic services provided by local exchange telephone companies pursuant to Chapter 364.051(6), F.S.

<sup>16</sup> Rule 25-4.046, F.A.C., was not included in the October 7, 2008, Stipulation wherein CompSouth, and Sprint Nextel agreed to support Joint Petitioners' proposed repeal or modification of certain listed rules.

FCTA contends that Rule 25-4.046 exists to promote fair competition, to prohibit predatory pricing, and is in the nature of an antitrust prohibition. It contends that this rule implements a statute and contains a methodology, i.e., incremental cost, for creating a price floor for individual services, and sets forth a format to help staff understand the cost information. FCTA argues that, although the ILECs identified this rule as one that should be repealed irrespective of whether competition exists, they did not quantify the burdens the rule placed on the ILECs or explain the legal basis for repealing a rule that implements a statute. FCTA states that Rule 25-4.046 expresses the Legislature's intent to ensure fair competition. FCTA states that no incentive exists to price below cost unless competition exists, and thus, the existence of competition heightens this rule's importance.

FCTA also contends that the ILECs' proposal to repeal Rule 25-4.046 and permit competitors to seek the same information through a complaint proceeding would accomplish nothing other than shifting the burden of proof from the ILEC to the competitor to demonstrate whether the rates were above cost and not predatory, and would be contrary to the legislative purpose for this provision. FCTA argues that the alternative proposed by Joint Petitioners which would require a competitor to file a complaint to challenge an alleged below cost rate after the fact would accomplish very little, as litigating an antitrust case is notoriously difficult and time consuming. Accordingly, FCTA believes that Rule 25-4.046 should be retained.

Staff recommends repeal of Rule 25-4.046, F.A.C., primarily because the rule is unnecessary since Chapter 364, F.S., specifies the fundamental controls on pricing nonbasic services. Subsection (5)(b) of 364.051, F.S., and Subsection (2) of 364.3381, F.S., both state that the cost standard for determining cross-subsidization is whether the total revenue from a nonbasic service is less than the total long-run incremental cost of the service, and define total long-run incremental cost as "service-specific volume and nonvolume sensitive costs."

In addition, staff has had few, if any, practical issues in obtaining the necessary cost data to complete its review of tariff filings, which lessens the importance of employing the standard template provided by the current rule. On those occasions when incremental cost data is needed to test for cross-subsidization, this data may be requested through information requests or formal discovery, as the situation dictates. In the case of an information request, the LEC would have 15 days to respond pursuant to Rule 25-4.043, F.A.C., which staff believes provides adequate turnaround. Formal discovery procedures are employed in any docketed matter set for hearing.

For these reasons, staff believes that Rule 25-4.046, F.A.C., is not necessary for the Commission to exercise its jurisdiction over the pricing of nonbasic services and cross-subsidization. Accordingly, staff recommends that Rule 25-4.046, F.A.C., be repealed.

**b. Rule 25-4.071, Adequacy of Service**

Rule 25-4.071 (p. 47) requires each telecommunications company to take certain action such that during the average busy season, busy hour at least 97 percent of all calls offered to any trunk group shall not encounter an all-trunk busy condition (that is, a fast busy signal of 120 interruptions per minute). Ninety-five (95) percent call completion standards are set for certain

categories of calls, and certain requirements are set for telephone calls to invalid telephone numbers, intercept service, and line busy signals.

Joint Petitioners argue that Rule 25-4.071 is unnecessary due to the presence of competition in the telecommunications market. They state that companies must provide an acceptable level of service in a competitive environment, otherwise customers can and will switch to competitors. Joint Petitioners point out that competitors of wireline providers do not have to meet a similar requirement. Finally, they state that even without this rule, if an issue arises that needs to be addressed, the Commission could address it in a specific review or when a complaint is raised.

OPC, the Office of the Attorney General, and AARP take the position that the ILECs have presented no reason to modify or change this rule. They state that, absent such justification, the rule should be retained.

FCTA and CompSouth state that if the Commission votes to repeal this rule, the Commission should include language in the Notice of Rulemaking ensuring that no action taken in this docket will have any adverse effect on SEEM plan metrics.

Rule 25-4.071 implements Section 364.15, F.S., which requires the Commission to direct any repairs, improvements, changes, additions, or extensions to be made to any telecommunications facilities whenever it finds such action necessary in order to secure adequate service. The language in Subsection (2) of the rule that requires completed calls to valid numbers to encounter a ring-back tone, line busy signal, or non-working number intercept facility, and Subsection (5) of the rule regarding a line busy signal are important to retain in order to assure consistency in the use of busy signals. For these reasons, staff recommends that Rule 25-4.071 should not be repealed. However, it should be noted that in Issue 2, staff is recommending that this rule be amended.

### **c. Rule 25-4.072, Transmission Requirements**

Rule 25-4.072 (p. 48) provides, in part, that telecommunications companies shall furnish and maintain necessary plant and facilities to provide efficient communications transmission. The rule requires companies to conform to ANSI/IEE Standard 820 Telephone Loop Performance Characteristics (Adopted 1984).

Joint Petitioners argue that Rule 25-4.072 should be repealed because it is unnecessary due to the presence of competition in the telecommunications market. They point out that competitors of wireline providers do not have to meet a similar requirement. Joint Petitioners argue that several forums exist to establish standards regarding transmission requirements, including numerous committees of the Alliance for Telecommunications Industry Solutions (ATIS), and that, therefore, state rules on transmission quality are not needed. They state that Rule 25-4.072 requires the ILECs to comply with specific ANSI/IEEE standards that were adopted in 1984. They assert that while provision of service has changed, the ILECs continue to comply with existing industry standards. Finally, Joint Petitioners argue that even without this

rule, if an issue arises that needs to be addressed, the Commission could address it in a specific review or when a complaint is raised.

OPC, the Office of the Attorney General and AARP take no position on Rule 25-4.072. FCTA and CompSouth state that if the Commission votes to repeal the rule, the Commission should include language in the Notice of Rulemaking ensuring that no action taken in this docket will have any adverse effect on SEEM plan metrics.

Rule 25-4.072 implements Section 364.15, F.S., which requires that, whenever the Commission finds that repairs, improvements, or changes in any telecommunications facilities ought to be made in order to secure adequate service or facilities for telecommunications services, the Commission shall make and serve an order directing such repairs, improvements, changes, additions, or extensions. Rule 25-4.072 was last amended in 2005 in Docket No. 991473-TP in order to require compliance with ANSI/IEEE Standard 820, the industry standard that defines the transmission requirements the companies should meet. The reason for making this amendment was that the previous language was considered too broad, difficult to interpret, and difficult to enforce.<sup>17</sup>

Staff recommends that this rule not be repealed because it sets the standard for transmission requirements which is necessary for the interconnection with other networks for adequate end to end volume. Moreover, in order to properly implement Section 364.15, F.S., staff believes that the specific language included in Rule 25-4.072 should be retained. Because staff applies the requirements contained in Rule 25-4.072 to all companies, it meets the definition of a rule. Setting these requirements by rule ensures uniform enforcement of the Commission's exercise of its regulatory responsibilities pursuant to Section 364.15, F.S. Staff notes that the workshop participants did not provide any suggested amendments to this rule.

#### **d. 25-4.108, Initiation of Service**

Rule 25-4.108 (p. 49) sets forth requirements concerning application for telephone service. The rule provides that any applicant for telephone service may be required to make application in writing in accordance with standard practices and forms, provided that the utility's service initiation policy is set forth in its tariff and has uniform application. The rule also requires companies to permit residential customers to pay service connection charges in equal monthly installments over a period of at least 3 months and allows a company to charge a \$1.00 monthly service fee.

Staff recommends that Rule 25-4.108 be repealed. Staff believes that the language requiring uniform application of any service initiation policy is unnecessary because it is duplicative of the requirements of Section 364.08, F.S. Staff believes that the general language in Rule 25-4.108 that service be initiated without unreasonable delay is unnecessary because Rule 25-4.066 contains more specific and detailed requirements concerning service initiation. It should be noted that in Issue 2, staff is recommending that the service connection charge installment plan requirements from Rule 25-4.108 be moved to Rule 25-4.107.

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<sup>17</sup> Staff notes that the current ANSI/IEEE Standard 820 was adopted in 2005, and Rule 25-4.072 will be amended in a separate docket to incorporate by reference the 2005 version of the standard.

Statement on SEEM

At the October 10, 2008, rule development workshop, CompSouth requested that the following language be included in any notice of rulemaking:

None of the rule amendments or repeals are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan.

It is staff's opinion that the repeal of the rules addressed above are not intended to impact wholesale service or the SEEM plan. Thus, staff has no objection to including the proposed language in any notice of rulemaking issued in this docket.

Statement of Estimated Regulatory Cost (SERC)

The SERC (Attachment C) notes that the proposed repeals are intended to simplify, streamline, and clarify the rules. The SERC also notes that the rule repeals would benefit the Commission and customers by having more simple, streamlined, and clarified rules, and that utilities' administrative costs would likely decrease.

Based upon the above, staff recommends that the Commission propose the repeal of Rules 25-4.046 and 25-4.108, F.A.C., as set forth in Attachment A. Staff also recommends that the notice of rulemaking contain language stating that none of the rule repeals are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan.

**Issue 2:** Should the Commission propose the amendment of Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.066, 25-4.067, 25-4.070, 25-4.071, 25-4.073, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110?

**Recommendation:** The Commission should propose the amendment of Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.066, 25-4.067, 25-4.070, 25-4.071, 25-4.073, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110, as set forth in Attachment B. Staff recommends that the notice of rulemaking contain language stating that none of the rule amendments are intended to impact the type of data that must be collected and analyzed for purposes of the SEEM (Self-Effectuating Enforcement Mechanism) plan. Staff recommends that the notice of rulemaking also contain language stating that the amendments to Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.067, 25-4.071, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110 are not intended to impact wholesale service or the SEEM plan, or the SEEM metrics or payments. (Cowdery, Miller, Salak, Mailhot, Simmons, Moses, Kennedy, Harvey)

**Staff Analysis:** Staff recommends the amendment of Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.066, 25-4.067, 25-4.070, 25-4.071, 25-4.073, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110, as set forth in Attachment B. Below is staff's analysis and recommendation on each of these rules.

**a. Rule 25-4.002, Application and Scope**

Rule 25-4.002 (p. 50), states that the rules in Chapter 25-4 are intended to define reasonable service standards that will promote the furnishing of adequate and satisfactory local and long distance service to the public, and to establish the rights and responsibilities of both the utility and the customer. This rule implements Sections 364.01, 364.335, 364.337, 364.3375, and 364.3376, F.S.

Staff recommends that Rule 25-4.002 should be amended to delete language which states: "The rules contained in Part II and Part V apply only to residential service." This is because, although not expressly stated, certain rules in Parts II (Rules 25-4.0161 – 25-4.024) and V (Rules 25-4.066 – 25-4.085) of Chapter 25-4 currently are applied to both residential and business service.<sup>18</sup>

**b. Rule 25-4.0185, Periodic Reports, and Form PSC/CMP 28 (4/05)**

Rule 25-4.0185 (p. 50) requires each LEC to file certain engineering data requirements pursuant to Commission Form PSC/CMP 28 (4/05) (p. 82),<sup>19</sup> which is incorporated into the rule by reference. This rule and form require the small ILECs and large ILECs to file Summary of Completed Service Orders (Schedule 2), Summary of Held Applications (Schedule 3), Access Line Data (Schedule 8), Repair Service – Trouble Reports (Schedule 11), Answer Time – Repair

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<sup>18</sup> Joint Petitioners stated at the October 10, 2008 staff workshop that they agree that the following rules in Parts II and V apply to both residential and business service: Rules 25-4.0161, 25-4.017, 25-4.0171, 25-4.0174, 15-4.0175, 25-4.0178, 25-4.020, 25-4.0201, 25-4.022, 25-4.078, and 25-4.081.

<sup>19</sup> This form designation will be changed to Form PSC/SSC 28 (x/xx) to reflect the name change of the Division of Service, Safety and Consumer Assistance.



Service (Schedule 15), Answer Time – Business Office (Schedule 16), and Central Office NXX Data (Schedule 19). Schedule 19 consists of a list of telephone numbers, some of which are used for field testing by staff when it conducts service evaluations. Information required by Schedules 2, 3, 8, 11, 15, and 16 of the form must be reported on a quarterly basis by the large LECs and semiannually by the small LECs, and information required by Schedule 19 of the form must be reported on a semiannual basis.

Staff recommends that Rule 25-4.0185 be amended to specifically identify which rule provisions apply to residential service only. The rule should be amended to add language to clarify that Schedules 2, 3, 11, and 15 of Form PSC/CMP 28 shall apply to residential service only because staff is recommending that the rules upon which the reports are based should be amended to apply to residential service only. These schedules are currently required by Rules 25-4.066(8), 25-4.070(7), and 25-4.073(4). Schedule 8, which addresses access line counts information, will continue to apply to both business and residential service. Joint Petitioners agree with this amendment.

Joint Petitioners suggest that Subsection (2) of Rule 25-4.0185 be amended to delete the requirement for filing Schedule 19. Staff agrees and recommends that Rule 25-4.0185 and Form PSC/CMP 28 be amended to delete reference to Schedule 19. Staff does not believe that Schedule 19 is a necessary filing. Staff has access to all of the telephone numbers provided in Schedule 19 filings in a Commission database. Staff will be able to use the telephone numbers from this database for its service evaluations. Before field testing, staff will verify with the company that the telephone numbers to be tested are still correct. The Commission has authority to request this information pursuant to Section 364.183(1), F.S.

Staff recommends that Rule 25-4.0185 be amended to delete reference to Schedule 16 and that Form PSC/CMP 28 be amended to delete Schedule 16 as a result of staff's recommended amendment to Subsection (1) of Rule 25-4.073, which is discussed below. Staff's recommended amendment to Rule 25-4.073(1) results in the reporting requirements for answer time for business offices and answer time for repair services being combined so that only one reporting schedule, Schedule 15, rather than both Schedules 15 and 16, will be required. Staff also recommends that Schedule 15 of Form PSC/CMP 28 be amended to reflect staff's recommended amendments to Rule 25-4.073.

Staff also recommends that Schedules 2, 8, and 11 of Form PSC/CMP 28 be amended. Staff recommends that Schedule 2, filed pursuant to Rule 25-4.066, be amended to reflect corresponding recommended amendments to Rule 25-4.066, as discussed below. Staff recommends that Schedule 8 be amended to clarify that reporting is done on a quarterly basis, consistent with Rule 25-4.0185. Staff recommends that Schedule 11 be amended to reflect staff's recommended amendments to Rule 25-4.070, as discussed below.

### **c. Rule 25-4.023, Report of Interruptions**

Subsection (1) of Rule 25-4.023 (p. 51) provides that the Commission shall be informed of any major interruptions to service that affect 1,000 or more subscribers for a period of 30 minutes or more as soon as it comes to the attention of the company, and provides for

information to be provided with reports of interruptions. Subsection (2) of the rule requires filing with the Commission a copy of all Florida service interruption reports made to the FCC in accordance with Part 63 of Chapter 1 of Title 47, C.F.R.

Joint Petitioners had originally requested that this rule be repealed. The Office of the Attorney General states that the rules regarding service interruption and service repairs are vital. It states that, to a lot of people, interruption of service is a very serious thing, cutting off their link to the outside world and their connection to vital services. The Office of the Attorney General states that it sees a steady decrease by some companies in compliance with the rules, which would indicate compliance would be worse without rules since there would be no penalties or fines. The Office of the Attorney General encourages the Commission to preserve the rules which provide such an important benefit to customers and ensure that there is compliance with the quality of service that customers deserve.

Staff recommends that Rule 25-4.023 be amended to require reports only during times of named tropical systems. Staff believes that during times of tropical storms, the Commission is more likely to receive customer inquiries about outages. Further, staff recommends that Rule 25-4.023 be amended to require that the location, the number of subscribers affected, and the estimated duration of the outage be reported on a daily basis. Finally, staff recommends the deletion of Subsection (2). Staff has generally not made use of the reports filed pursuant to this subsection and believes that the reports are not necessary to monitor service interruptions and protect the public interest. In addition, the FCC requires companies to file information when traffic is rerouted due to an outage in the network. Staff does not have an ongoing need for this type of information. Furthermore, the Commission may still request this information on an outage specific basis.

On October 22, 2008, Joint Petitioners filed a statement in support of staff's recommended amendment to Rule 25-4.023. No workshop participants filed a response to Joint Petitioners' filing.

**d. Rule 25-4.066, Availability of Service**

Rule 25-4.066 (p. 52) pertains to telecommunications companies having sufficient facilities to provide service. The rule also concerns service installations, including the requirement that each company file reports as required by Rule 25-4.0185, which addresses the performance of the company with respect to the availability of service requirements. Rule 25-4.066 includes the provision that each telecommunications company shall establish as its objective the satisfaction of at least 95 percent of all applications for new service in each exchange within a 30 day maximum interval and the furnishing of service within each of its exchanges to applications within 60 days after the date of application, subject to certain specified exceptions. The rule contains specific requirements that the telecommunications company must follow in order to notify a service applicant about installation delay and circumstances and conditions under which service will be provided.

In its post-workshop comments filed October 7, 2008, Joint Petitioners state that this rule is unnecessary due to the presence of competition in the telecommunications market. Instead,

they believe that the focus should be on what satisfies customers, not artificial standards. Joint Petitioners state that companies must provide acceptable and efficient arrangements to provide service, otherwise customers can and will switch to competitors. They point out that competitors of wireline providers do not have to meet a similar requirement. Joint Petitioners contend that if an availability of service issue arises that the Commission believes needs to be addressed, it may do so on a case-by-case basis.

CWA expresses very strong concern that the Commission retain the rules which assure that telecommunications infrastructure is properly installed, maintained, and repaired. CWA believes that it is essential that the Commission retain rules that require reporting which keeps the Commission advised of the state of telecommunications infrastructure. At the September 4, 2008 agenda conference in Docket 080159-TP, CWA expressed concern over the repeal of Rule 25-4.024, Held Applications, because it believes that the Commission needs the companies to provide information giving a clear picture of the infrastructure that needs repair. Staff explained at the agenda conference that companies are required to report this information pursuant to Rule 25-4.066. CWA agreed that Rule 25-4.066 contains more detailed reporting requirements than Rule 25-4.024, and takes the position that it should not be repealed.

OPC, the Office of the Attorney General, and AARP contend that Rule 25-4.066 should not be repealed. They argue that as with most telecommunications services, the mechanization of the installation process over the years has improved the speed and efficiency of installations and has enabled the companies to more easily comply with this rule than when it was first adopted. They point out that more recently, the Commission has revised this rule to make it easier for the companies to comply in their smaller exchanges. Finally, they take the position that customers care about the speed of installation of their basic service.

In its November 14, 2008, letter modifying its Joint Petition, Joint Petitioners suggest that Rule 25-4.066 be amended instead of repealed. They state that Rule 25-4.066 should be limited to residential service, and that it should be amended to delete all provisions except portions of Subsections (1) and (8) of the rule.

Staff agrees that Subsection (1) of Rule 25-4.066 should be amended in order to clarify that it applies to residential service only, and is recommending this change. OPC, the Office of the Attorney General, and AARP agree with this recommendation.

Joint Petitioners suggest retaining the portion of Subsection (1) that requires each telecommunications company to provide central office equipment and outside plant facilities designed and engineered in accordance with realistic anticipated customer demands for basic local telecommunications service in accordance with its filed tariffs. However, they suggest deleting the remainder of the language that requires that facilities be designed and engineered in accordance with orders of the Commission, subject to the company's ability to secure and provide, for reasonable expense, suitable facilities and rights for construction and maintenance of such facilities. Staff recommends that this change should be made to the rule and believes that it is sufficient that these standards and conditions are required to be set forth in tariffs filed with the Commission.

Staff does not believe that Subsections (2) through (4) of Rule 25-4.066 should be deleted. Subsections (2) and (3) of Rule 25-4.066 require that persons receive initial residential service within 3 days unless the customer requests a later date or if construction is required to provide service. Staff believes customers expect service to be installed in a timely manner. However, staff recommends that Subsections (2) and (3) be amended to allow companies 5 working days' time for primary service installation. Staff believes that 5 days is a reasonable and adequate timeframe for initial primary service installation where facilities are available, and should not cause a hardship for consumers. It is true that other competitors do not have this requirement. However, by retaining this installation time requirement, competitors may be encouraged to use a similar standard, resulting in a minimum installation time that consumers could expect from all providers. Staff notes that companies have the ability to initiate a service guarantee program in lieu of this rule under Rule 25-4.085, and that AT&T and Embarq have Commission-approved service guarantee plans in lieu of Rule 25-4.066.

Staff also recommends amending Subsection (2) of Rule 25-4.066 to clarify that adding special equipment or services, for example, call waiting, does not exempt a company from the requirements of this rule. However, staff also recommends that if an applicant requests broadband (Internet) and/or video service at the same time as residential phone service is ordered, the rule would not apply. This is because installation of phone service plus broadband and/or video service may take a longer amount of time than installation of solely phone service, depending on the facilities required. Because of this, staff believes that an applicant requesting these additional, nonregulated services is not requesting service under the same or substantially the same circumstances and conditions as an applicant requesting solely residential phone service. For this reason, staff believes the two situations warrant different regulatory treatment.

Staff recommends amending Subsection (4) to delete timeframe language which is covered by Subsection (2). Moreover, the provision requiring the company to leave a notice if it is unable to gain admittance to a customer's premises during a scheduled appointment period should be deleted because it is unnecessary to include this established business practice in a rule. The Commission does not receive complaints and is unaware of any customer problems in this regard.

Staff recommends deleting Subsections (5) through (7) of Rule 25-4.066 because staff is recommending a change to the companies' reporting method, as described on Schedule 2 of Form PSC/CMP 28, from exchange based to access line based (50,000 or more access lines and 50,000 or fewer access lines). Staff believes that this reporting method gives the companies more flexibility in dispatching outside technicians to reduce travel time.

Subsection (8) of Rule 25-4.066 specifies that each company is required to report the performance of the company with respect to the availability of service requirements as outlined in Form PSC/CMP 28 (4/05). Joint Petitioners suggest amending Subsection (8) to delete the requirement that each company explain the reasons for all service orders that are not completed within 30 calendar days. Staff agrees that this language should be deleted because it is duplicative of the Rule 25-4.0185 reporting requirement set forth in Schedule 3, Summary of Held Application, of Form PSC/CMP 28.

Rule 25-4.066 implements Section 364.15, F.S., Compelling Repairs, Improvements, Changes, Additions, or Extensions, which requires the Commission to make and serve an order directing that such repairs, improvements, changes, additions, or extensions be made as the Commission determines reasonably ought to be made, in order to secure adequate service or facilities for telecommunications services. In implementing Section 364.15, F.S., Rule 25-4.066 sets parameters that ILECs are required to meet in providing service. Setting such standards by rule ensures uniform enforcement of the Commission's regulatory responsibilities exercised under Section 364.15, F.S.

**e. Rule 25-4.067, Extension of Facilities – Contributions in Aid of Construction**

Rule 25-4.067 (p. 54) sets forth requirements for line and service extension policy. Joint Petitioners suggest that Subsections (2) through (7) of Rule 25-4.067 should be deleted, and that Subsection (1) should be amended to delete the requirement that companies make reasonable extensions to lines and service. Joint Petitioners' suggested amendments would result in the rule stating, in total, that each telecommunications company shall include in its tariffs a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to serve applicants for service within its certificated area.

Subsection (1) of Rule 25-4.067 requires each telecommunications company to make reasonable extensions to its lines and service and to include in its tariffs a statement of its standard extension policy setting forth the terms and conditions of service extension. Staff recommends that the Subsection (1) requirement that tariffs include the statement of terms and conditions of its standard extension policy be deleted as unnecessary because it is covered by Rule 25-4.034. Section (1) of Rule 25-4.034, as proposed for amendment by the Commission at its November 13, 2008 agenda conference, provides that, except to the extent otherwise permitted by Section 364.051(5)(a), F.S., each telecommunications company shall maintain on file with the Commission tariffs which set forth all rates and charges for customer services, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relation of customer and company. Pursuant to Section 364.051(5)(a), F.S., each price regulated LEC shall at its option maintain tariffs with the Commission or otherwise publicly publish the terms, conditions, and rates of each of its nonbasic services. Staff believes that these requirements are appropriate to assure publication of a company's standard extension policy.

Staff also recommends deleting as unnecessary the Rule 25-4.067(1) requirement that companies make reasonable extensions to their lines and service. The requirement that telecommunications companies must make reasonable extensions exists pursuant to Section 364.15, F.S., which gives the Commission authority to compel any additions or extensions which should reasonably be made to any telecommunications facility in order to secure adequate service or facilities for telecommunications services.

Subsection (2) of Rule 25-4.067 provides that the proportion of construction expenses borne by the utility in serving an applicant shall be not be less than 5 times the annual exchange revenue of the applicants. Joint Petitioners suggest deleting this subsection of the rule.

While staff does not recommend deleting Subsection (2) in its entirety, staff recommends that Subsection (2) be amended to delete the phrase "shall have uniform application" because it is unnecessary. Section 364.08, F.S, prohibits telecommunications companies from taking action to refund or remit, directly or indirectly, any portion of the rate or charge specified in its schedule on file and in effect at that time, or extend to any person any advantage of contract or agreement or the benefit of any rule or regulation or any privilege or facility not regularly and uniformly extended to all persons under like circumstances for like or substantially similar service.

Staff also recommends amending Subsection (2) so that the proportion of construction expense to be borne by the company shall be not less than five times the annual local telecommunications service revenue of the applicants, instead of not less than five times the annual exchange revenue of the applicants. Staff recommends that this change should be made because at the time Rule 25-4.067 was written, the "annual exchange revenue" encompassed all monthly recurring, regulated revenue received by the company for providing service. Staff's proposed change updates the rule to reflect more current terminology to include all monthly recurring, regulated revenue received by the company.

Staff believes that it is important not to delete the remainder of Subsection (2). The remainder of the rule limits the amount of contributions in aid of construction (CIAC) that the company may charge the subscriber by requiring the company to include in its calculation a specific amount of recurring revenue which it may reasonably expect to receive from the subscriber.

Subsection (3) of Rule 25-4.067 sets forth the requirements which the utility must follow in the event that the utility's cost equals or exceeds the estimated cost of the proposed extension, sets forth requirements to be followed if the estimated cost of the proposed extension exceeds the amount which the utility is required to bear, provides for the circumstance under which no portion of construction shall be assessed to the applicant for the provision of new plant, and requires the company's tariffs to provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of 5 years, or such lesser period as agreed upon. Subsection (4) requires that line extension tariffs contain provisions designed to require all subscribers served by a line extension during the first five years after it is constructed to pay their pro rata share of costs assignable to them.

Joint Petitioners suggest the deletion of Subsections (3) and (4). Joint Petitioners state in their post-workshop comments to the September 10, 2008, workshop that the requirements of Subsections (3) and (4) should be deleted because they are more properly covered in tariffs or in published terms and conditions. They state that they propose elimination of some details about application of the line extension policy which are administratively burdensome, such as spreading a pro rata share of costs to new customers over a five year period. Joint Petitioners argue that these changes would allow them to continue to have an extension policy, but to streamline requirements that are not critical in today's competitive environment. They state that the idea is to focus on the provision of basic service versus ancillary services that a customer may want and desire.

Staff does not recommend the deletion of Subsection (3) in its entirety. However, staff recommends deleting the first two sentences of Subsection (3), which require that if the cost to the utility of a line extension as determined under Subsection (2) of Rule 25-4.067 or as provided in the company's tariffs equals or exceeds the estimated cost of the proposed extension, the utility shall construct it without cost to the subscribers initially served. Staff believes that this requirement is covered by the language of Subsection (2) of Rule 25-4.067. Staff recommends deleting as unnecessary the statement in Subsection (3) as to how excess cost may be distributed by the company if the estimated cost of the proposed extension exceeds the amount which the utility is required to bear. This language is non-compulsory and does not impose a requirement upon companies.

Staff does not recommend deleting the remaining provisions of Subsection (3) of Rule 25-4.067, which provide that no portion of construction shall be assessed to the applicant for the provision of new plant where the new plant parallels and reinforces existing plant or is constructed along a road and is to be used to serve subscribers in general. These provisions should be retained because staff believes it is not reasonable to charge an individual subscriber for a plant extension which is designed to serve or benefit many other subscribers.

Staff recommends amending that portion of Subsection (3) that states that "[t]he company's tariff shall provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of five years or such lesser period as the subscriber and company may mutually agree upon." Staff recommends that this language be changed to require that the portion of construction costs paid by the subscriber may be paid in cash in a lump sum or as a surcharge over a period of three years or such other period as agreed upon. It is not necessary to state in Rule 25-4.067 that this information shall be provided in the company's tariff because Rule 25-4.034(1), as proposed for amendment by the Commission pursuant to its November 13, 2008 agenda conference, would require that any language concerning payment of construction costs and terms be set forth in tariffs filed with the Commission, or, pursuant to Section 364.051(5)(a), F.S., otherwise publicly published. Staff believes that these requirements are appropriate to assure publication of a company's policy in this regard.

Staff recommends decreasing the surcharge payment period in Subsection (3) from five to three years, or such other period as agreed upon, in recognition of changed market conditions. Unlike 40 years ago, staff believes that customers often do not remain with a provider as long as they used to, and a three-year payment period is more realistic than a five-year payment period.

Staff recommends that Subsection (4) of Rule 25-4.067 should be deleted because it is obsolete. Staff believes that this subsection is seldom, if ever, used for residential telephone service applicants because it is extremely rare that a residential customer requires a line extension which would result in additional subscribers requiring use of that line extension over the next five years.

Joint Petitioners suggest deletion of Subsections (5) through (7) of Rule 25-4.067. Subsection (5) provides that no company shall be required to extend facilities for new service without the necessary right-of-way, and that the company may charge for pole attachments in lieu of new construction costs provided that the applicant may elect to pay excess construction

costs as though the service were provided without the use of attachment. Subsection (6) pertains to the ownership of all constructed facilities and states that no portion of the expense assessed against the applicant shall be refundable by the company. Subsection (7) allows the utility to establish an extension policy more favorable to customers as long as no undue discrimination is practiced. Staff believes that these three sections are primarily for the benefit of telecommunications companies. Therefore, since the ILECs request that these sections be deleted, staff sees no reason to retain them, and recommends that they be deleted. In addition, it is unnecessary to prohibit discriminatory treatment between customers in Rule 25-4.067 since this practice is prohibited by Section 364.08, F.S.

Subsection (8) provides that in the event that a company and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review. Staff does not recommend that this provision be deleted because it is an important customer protection provision which implements Section 364.15, F.S.

Joint Petitioners believe that Rule 25-4.067 should be applied to residential service only. Joint Petitioners state that, typically, business customers have not been adversely impacted since the intent of the rule is to provide service where the cost to provide service is high, "such as in the middle of a forest." They state that, because businesses are generally established in a more populous area, the need for a line extension policy is unnecessary since the potential revenue would already warrant a company providing services.

Staff agrees with Joint Petitioners that typically it is unnecessary for business customers to make use of an ILEC's line extension policy. Staff also notes that Rule 25-4.067 is rarely used for business service. For these reasons, staff recommends that this rule be amended to apply to residential service only.

In addition, staff recommends adding language to Rule 25-4.067 to state that the rule shall not apply to line extensions when the applicant has requested broadband or video service in addition to telecommunications service. The reason for adding this language is that revenues and costs for line extensions capable of providing broadband or video services may be significantly different from revenues and costs for a line extension solely to provide telecommunications service. This rule does not contemplate or address the more economically complex situation of an ILEC providing broadband or video services in conjunction with telecommunications service. Because of this, staff believes that an applicant requesting these additional, nonregulated services is not requesting service under the same or substantially the same circumstances and conditions as an applicant requesting solely residential telephone service. For this reason, staff believes the two situations warrant different regulatory treatment, and the rule should not be applied to line extensions when the applicant has also requested either broadband or video service.

Staff believes that the provisions of Rule 25-4.067, amended as recommended by staff, give protection to the consumer so that excessive CIAC charges may not be imposed. Staff notes that the protections of Rule 25-4.067 extend to consumers in remote areas that require special construction to build facilities in order to provide service. Because these requirements are applicable to all telecommunications companies, they meet the statutory definition of a rule and,



therefore, should remain part of Rule 25-4.067, F.A.C. Staff believes that these provisions are an important part of the Commission's responsibility in protecting the public interest.

**f. Rule 25-4.070, Customer Trouble Reports**

Rule 25-4.070 (p. 55) pertains to trouble reports.<sup>20</sup> The rule establishes requirements for telecommunications companies when service needs to be restored, identifies circumstances under which a customer must be given a refund or adjustment, and requires reports to be filed with the Commission.

Joint Petitioners argued in their post-workshop comments that this rule should be repealed due to the presence of competition in the telecommunications market. However, Joint Petitioners changed their position in their November 14, 2008, modification to their Joint Petition, requesting amendments to the rule instead of repeal.

OPC, the Office of the Attorney General, and AARP argue that Rule 25-4.070 should not be repealed. They state that reliable telephone service is crucial to health and personal welfare. They assert that the ability to contact police, fire, medical and other services in times of emergency is critical to all telecommunications customers. They state that the loss of any of these services could have devastating consequences. They contend that competition should not be used as an excuse to provide less reliable telephone service. OPC states that to the contrary, competition should bring better, more reliable service.

CWA states that trouble reports are linked to maintenance. CWA believes that it is important for the Commission to continue to receive these reports.

Subsection (1) of Rule 25-4.070 states that each telecommunications company shall make all reasonable efforts to minimize the extent and duration of trouble conditions that disrupt or affect customer service. Joint Petitioners suggest amending this requirement so that it applies to basic residential telecommunications service only. Joint Petitioners believe that application of Rule 25-4.070 to business services would burden this most highly competitive segment of the markets. Staff believes that Rule 25-4.070 should be amended to reflect that it is applicable to residential service only. OPC, the Office of the Attorney General, and AARP agree with this recommendation.

Staff does not recommend limiting application of Rule 25-4.070 to only customers with no bundled service. Under Joint Petitioners' proposal, this rule would not apply to trouble conditions that affect or disrupt customers who have basic telecommunications service<sup>21</sup> bundled with vertical telecommunications services, such as call-waiting or call forwarding. Under Joint

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<sup>20</sup> Rule 25-4.003 defines a "trouble report" as "[a]ny oral or written report from a subscriber or user of telephone service to the telephone company indicating improper function or defective conditions with respect to the operation of telephone facilities over which the telephone company has control."

<sup>21</sup> Section 364.02(1), F.S., states that basic local telecommunications service means voice-grade, flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to other services as listed in the definition.

Petitioner's proposal, the service standard of correcting 95% of trouble reports for residential customer service within 48 hours would apply to customers who have only basic telecommunications service. Customers who have basic service bundled with other services, however, would not be afforded the protection of this service standard. Section 364.08, F.S., prohibits a telecommunications company from extending to any person any advantage or benefit of any rule or regulation not regularly and uniformly extended to all persons under like circumstances for like or substantially similar service. Staff believes that all customers who receive basic telecommunications services, whether or not they are bundled with other services, should be treated the same under Rule 25-4.070. Furthermore, the Commission is charged by Section 364.01(4) with protecting the availability of adequate basic local telecommunications service to all citizens of the state. For these reasons, staff recommends that service standard of Rule 25-4.070 should continue to apply all customers' telephone services, and not be limited to basic service only.

Subsection (1) further requires that trouble reports be classified as to their severity on a "service interruption" or "service affecting" basis, and that service interruption reports shall not be downgraded to a service affecting report, but that, however, a service affecting report shall be upgraded to a service interruption if changing trouble conditions so indicate. Joint Petitioners suggest amending Subsection (1) to delete this requirement. Instead, Joint Petitioners suggest adding language to state that trouble reports "will be handled on a trouble is a trouble basis and there will be no distinction between service affecting and out of service troubles."

Staff recommends that Subsection (1) should be amended to delete the provisions regarding classification of trouble reports and regarding service interruption reports. Staff also recommends combining the service interruption and service affecting classifications into one category. Staff believes that this change allows the companies flexibility in dispatching outside workforces for the purpose of reducing driving time between trouble repairs.

As a result of amending Subsection (1) to combine the service affecting and service interruption trouble categories into one category, staff recommends that Subparagraph (1)(b) be amended to increase the amount of time that the company has for repair or customer notification from 24 to 48 hours. The change to 48 hours is the average of the 72 hour (service interruption trouble) and 24 hour (service affecting) service objectives contained in Subsection (3) of this rule, which are being deleted from Subsection (3) due to staff's recommended change from two service trouble categories to one service trouble category. As a result of these changes, staff recommends that Subparagraph (1)(c), which requires that service restoration be made "without undue delay," be deleted as unnecessary.

Subsection (2) of Rule 25-4.070 sets forth the requirements for providing repair service on Sundays and holidays. Joint Petitioners suggest, consistent with their suggested amendments to Subsection (1), that the term "service interruptions" be used instead of the synonymous term "out of service (OOS) conditions."<sup>22</sup> Staff agrees and recommends this change.

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<sup>22</sup> "out of service," synonymous with "service interruption," is defined in Rule 25-4.003(40) as the inability, as reported by the customer, to complete either incoming or outgoing calls over the subscriber's line, subject to certain exceptions.

Subsection (3) of Rule 25-4.070 contains service objectives for “service interruption” and “service affecting” trouble conditions. The restoration of interrupted service shall be scheduled to ensure that at least 95 percent of service interruptions shall be cleared within 24 hours of report in each exchange that contains at least 50,000 lines, as measured on a monthly basis. For service affecting trouble conditions, clearing of service affecting trouble reports shall be scheduled to ensure that at least 95 percent of such reports are cleared within 72 hours of the report in each exchange which contains at least 50,000 lines, as measured on a monthly basis.

Joint Petitioners, consistent with their suggestion to amend Subsection (1) to delete the distinction between service affecting and service interruption trouble categories, suggest deleting the language in Subsection (3). Instead, Joint Petitioners suggest adding language to Subsection (3) to provide that the service objectives for trouble reports for customers with basic residential telecommunications service will be corrected 80 percent of the time within 48 hours on a statewide average basis unless customer requests an alternative restoration. Joint Petitioners also suggest adding to Subsection (3) language which states that, for companies that do not have systems enabling them to report results on an automated basis according to service type, performance will be measured and reported based on results for all residential customers, and that upon request, the Commission may authorize a company to measure and report results on an alternative basis.

Staff recommends, consistent with the amendment of Subsection (1), deleting the language of Subparagraphs (3)(a) and (b) regarding the distinction between service affecting and service interruption trouble categories. Instead, staff recommends changing the manner in which the trouble reports are reported from exchange based to rural (that is, fewer than 50,000 access lines per exchange) and urban (that is, 50,000 or more access lines per exchange). In addition, companies may combine all rural together and may combine all urban together for the purposes of reporting in Rule 25-4.0185. Staff believes that this change will still give the Commission the ability to monitor problem areas through the reporting requirements.

In addition staff recommends that Subsection (3) be amended to state that trouble reports for residential customer service shall be corrected 95 percent of the time within 48 hours, as referenced in Subsection (1) above. The change to 48 hours is the average of the 72 hour clearing time for service interruption trouble reports and the 24 hour clearing time for service affecting trouble reports contained in Subsection (3), which are being deleted due to staff’s recommended change from two service trouble categories to one service trouble category.

Staff also recommends that Rule 25-4.070 be amended to properly characterize the service restoration requirements as “service standards” instead of “service objectives,” consistent with Commission practice.<sup>23</sup> Rule 25-4.070(3) is being amended to state: “Trouble reports for

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<sup>23</sup> See, e.g., Docket No. 991376-TL, In re: Initiation of show cause proceedings against GTE Florida Incorporated for violation of service standards (concerning, *inter alia*, violation of the Rule 25-4.070(3)(a), F.A.C., service standard); Docket No. 991377-TL, In re: Initiation of show cause proceedings against Sprint-Florida, Incorporated for violation of service standards (concerning, *inter alia*, violation of the Rule 25-4.070(1)(c) and (d) and (3)(a), F.A.C., service standards); and Docket No. 991378-TL, In re: Initiation of show cause proceedings against BellSouth Telecommunications, Inc. for violation of service standards (concerning violation of the Rule 25-4.070(1)(d) and (3)(a), F.A.C., service standards).

residential customer service shall be correct 95 percent of the time within 48 hours.” This is a requirement which companies are expected to meet as representative of adequate service, and therefore meets the definition of a service standard.

Subsection (5) of Rule 25-4.070 requires that each telephone company shall establish procedures to insure the prompt investigation and correction of repeat trouble reports. Joint Petitioners suggest deleting the provisions of Subsection (5), which require that the percentage of repeat troubles will not exceed 20 percent of the total initial customer reports in each exchange when measured on a monthly basis, and defining a repeat trouble report as another report involving the same item of plant within 30 days of the initial report. Staff recommends deleting Subsection (5) because a person experiencing multiple problems with the same repair will probably file a complaint with the company and possibly with the Commission. Staff can monitor the repeat troubles through the complaint process or periodically through a data request if necessary. In addition, because staff recommends that Subsection (5) concerning repeat trouble reports be deleted, staff is also recommending deletion of the provision in Subsection (6) referencing repeat trouble reports.

Rule 25-4.070 implements Section 364.15, F.S., Compelling Repairs, Improvements, Changes, Additions, or Extensions. Section 364.15 requires the Commission to make and serve an order directing that such repairs, improvements, changes, additions, or extensions be made as it determines reasonably ought to be made, in order to secure adequate service or facilities for telecommunications services. Rule 25-4.070 implements Section 364.15, F.S., by providing specific requirements regarding restoration of interrupted service, repairs on Sundays and holidays, and service interruptions that affect the public health and safety. These specific requirements, as recommended for amendment by staff, are important and necessary to implement Section 364.15, F.S. Setting such requirements by rule ensures uniform enforcement of the exercise of the Commission’s regulatory responsibilities under Section 364.15, F.S.

**g. Rule 25-4.071, Adequacy of Service**

Staff recommends that Rule 25-4.071 (p. 58) be amended. Rule 25-4.071 implements Section 364.15, F.S., which requires the Commission to direct any repairs, improvements, changes, additions, or extensions to be made to any telecommunications facilities whenever it finds such action necessary in order to secure adequate service. Subsection (1) of Rule 25-4.071 requires that, during the average busy season busy hour, at least 97 percent of all calls offered to any trunk group shall not encounter an all trunk busy condition. Subsection (2) of the rule establishes 95 percent call completion standards. Staff recommends that these provisions should be deleted as obsolete due to industry technology changes from analog to digital switching. These rule provisions were important when the network was an analog network, but the network has since been redesigned to digital, and adding additional trunking is quickly done when necessary.

However, staff recommends retaining the requirement in Subsection (2) of Rule 25-4.071 that telephone calls to valid numbers should encounter a ring-back tone, line busy signal, or non-

working number intercept facility after completion of dialing. Staff believes that it is important to require that customers not terminate with “dead air” but that there is a response of the type listed.

Staff recommends deleting the language in Subsections (3) and (4) regarding intercept service as unnecessary and duplicative. Subsection (3) should be deleted based on staff’s recommendation that its language be incorporated into Rule 25-4.074, as set forth below. Subsection (4) should be deleted as unnecessary because it adds no regulatory requirements to Rule 25-4.071, stating only that intercept services shall be as outlined in Rule 25-4.074.

Finally, staff recommends retaining Subsection (5) of Rule 25-4.071. Subsection (5) requires that a line busy signal (60 impulse per minute tone) shall not be used for any signaling purpose except to denote that a subscriber’s line or other listed equipment is in use where the quantity is controlled by the customer. As discussed above, this subsection should be retained because it is important to have consistency in the use of busy signals in order to avoid customer confusion.

#### **h. Rule 25-4.073, Answering Time**

Rule 25-4.073 (p. 59) contains provisions concerning a company’s responsibilities in answering calls to their offices. Each company is required to submit a report to the Commission with respect to answer time. Joint Petitioners originally requested that Rule 25-4.073 be repealed. In their November 14, 2008 modification to their Joint Petition, Joint Petitioners changed their request to ask for amendment of this rule.

Joint Petitioners believe that this rule should remain applicable to residential service only because application of these rules to business services would burden what they describe as the most highly competitive segment of the markets. Staff recommends that this rule be amended to clarify that it applies to residential service only. Businesses have larger contracts that should force the companies to respond or they may lose the contract to another provider. OPC agrees with the staff proposal to clarify that the rule applies to residential service only.

OPC states in its post-workshop comments that when the previous standard was adopted, it was assumed that all customer calls to a company’s repair and the business office would be answered by live representatives. OPC notes that the present rule provides significant incentives for the continued mechanization of incoming calls from customers that has allowed the companies to convert the majority of their incoming calling load from live answering to automated answering.

Subparagraph (1)(a) of Rule 25-4.073 requires that each company under normal operating conditions answer at least 90 percent of all calls directed to repair services and 80 percent of all calls to business offices within 30 seconds after the last digit is dialed when no menu driven system is utilized. Joint Petitioners recommend deleting this requirement. They suggest that, instead, answer time for calls directed to repair services and calls directed to business offices for residential basic service customers be measured and reported based on the average speed of answer (ASA) which shall not exceed 120 seconds. They suggest amending the rule to state that

the measurement of ASA begins when the call leaves the automated, interactive answering system, referred to as an Integrated Voice Response Unit (IVRU), and ends when a service representative answers the call or the caller abandons the call. Further, they suggest language that, where an IVRU is not used, measurement of ASA begins as soon as the call is received and ends when a service representative answers the call or the caller abandons the call.

Staff recommends amending Subparagraph (1)(a) to require that at least 90 percent of all calls directed to both business and repair offices for residential service be answered within 90 seconds instead of 30 seconds where no menu driven system is utilized. Staff believes that this change will allow the companies flexibility in managing their call centers. Staff believes that 90 seconds is a reasonable amount of time for a person to wait for a live attendant when compared to answer times in other industries.

Subparagraphs (1)(b) and (c) of Rule 25-4.073 state that when a company uses an IVRU, at least 95 percent of the calls offered shall be answered within 15 seconds after the last digit is dialed, and the initial recorded message presented by the system to the customer shall include the option of transferring to a live attendant within the first 30 seconds of the message. The call is required to be transferred by the system to a live attendant when a subscriber selects that option or does not interact with the system for 20 seconds, and at least 90 percent of the calls shall be answered by the live attendant prepared to give immediate assistance within 55 seconds of being transferred to the attendant. Joint Petitioners suggest deleting this language in the rule and replacing it with the statement that for calls initially routed to an automated menu and handled without the intervention of a live business office representative, the answer time for these calls should be counted as one second.

Staff recommends that Subparagraph (1)(b) be amended to increase the answer time of the IVRU from 15 to 30 seconds in order to give companies the ability to reduce the number of trunks. This change should result in cost savings to the companies. Staff also recommends changing the time within which the option to transfer to a live attendant is presented to the caller from 30 to 60 seconds from the message. Staff believes that 60 seconds is an acceptable amount of time to give callers to listen to options in the IVRU before receiving the option to transfer to a live attendant.

Staff recommends amending rather than deleting Subparagraph (1)(c) of Rule 25-4.073. Staff recommends deleting as obsolete the portion of this rule requiring that subscribers who do not interact with the IVRU for 20 seconds be transferred to a live attendant. This part of the rule was initially included to assure that persons using a rotary dial phone could reach a live attendant by not responding. However, touch-tone service is virtually universal in Florida, making this provision of the rule obsolete. Staff also recommends increasing the answer time for live attendants from 55 to 90 seconds. Staff believes that a 90 second answer time is acceptable compared to other industries.

Section (1)(d) defines the term "answered" as used in Subsection (1) to mean more than an acknowledgment that the customer is waiting on the line and that the service representative is ready to render assistance. Joint Petitioners suggest amending this language to limit this

definition to calls in which the customer elects to speak to a service representative. Staff believes that this provision should be retained as an important customer service protection.

Joint Petitioners suggest deleting Subsection (2) of Rule 25-4.073, which requires that answering time studies using actual data or any statistically valid substitute for actual data be made to the extent and frequency necessary to determine compliance with Rule 25-4.073. Staff recommends that Subsection (2) be deleted because it is unnecessary. Large LECs are required by Rule 25-4.0185(1) to file with the Commission on a quarterly basis, Schedule 15, Answer Time, of Form PSC/CMP 28. Schedule 15 requires companies to enter, by category, the total number of calls to business and repair offices which are answered within the service standards required by Rule 25-4.073, the percent answered within the service standards, and whether the service standards are met. The data submitted on Schedule 15 are sufficient for use in determining a company's compliance with Rule 25-4.073. If there is a need for additional information to clarify compliance with the rule, it may be obtained through an information request or formal discovery, as the situation dictates.

#### **i. Rules 25-4.074, Intercept Service**

Subsection (1) of Rule 25-4.074 (p. 61) requires that intercept service<sup>24</sup> shall be engineered to provide a 90 percent completion for changed numbers, subject to exception, and for vacant or non-working numbers. Subsection (2) of the rule requires subscriber lines which are temporarily disconnected for nonpayment of bills to be placed on intercept. Subsection (3) of the rule requires that all private branch exchanges and In-Dial Paging Systems meet the service requirements of the rule prior to the assignment of a number block by the telephone company.

The Joint Petitioners had originally requested that this rule be repealed. In response to that request, CWA argues that Rule 25-4.074 should be retained. CWA points out that when customers move to a new residence, intercept service is very important to them.

OPC, the Office of the Attorney General, and AARP state that intercept service is important to the efficient operation of the basic backbone network which continues to be a monopoly service provided by regulated telecommunications companies. They assert that there is no substitute for the universal service provided by the backbone public switched telecommunications network, and even the small number of remaining CLECs, wireless companies and other competitors rely on the backbone network for call completions that include notification to incoming callers that a number has been changed, disconnected, or is vacant. They state that the intercept standards are part of the basic telecommunications service components that constitute basic service. They further state that customers who subscribe to basic service have done so to purchase service that includes the intercept of changed, disconnected and vacant numbers. Intercept service works for the benefit of basic service customers and there is nothing in the competitive process that would ensure its continued

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<sup>24</sup> Intercept service is defined in Rule 25-4.003, in part, as "A service arrangement provided by the telecommunications company whereby calls placed to an unequipped non-working, disconnected, or discontinued telephone number are intercepted by operator, recorder, or audio response computer and the calling party informed that the called telephone number is not in service, has been disconnected, discontinued, or changed to another number, or that calls are received by another telephone."

availability if the rule requirements were abandoned. They conclude that this rule constitutes the industry standard for intercept and it should be retained for all companies.

Staff is recommending amendments to Rule 25-4.074 meant to clarify requirements and delete obsolete or unnecessary provisions. Staff recommends retaining the portion of Subsection (1) of Rule 25-4.074 that requires intercept service to be provided for non-working, non-assigned (“vacant”) and changed numbers, and deleting the 90 percent completion requirement. Providing this intercept service does not require outside personnel to be dispatched, and is instead accomplished via a computer terminal. For this reason, the requirement that the intercept service be provided for these numbers does not need to be limited to 90 percent and is not a burden to companies. Staff recommends renumbering this provision to new Subsection (2) of Rule 25-4.074.

Staff recommends deleting Subsection (3) as obsolete. The Commission no longer regulates private branch exchanges and In-Dial Paging Systems. Staff recommends a new Subsection (3) to incorporate language from current Subsection (2), and to clarify that an intercept message is required for subscriber lines temporarily disconnected for nonpayment of bills. Staff recommends a new Subsection (4) which would incorporate language being transferred from Rule 25-4.071(3), and which would ensure that intercept messages are provided for any invalid number dialed by the consumer, such as only dialing 6 digits instead of 7. Staff also recommends deleting the reference to 911 in Subsection (4)(b) because it is obsolete and, instead, providing for an alternative routing to a predetermined default number which is capable of handling emergency calls in the event that 911 service is impaired.

In their October 31, 2008 post-workshop comments modifying their Joint Petition, Joint Petitioners state that they have no objection to staff’s recommended amendment to Rule 25-4.074. No workshop participants filed a response to Joint Petitioners’ filing regarding this rule.

#### **j. Rule 25-4.083, Preferred Carrier Freeze**

Rule 25-4.083 (p. 62) is a detailed rule that imposes requirements upon local exchange providers concerning imposition and removal of a Preferred Carrier Freeze (PC-Freeze)<sup>25</sup> on a subscriber’s account, including information which must be contained on written authorizations to impose a PC-Freeze on a preferred provider selection. Rule 25-4.083 implements Section 364.603, F.S., Methodology for Changing Telecommunications Provider, which requires the Commission to adopt rules to prevent the unauthorized change of a subscriber’s telecommunications service, to provide for specific verification methodologies, to provide for the notification to subscribers of the ability to freeze the subscriber’s choice of carriers at no charge, to allow for a subscriber’s change to be considered valid if verification was performed consistent with the Commission’s rules, to provide for remedies for violations of the rules, and to allow for the imposition of other penalties available in Chapter 364, F.S.

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<sup>25</sup> A PC-Freeze is defined in Rule 25-4.003 as “A service offered that restricts the customer’s carrier selection until further notice from the customer.”



Joint Petitioners recognize that Section 364.603, F.S., requires the Commission to adopt rules to prevent the unauthorized changing of a subscriber's telecommunication service. They suggest that the Commission should amend Rule 25-4.083 to state that each telecommunications carrier will comply with the FCC PC-Freeze requirements and that a PC-Freeze shall be implemented or removed at no charge to the subscriber.

FCTA states that important distinctions exist between the state and federal PC-Freeze rules that argue in favor of keeping Florida's current PC-Freeze rule. FCTA states that Rule 25-4.083 offers more stringent and specific safeguards against anticompetitive activity than exist under the federal rule. For instance, the federal rule allows ILECs to solicit customers to install a PC-Freeze and to charge for placing and removing the PC-Freeze. They point out that Rule 25-4.083 does not permit soliciting customers to obtain a PC-Freeze.

Staff recommends that Rule 25-4.083 be amended to incorporate by reference the federal PC-Freeze requirements of 47 C.F.R. 64.1190. Staff notes that compliance with 47 C.F.R. 64.1190 requires compliance with the FCC's verification rules, 47 C.F.R. 64.1130 and 47 C.F.R. 64.1120.<sup>26</sup> Staff recommends that Rule 25-4.083 be amended to delete the rule requirements which are duplicative of the provisions of 47 C.F.R. 64.1190. Staff believes that these suggested amendments to Rule 25-4.083 meet the rulemaking requirements of Section 364.603, F.S.

The federal regulations do not preempt states from developing their own regulations regarding PC-Freezes. Although Rule 25-4.083 and 47 C.F.R. 64.1190 are similar, there are some important differences.

Staff recommends that Rule 25-4.083 be amended to add a new Subsection (1) to state that a local provider shall make available a PC-Freeze upon a subscriber's request. Section 64.1190 applies only to LECs who offer PC-Freezes.<sup>27</sup> Thus, if a LEC elects not to offer this service, customers would not be able to obtain a PC-Freeze to protect themselves from an unauthorized carrier change. In contrast, Section 364.603, F.S., requires telecommunications companies to offer PC-Freezes, and Rule 25-4.083, F.A.C., applies to ILECs, CLECs, and IXC's.

Staff recommends retaining that portion of the language from Subsection (1) of Rule 25-4.083 that states that a PC-Freeze shall not be required as a condition for obtaining service. The federal and state rules differ in that Rule 25-4.083(1) prohibits a telecommunications provider from placing a PC-Freeze on an account as a condition to obtain service. Even though Section 64.1190 requires a LEC to obtain a customer's authorization before placing a PC-Freeze on an account, it does not specifically preclude the company from requiring a customer to accept a PC-Freeze as a condition for obtaining service.<sup>28</sup>

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<sup>26</sup> In addition, compliance with 47 C.F.R. 64.1120(e)(3), concerning acquisition through sale or transfer of a telecommunications carrier's subscriber base, requires that advance subscriber notice shall be provided in a manner consistent with 47 U.S.C. 255 and the FCC's rules regarding accessibility to blind and visually-impaired consumers, 47 C.F.R. 6.3, 6.5.

<sup>27</sup> 47 C.F.R. 64.1190(a)

<sup>28</sup> 47 C.F.R. 64.1190(d)(2) and (3)

Staff recommends that Subsection (2) of Rule 25-4.083 be retained. This subsection states that a PC-Freeze shall be implemented or removed at no charge to the subscriber. This provision is necessary to clarify that removal of a PC-Freeze shall be at no charge to the subscriber. Section 364.603, F.S., requires telecommunications companies to offer PC-Freezes to customers at no charge. Rule 25-4.083(2), F.A.C., precludes a telecommunications company from charging for both the implementation and removal of a PC-Freeze. This rule language is necessary because 47 C.F.R. 64.1190 allows LECs to charge for both implementing and removing a PC-Freeze.<sup>29</sup>

Staff recommends that Subsection (5) of Rule 25-4.083 should be deleted. This subsection prohibits a local provider from soliciting, marketing, or inducing subscribers to request a PC-Freeze, but states that a local provider is not prohibited from informing an existing or potential new subscriber who expresses concerns about slamming about the availability of a PC-Freeze. Staff believes that Subsection (5) should be deleted because there will be sufficient consumer protections remaining in Rule 25-4.083, Rule 25-4.110(16), and 47 C.F.R. 64.1190 to prevent companies from misleading customers about PC-Freezes. Section 64.1190 provides that all carrier-provided solicitation must include an explanation, in clear and neutral language, of what a PC-Freeze is and what services may be subject to a freeze. Rule 25-4.110(16), as recommended for amendment by staff, requires that companies billing for local service must provide notification to customers about the availability of a PC-Freeze at no charge. Rule 25-4.083(2), if retained as recommended by staff, prevents a company from forcing a customer to take a PC-Freeze as a condition for obtaining service.

Staff recommends that Rule 25-4.083 be amended to delete Subsections (3), (6), and (8), which staff believes are covered by the requirements of the 47 C.F.R. 64.1190(c), (d)(2), and (e), respectively. Staff recommends that Subparagraphs (4)(a) and (b) of Rule 25-4.083 should be deleted because they are covered by the requirements of 47 C.F.R. 64.1190(d)(1). Likewise, staff believes that Subparagraphs (7)(a) through (c) of Rule 25-4.083 should be deleted because they are covered by the requirements of 47 C.F.R. 64.1190(d)(3).

Staff recommends that Subsection (9) of Rule 25-4.083 should be deleted because it is unnecessary. This subsection requires a local provider to retain authorization documentation or recordings for a period of one year as proof that a customer requested implementing or lifting a PC-Freeze. Staff notes that the Commission receives few, if any, complaints involving the issue of proof that a customer requested implementing or lifting a PC-Freeze. Staff believes that normal business practice sufficiently addresses any need for records retention, and a Commission regulation is not required.

Staff recommends that Subsections (10), (11), and (12) should be deleted. These subsections were originally adopted in 2004 at the request of several telecommunications companies that participated in the rule development workshops in Docket No. 040167-TP, In Re: Proposed adoption of Rules 25-4.082, F.A.C., Number Portability, and 25-4.083, F.A.C., Preferred Carrier Freeze; and proposed amendment of Rules 25-4.003, F.A.C., Definitions; 25-

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<sup>29</sup> 47 C.F.R. 64.1190 (d)(1)(iii) requires LECs to provide an explanation of charges associated with a PC-Freeze in any carrier-provided solicitation or other materials regarding PC-Freezes.

24.490, F.A.C., Customer Relations; Rules Incorporated; and 25-24.845, F.A.C., Customer Relations; Rules Incorporated. Two paragraphs below, taken from staff's recommendation in Docket No. 040167-TP, explain why these sections were included in Rule 25-4.083.

A few of the requirements set forth in Rule 25-4.083 were added at the request of the industry. Specifically, the rule requires that a PC Freeze shall not prohibit a local provider from changing wholesale services when serving the same end user. Providers may change the types of wholesale services used to ultimately provide service to the end user, e.g., resale versus UNE-P, or the provider may select a different wholesale provider because of lower cost or better service. In these cases, the change in how the service is delivered to the end user is transparent to the end user. The rule will allow providers to change wholesale services whenever there is a PC Freeze on the account.

The proposed rule requires a local provider to place an indicator on the customer service record that a PC Freeze is in place. The industry requested this aspect of the rule as it helps their operations by alerting them to the PC Freeze. With this knowledge, the soliciting provider will be able to advise the prospective customer that a PC Freeze exists, and explain to the prospective customer the need to contact the current provider and have the PC Freeze lifted. In addition, the rule requires that the local provider make available the ability for a subscriber's new local provider to initiate a local PC Freeze using the local service request. Here again, this is an operations matter that certain industry participants requested to be codified in this rulemaking proceeding. The proposed rule will provide the acquiring provider the ability to place a service request and affect a PC Freeze on the same order.

Because the industry requests elimination of Subsections (10), (11), and (12) of Rule 25-4.083, staff surmises that the industry has changed its operational practices such that the issues addressed by these rules no longer exist as impairments to the competitive market.

Staff believes that there is no additional burden on the ILECs, CLECs, or IXC's if Rule 25-4.083 is amended as staff recommends.

**k. Rule 25-4.107, Information to Customers**

Subsection (1) of Rule 25-4.107 (p. 65) requires each company to provide disclosures of such information and assistance as is reasonable to assist any customer or applicant in obtaining adequate telephone service, including specified information on rates, residential installment plans for service connection charges payment, and "no sales solicitation" list information upon request. Subsection (2) requires the company to provide, at the earliest time practicable, the billing cycle and approximate date the customer may expect to receive monthly billing. Rule 25-4.107 implements, in part, Section 364.0252, F.S., which provides that the Commission may specify by rule the types of information to be developed by telecommunications companies and the manner by which the information will be provided to the customers. Section 364.0252 states that the

Commission shall undertake a comprehensive and ongoing effort to inform consumers regarding how to protect themselves in a competitive telecommunications market.

Staff recommends that Rule 25-4.107 be rewritten into 4 sections, that certain provisions be deleted, and that the rule's application be limited to residential service. Staff also recommends service connection installment plan language be transferred into this rule from Rule 25-4.108, Initiation of Service. Staff is recommending repeal of Rule 25-4.108 in Issue 1.

Staff recommends that Subsection (1) of Rule 25-4.107 be amended to delete the statement that each company shall provide such information and assistance as is reasonable to assist any customer or applicant in obtaining telephone service adequate to his communication needs. This general language adds nothing to the provisions of this rule and is unnecessary. The specific types of information required to be provided by companies to persons applying for residential service are set forth in the other provisions of the rule.

Staff also recommends that Subsection (1) of Rule 25-4.107 be amended to delete the requirement that LECs advise persons applying for service of the rate for the least expensive one party basic local exchange telephone service, unless specific equipment or services are being requested. This language is unnecessary because it is repetitive of Section 364.3382, F.S. In addition, Section 364.3382, F.S., requires each LEC to provide an annual bill insert to advise each residential customer of the price of each service option selected by the customer.

Staff recommends deleting from Subsection (1) of Rule 25-4.107 the language requiring that the information provided to applicants include rate amounts and installment time periods and procedures. Staff believes that requiring disclosure of rate amounts and installment information is unnecessary because this information would be disclosed at the customer's request in discussing the installment plan.

Staff also recommends adding to Subsection (1) of Rule 25-4.107 the language from Rule 25-4.108 that requires companies to permit residential customers to pay service connection charges in equal monthly installments over a period of at least 3 months and allows a company to charge a \$1.00 monthly service fee. Joint Petitioners, however, suggested deletion of this language in Rule 25-4.108 in their November 14, 2008 comments.

Staff disagrees with Joint Petitioners' suggested deletion of the installment plan language. The purpose of Rule 25-4.107, as of all rules in Chapter 25-4, is to define reasonable service standards that will promote the furnishing of adequate and satisfactory local and long distance service to the public and establish the rights and responsibilities of both the utility and customers.<sup>30</sup> The requirement to allow residential customers to pay service connection charges over a period of at least 3 months provides a more affordable alternative for low income consumers. From a consumer welfare perspective, staff believes that it is important to retain the current requirement to offer installment billing of connection charges for a monthly service fee.

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<sup>30</sup> Rule 25-4.002, Application and Scope, F.A.C.

The Commission has the authority to regulate the terms of telecommunications contracts pursuant to Section 364.19, F.S. Additionally, Section 364.01(4), F.S., requires the Commission to protect the public health, safety, and welfare by ensuring that adequate basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices. The service connection charge installment plan is a requirement that helps ensure that basic local telecommunications services are made available to all consumers in Florida at reasonable and affordable prices, consistent with the legislative intent of Section 364.01(4), F.S.

Joint Petitioners suggest in their November 14, 2008 filing that the Commission delete the provision of Subsection (1) of Rule 25-4.107, which requires that, in any discussion of enhanced or optional service, each service shall be identified specifically and the price of each service shall be given. Staff recommends retaining this provision. Staff believes that in order for residential customers to understand their options, they need to be provided with the price for each separately tariffed service. Like the disclosure requirements for connection charge installment plans, this requirement is consistent with the legislative intent of Section 364.01(4)(a), F.S. Additionally, this rule provision implements the Commission's responsibilities under Section 364.0252, F.S.

Staff further recommends that Rule 25-4.107(1) be amended to delete the requirement that a LEC inform a person of the availability of and rates for local measured service, if offered, and that copies of the information be provided for prior approval to the customer service representatives of the Division of Competitive Markets and Enforcement. The requirement that copies be provided to the Commission for prior approval is unnecessary because it is duplicative of the language in Section 364.3382(2), F.S. In addition, staff believes that it is not necessary for residential service applicants to be given information concerning local measured service, if offered, and that this provision is obsolete. Local measured service is only offered on a very limited basis by 2 companies in Florida. It was originally introduced as a low cost, limited service alternative to unlimited, basic local telecommunications service. If this service is available as the least-cost service alternative, it is required to be disclosed pursuant to Section 364.3382(1), F.S.

Joint Petitioners suggest in their November 14, 2008 filing that the Commission delete Subsection (2) of Rule 25-4.107, which states that, at the earliest time practicable, the company shall provide to a customer the billing cycle and approximate date monthly billing may be expected to be received. Staff agrees that this section should be deleted because it is unnecessary and does not add any meaningful regulatory requirement. The earliest time practicable may be at the time of billing, at which time the billing cycle information and date of billing are shown on the customer's bill.

Finally, staff recommends that Rule 25-4.107 should be amended to apply to residential customers only. Staff believes that business customers generally have more choices for service than residential customers and are more informed, so it is not necessary to require companies by rule to provide business customers with the "No Sales Solicitation" list, or to give the price for and identify specifically any enhanced or optional services which are discussed. Finally, the

provisions of Rule 25-4.107 concerning service connection charge installment plans are already limited to residential service.

### **I. Rule 25-4.109, Customer Deposits**

Rule 25-4.109 (p. 66) provides detailed requirements for LECs concerning customer deposits. The rule requires that each LEC's tariff contain the specific criteria for determining the amount of initial deposit.

Joint Petitioners stated in their post-workshop comments filed October 7, 2008, that Rule 25-4.109 is unnecessary in Florida due to the presence of competition in the telecommunications market. Joint Petitioners stated that they believe that customer deposits should be governed by tariffs rather than by rule, and that those ILECs that currently collect deposits would need to work with staff on a transition plan to move from the rule to tariffs and how to handle deposits that have already been collected. They stated that if an issue arises that needs to be addressed, the Commission could address it in a specific review or when a complaint is raised.

However, in their November 14, 2008 letter, Joint Petitioners suggest deleting Subparagraphs (1)(a) through (d) and Subsections (2) through (8) of Rule 25-4.109, instead of repealing this rule. They suggest retaining the portions of Subsection (1) that require each LEC's tariff to contain specific criteria for determining the amount of the initial deposit and provide for a LEC's ability to require an applicant for service to satisfactorily establish credit.

OPC, the Office of the Attorney General, and AARP believe that the ILECs have presented no reason to modify or change Rule 25-4.109. They assert that, absent such justification, the rule should be retained.

Rule 25-4.109 implements Section 364.19, F.S., which authorizes the Commission to regulate by rule the terms of telecommunications service contracts between companies and their patrons. By virtue of being a condition of service, a company's customer deposit policy would be contained in the ILEC tariffs. However, reliance on tariffs does not provide any level of assurance that a company's customer deposit policy would be subject to reasonable limitations if Rule 25-4.109 is repealed. Customers could experience problems in receiving timely refunds with interest, despite a good bill payment history. Staff believes that the requirements of Rule 25-4.109 are important and should continue to be applied on a uniform basis. This being the case, Section 120.54(1), F.S., mandates that these requirements be implemented by rule. For these reasons, staff does not recommend that this rule be amended as suggested by Joint Petitioners.

However, staff is recommending that Rule 25-4.109 be amended to apply to residential customers only. Staff believes that business customers have more options in that there are more CLECs offering services to business customers than to residential customers. For this reason, staff recommends that Rule 25-4.109 be amended to delete those provisions in Subsections (3), (4) and (5) relating to nonresidential customer service, and to specify that the rule applies to residential customer service only.

**m. Rule 25-4.110, Customer Billing for Local Exchange Companies**

Rule 25-4.110 (p. 69) is a very extensive rule which contains specific and detailed requirements concerning billing. Rule 25-4.110 implements Section 364.19, F.S., which grants the Commission the authority to regulate by rule the terms of telecommunications service contracts between telecommunications companies and their patrons. The rule also implements Section 364.604, F.S., which contains certain requirements on billing practices and specifies that the Commission may adopt rules to implement that section.

In their November 14, 2008 letter modifying their Joint Petition, Joint Petitioners suggest deleting the rule as written and instead substituting the language that “[e]ach company shall comply with the Federal Communications Commission’s Truth-In-Billing requirements.” They state that the FCC’s Truth-in-Billing requirements, 47 C.F.R. 64.2400-64.2401, together with Section 364.604, adequately address customer billing such that Rule 25-4.110 is not needed. Joint Petitioners allege that many states now have rules that simply refer to the FCC’s rule, that mirror the FCC’s rule, or that have only minimal additional requirements. Additionally, they argue that Rule 25-4.110 not only adds another unnecessary level of regulation, but also results in unduly lengthy and complex bills, which can be confusing to customers. Finally, Joint Petitioners argue that their competitors do not have to comply with this rule, giving their competitors the advantage of a more understandable and straightforward bill.

In its post-workshop comments, OPC states that it believes that billing rules should apply to all companies to ensure that consumers have adequate explanations of their billing and equitable treatment from telecommunications companies engaged in the billing and collection process. OPC states that the FCC Truth-in-Billing rules are essentially just statements of principles. It suggests that, if the ILECs wish to amend this rule, they should suggest specific amendments rather than wholesale elimination of the rule. The Office of the Attorney General and AARP agreed with OPC.

Staff recommends amending Rule 25-4.110 such that local providers be required to meet the requirements of the FCC Truth-in-Billing Requirements for Common Carriers. Staff recommends deleting the provisions of Rule 25-4.110 that are duplicative of Section 364.604(1), F.S., or 47 C.F.R. 64.2401(a), (b) and (d). The rule provisions which staff recommends be deleted on this basis are Subparagraphs (2)(a)(b), and (c), concerning billing requirements, the provision in Subsection (4) requiring itemized bills to be in easily understood language, Subsection (14), concerning billing information requirements, and Subsection (17), concerning notice of change to the customer’s presubscribed provider of local, local toll, or toll service.

Staff recommends deleting the language of Subsection (2)(d) of Rule 25-4.110 which states that each billing party shall set forth on the bill all charges, fees, and taxes which are due and payable, because this language is duplicative of the language of Section 364.604, F.S. However, staff recommends amending Subparagraph (2)(e) to add language stating that the billing party will provide a plain language explanation to any customer who contacts the billing party. This language replaces the language staff recommends deleting in Subparagraph (2)(d)2.b. of this rule.

In addition, staff recommends amending Rule 25-4.110 to delete or amend provisions which are obsolete, duplicative or unnecessary. Staff recommends deleting as obsolete Subparagraph (4)(c), which requires a bill to itemize touch tone service charges, because companies no longer have these charges in their tariffs.

Staff recommends deleting Subsection (7), except for the requirements that bills shall not be considered delinquent prior to the expiration of 15 days from the date of mailing or delivery by the company. The remainder of Subsection (7) does not contain requirements placed upon companies, rather, the provisions set forth optional provisions which a company may follow if demanding payment under certain circumstances, and are not prohibitory in nature. These provisions are, therefore, unnecessary and should be deleted.

Staff recommends deleting Subsection (11) of Rule 25-4.110, Local Communications Services Tax. Chapter 202, F.S., Communications Services Tax Simplification Law, authorizes and addresses local communications services tax. Subparagraph (11)(a), which defines the Local Communications Services Tax, and Subparagraph (11)(b), which states that a LEC may collect that tax only from its subscribers receiving service within that municipality or county, are duplicative of the provisions in Chapter 202, including Section 202.19, F.S., and do not need to be repeated in Rule 25-4.110. Subparagraph (11)(c) of Rule 25-4.110 prohibits a LEC from incorporating any portion of that tax into its other rates for service. Section 364.604, F.S., requires each billing party to clearly identify on its bill the specific charges, taxes, and fees associated with each telecommunications or information service. Staff believes that Section 364.604 adequately addresses the requirement that taxes be identified on customer bills. For this reason, staff recommends that Subparagraph (11)(c) should be deleted.

Staff recommends deleting Subsection (12), State Communications Services Tax. Subparagraph (12)(a) defines the state communications services tax, and Subparagraph (12)(b) states that a LEC may not incorporate any portion of that tax into its other rates for service. Subparagraph (12)(a) repeats definitions found in the Chapters 202 and 203, F.S., and therefore is not necessary to include in Rule 25-4.110. Subparagraph (12)(b) is not necessary because staff believes that Section 364.604 adequately addresses the requirement that taxes be identified on customer bills. For these reasons staff recommends that Subsection (12) should be deleted.

Subsection (15) of Rule 25-4.110 addresses requirements concerning charges for Pay Per Call service (900 or 976). Staff recommends amending this section to delete provisions which are obsolete due to the substantial decline in reported problems with Pay Per Call services. However, staff recommends retaining and renumbering that portion of Subsection (5)(c) which requires a LEC or IXC to adjust the first bill containing Pay Per Call charges upon the customer's stated lack of knowledge that such calls have a charge, and to make a second adjustment if necessary as described in the rule. Further, staff recommends that the language of this provision be amended to require that at the time the charge is removed, the end user/customer must be notified of the availability of free blocking of Pay Per Call service. Staff believes that these provisions are required in order to provide customers with protection. Staff notes that Section 364.604(3) provides additional protection to customers by requiring that every billing party provide a free blocking option to a customer to block 900 or 976 telephone calls.



While staff believes that the FCC Truth-in-Billing regulations and state statutes allow deletion of the rule provisions discussed above because of duplication of language, and that some provisions are obsolete and unnecessary, certain provisions of Rule 25-4.110 should be retained because they are not duplicative of the law, and are not obsolete or unnecessary. Subsections (1), (3), (4), (5), (6), (7), (8), (9), (10), (13), (16), (18) and (19), or provisions thereof, address an option for monthly billing, an annual itemized bill with explanation, bill credits for out-of-service conditions, minimum time for bill payment, annual notice regarding directory closing date and listing updates/additions, annual notice regarding “no sales solicitation” list, a 12-month limit on backbilling, application of partial payments, removal of unauthorized charges, notification of PC Freeze availability, and requests from customers for a billing party to restrict charges in its bills. These provisions of Rule 25-4.110 provide important consumer safeguards and information to customers. Staff believes that these requirements contained in Rule 25-4.110 are necessary and important to the Commission’s implementation of Sections 364.19 and 364.604, F.S., and that they should be retained and renumbered in the rule.

Subsection (4) requires that an annual itemized bill shall be accompanied by a bill stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. The subsection also includes the minimum requirements as to what information shall be included on an itemized bill. In addition to the amendments previously suggested to Subsection (4) in this issue, staff recommends that the language of Subsection (4) be amended such that the annual itemized bill shall be accompanied by a bill insert or bill message, rather than by solely a bill stuffer. This gives LECs the flexibility of choosing to disclose the required information either on the bill itself or by separate insert. Subsection (4) implements Section 364.3382, F.S., Disclosure, and provides for important customer safeguards. For this reason, staff recommends that Subsection (4) be retained with the amendments suggested by staff.

Likewise, staff recommends that Subsection (5) be retained. Subsection (5) lists items which are required to be on all bills rendered by a LEC: Discount or penalty, past due balance, items for which nonpayment will result in disconnection of basic local service, long-distance monthly or minimum charges and usage charges, usage-based local charges, telecommunications access system surcharge, 911 fee, and delinquent date. Staff believes that this information is important for customers and that this subsection should, therefore, be retained. However, staff believes that the companies may be given more flexibility in their bill presentation by amending Subparagraph (5)(c) to allow the statement on bills of either amounts or items, rather than solely items, for which nonpayment will result in disconnection.

Staff also recommends that Subsection (6) of the Rule 25-4.110 be retained. Subsection (6) requires each company to make appropriate adjustments or refunds where the subscriber’s service is interrupted through no fault of the subscriber, and remains out of order in excess of 24 hours after the subscriber notifies the company of the interruption. However, staff recommends amending this language to read 48 hours instead of 24 in order to conform to staff’s recommended amendment to Rule 25-4.070, which changes the service standards and reporting requirements for trouble reports from two categories of reports with 24 and 72-hour response timeframes to one report category requiring a 48-hour response time.

Staff recommends retaining that portion of Subsection (10) requiring that the company may not backbill in excess of 12 months where any undercharge in billing of a customer is the result of a company mistake. However, staff recommends that the provision of Subsection (10) referencing ratemaking proceedings should be deleted because it is obsolete since such proceedings do not apply to price regulated LECs.

In addition, staff recommends amending the language of Subsection (16) to specify that customers must be notified that a PC-Freeze is available "at no charge," and to require that notification shall conform to the requirements of Rule 25-4.083. Staff notes that it has recommended that Rule 25-4.083 be amended to delete the requirement that all notification material regarding PC-Freezes include an explanation that there are no charges for implementing or removing a PC-Freeze, and to delete the requirement that authorization to impose a PC-Freeze confirm that there will be no charge to the subscriber for a PC Freeze. Staff believes that the suggested amendments to Subsection (16) of Rule 25-4.110 are required by Section 364.603, F.S., which requires the Commission to adopt rules which "provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge."

#### Statement on SEEM

At the October 10, 2008, rule development workshop, CompSouth requested that the following language be included in any notice of rulemaking in this docket:

None of the rule amendments are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan.

Staff believes that none of the rule amendments are intended to impact the type of data that must be collected and analyzed for purposes of the SEEM (Self-Effectuating Enforcement Mechanism) plan. Further, staff believes that the amendments to Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.067, 25-4.071, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110 are not intended to impact wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, or the SEEM metrics or payments.

However, it is staff's opinion that the amendments to Rules 25-4.066, Availability of Residential Service, 25-4.070, Customer Trouble Reports for Residential Service, and 25-4.073, Answering Time for Residential Service, may impact wholesale service and the SEEM plan.

The Commission adopted wholesale performance measurement plans for AT&T (formerly BellSouth) in August 2001, for Embarq in January 2003, and for Verizon in June 2003. AT&T's measurement plan also includes a Self-Effectuating Enforcement Mechanism (SEEM) Administrative Plan. Under the SEEM Plan, payments are made to CLECs and/or the State of Florida by AT&T if the company fails to meet performance standards for key measurements.

The Commission approved wholesale performance measurement plans to ensure that CLECs receive nondiscriminatory access to ILECs' operations support systems, and consequently, to foster the continued development of competition in Florida's

telecommunications market. The wholesale performance measurement plans identify measures that are used to detect and correct any degradation of service provided to CLECs. A critical component of assessing the quality of service provided to CLECs is the level of performance that ILECs provide to retail customers.

Specific performance measurement standards established within the plans are used by CLECs and the Commission to measure the level of service an ILEC provides to its wholesale customers versus the level of performance an ILEC provides to its retail customers. These performance standards are known as retail analogs and are critical to the monitoring of retail-wholesale relationships. ILECs are required to provide, at a minimum, the same level of service to CLECs as they provide to their retail customers.

Staff believes that the suggested amendments to Rules 25-4.066, 25-4.070, and 25-4.073 may result in changes to retail quality of service. Consequently, CLEC customers may also experience changes in service quality. However, the rule amendments would not affect the requirement that ILECs provide the same level of service to both their retail customers and CLECs. Moreover, the recommended amendments to Rules 25-4.066, 25-4.070, and 25-4.073 will not change the type of data that must be collected and analyzed for purposes of the SEEM plan.

Staff does not recommend including the language proposed by CompSouth in any notice of rulemaking with regard to the amendment of Rules 25-4.066, 25-4.070, and 25-4.073 because the amendments may result in change to wholesale service quality obligations. However, staff does recommend including the following language in any notice of rulemaking:

None of the rule amendments are intended to impact the type of data that must be collected and analyzed for purposes of the SEEM (Self-Effectuating Enforcement Mechanism) plan. The amendments to Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.067, 25-4.071, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110 are not intended to impact wholesale service or the SEEM plan, or the SEEM metrics or payments.

#### Statement of Estimated Regulatory Cost (SERC)

The SERC (Attachment C) notes that the proposed amendments are intended to simplify, streamline, and clarify the rules. The SERC also notes that the rule amendments would benefit the Commission and customers by having more simple, streamlined, and clarified rules, and that utilities' administrative costs would likely decrease. However, the amendments could possibly have negative impacts on customers due to longer answering times with the ILEC, more dropped calls, longer time for repairs to be made, and longer time for installation of new service.

Based upon the above, staff recommends that the Commission propose the amendment of Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.066, 25-4.067, 25-4.070, 25-4.071, 25-4.073, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110, F.A.C., as set forth in Attachment B. Staff recommends that the notice of rulemaking contain language stating that none of the rule amendments are intended to impact the type of data that must be collected and analyzed for purposes of the SEEM (Self-Effectuating Enforcement Mechanism) plan. Staff recommends that

Docket Nos. 080641-TP, 080159-TP  
Date: December 23, 2008

the notice of rulemaking also contain language stating that the amendments to Rules 25-4.002, 25-4.0185, 25-4.023, 25-4.067, 25-4.071, 25-4.074, 25-4.083, 25-4.107, 25-4.109, and 25-4.110 are not intended to impact wholesale service or the SEEM plan, or the SEEM metrics or payments.

Docket Nos. 080641-TP, 080159-TP  
Date: December 23, 2008

**Issue 3:** Should these dockets be closed? (Cowdery, Miller)

**Recommendation:** Yes. Docket No. 080159-TP should be closed for administrative efficiency. If no requests for hearing or comments are filed, the rules proposed by the Commission may be filed with the Department of State, and Docket No. 080641-TP may be closed.

**Staff Analysis:** All 16 of the rules addressed in this staff recommendation were noticed for proposed rule development in the Florida Administrative Weekly on September 26, 2008 in what became Docket No. 080641-TP. Three of the rules in this staff recommendation were also noticed for proposed rule development in the Florida Administrative Weekly on April 25, 2008 in Docket No. 080159-TP. Because the 16 rules addressed in this staff recommendation were noticed for proposed rule development in Docket No. 080641-TP, staff believes that for administrative efficiency, Docket No. 080159-TP should be closed.

Any requests for hearing or comments on the rules proposed by the Commission as a result of the Commission's vote at the January 6, 2009, agenda conference should be filed in Docket No. 080641-TP. If no requests for hearing or comments are filed, the rules proposed by the Commission may be filed with the Department of State, and Docket No. 080641-TP may be closed.

1 **25-4.046 Incremental Cost Data Submitted by Local Exchange Companies.**

2 ~~(1) Incremental cost yields the appropriate price floor for pricing of individual~~  
3 ~~services. This rule sets forth requirements for incremental cost data submitted by local~~  
4 ~~exchange companies (LECs) to the Commission.~~

5 ~~(2) For each service for which an incremental cost study has been performed by or for~~  
6 ~~a LEC and the LEC submits incremental cost data based on the study the LEC shall provide:~~

7 ~~(a) An executive summary that includes, at a minimum:~~

8 ~~1. An overview of the incremental cost study(ies) performed, a description of all cost~~  
9 ~~models used, and a summary of the cost study results;~~

10 ~~2. A discussion which demonstrates that the cost study methodology employed~~  
11 ~~comports with accepted economic theory regarding incremental cost;~~

12 ~~3. A discussion demonstrating the reasonableness of the assumptions made regarding~~  
13 ~~the conditions projected to be in effect during the study's planning horizon; and~~

14 ~~4. A discussion demonstrating the manner in which the service will be provisioned~~  
15 ~~during the planning horizon.~~

16 ~~(b) A list of all factors and their values used in the study including, but not limited to,~~  
17 ~~utilization factors, annual charge factors, expense factors and supporting structures factors. At~~  
18 ~~Commission staff's request, supporting work papers showing the derivation of all factors used~~  
19 ~~in the study shall be provided on 5 days' notice.~~

20 ~~(c) Where identifiable, the amount of any group specific costs shall be identified but~~  
21 ~~not added into the results for an individual service. Group specific costs are those costs related~~  
22 ~~to the provision of a group of services but not causally attributable to any specific service;~~

23 ~~(d) The amount and types of costs that are causally apportioned (as opposed to directly~~  
24 ~~assigned) to individual services shall be identified and the LEC shall describe and provide~~  
25 ~~support for the method of apportionment used; and~~

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1           ~~(e) For new services which may have a significant revenue impact or where a rate~~  
2 ~~restructure of an existing service is being proposed that may have either significant customer~~  
3 ~~or revenue impact, a narrative or flowchart indicating the sequence of analyses performed~~  
4 ~~leading to the cost results shall be provided. At Commission staff's request, all relevant work~~  
5 ~~papers supporting the cost study shall be provided on 5 days' notice.~~

6           ~~(3) For each service for which a LEC submits incremental cost data not based on an~~  
7 ~~incremental cost study performed by or for that LEC, the LEC shall provide a discussion~~  
8 ~~demonstrating the reasonableness of using the surrogate cost data as the price floor for its~~  
9 ~~service.~~

10 Specific Authority 350.127(2) FS.

11 Law Implemented 364.3381 FS.

12 History—New 5-24-95.

13 **25-4.071 Adequacy of Service.**

14           (1) Each telecommunications company shall provide switching equipment, trunking,  
15 and associated facilities within its operating territory for the handling of local and toll traffic,  
16 designed and engineered on the basis of realistic forecasts of growth so that during the average  
17 busy season busy hour at least 97 percent of all calls offered to any trunk group (toll  
18 connecting, inter-office, extended area service) shall not encounter an all-trunk busy  
19 condition.

20           (2) Telephone calls to valid numbers should encounter a ring-back tone, line busy  
21 signal, or non-working number intercept facility (operator or recording) after completion of  
22 dialing. The call completion standards established for such calls by category of call is as  
23 follows:

24           (a) Intra-office Calls – 95 percent,

25           (b) Inter-office Calls – 95 percent,

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- 1 (c) Extended Area Calls – 95 percent, and  
2 (d) Intra-LATA DDD Calls – 95 percent.
- 3 (3) All telephone calls to invalid telephone numbers shall encounter an operator or  
4 suitable recorded intercept facility, preferably a recording other than the non-working number  
5 recording used for valid number calls.
- 6 (4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C.
- 7 (5) A line busy signal (60 impulse per minute tone) shall not be used for any signaling  
8 purpose except to denote that a subscriber's line, other valid terminal, centrex or PBX trunks,  
9 or equipment where the quantity is controlled by the customer is in use.
- 10 Specific Authority 350.127(2) FS.  
11 Law Implemented 364.01(4), 364.03, 364.15, 364.17, 364.18, 364.183, 364.19, 364.386 FS.  
12 History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.71, Amended 6-24-90, 3-10-96.
- 13 **25-4.072 Transmission Requirements.**
- 14 (1) Telecommunications companies shall furnish and maintain the necessary plant,  
15 equipment, and facilities to provide modern, adequate, sufficient, and efficient transmission of  
16 communications between customers in their service areas. Transmission parameters shall  
17 conform to ANSI/IEEE Standard 820 Telephone Loop Performance Characteristics (Adopted  
18 1984) incorporated herein by reference.
- 19 (2) Accurate dependable milliwatt supplies shall be made a part of each central office.  
20 Additionally, for those central offices having an installed line capacity of 1,000 lines or more,  
21 the buffered access on a minimum three line rotary group basis shall be a part of the milliwatt  
22 supply.
- 23 (3) Each central office shall be equipped with a minimum of one termination which  
24 shall trip ringing and terminate the line on a balanced basis so that end to end noise  
25 measurements may be made.

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1 Specific Authority 350.127(2) FS.

2 Law Implemented 364.01(4), 364.03, 364.15, 364.386 FS.

3 History—New 12-1-68, Amended 3-31-76, Formerly 25-4.72, Amended 3-10-96, 4-3-05.

4 **25-4.108 Initiation of Service.**

5 ~~Any applicant for telephone service may be required to make application in writing in~~  
6 ~~accordance with standard practices and forms prescribed by the utility, provided that the~~  
7 ~~policy adopted by the utility for the initiation of service shall have uniform application and~~  
8 ~~shall be set forth in its filed tariff. Such application shall be considered as notice to the utility~~  
9 ~~that the applicant desires service and upon compliance by the applicant with such other~~  
10 ~~provisions governing utility service as may be in effect, the utility shall undertake to initiate~~  
11 ~~service without unreasonable delay. Each company shall permit residential customers to pay~~  
12 ~~service connection charges in equal monthly installments over a period of at least 3 months. A~~  
13 ~~company may charge a monthly service fee of \$1.00 to applicants who elect to pay the service~~  
14 ~~connection charge in installments.~~

15 Specific Authority 350.127(2), 364.14(2) FS. Law Implemented 364.025, 364.03, 364.04,  
16 364.051, 364.08, 364.15 FS. History—New 12-1-68, Amended 10-30-91, Repealed \_\_\_\_\_.

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1 **25-4.002 Application and Scope.**

2 (1) These rules are intended to define reasonable service standards that will promote  
3 the furnishing of adequate and satisfactory local and long distance service to the public, and to  
4 establish the rights and responsibilities of both the utility company and the customer. The rules  
5 contained in Parts I-XI of this chapter apply to local exchange companies. ~~The rules contained~~  
6 ~~in Part II and Part V apply only to residential service.~~ The rules contained in Part X of Chapter  
7 25-24, F.A.C., apply to any Interexchange Company. The rules in Part XI of Chapter 25-24,  
8 F.A.C., apply to any pay telephone service company. The rules in Part XII of Chapter 25-24,  
9 F.A.C., apply to all Shared Tenant Service Companies. The rules in Part XIII of Chapter 25-  
10 24, F.A.C., apply to all Operator Service Provider Companies and call aggregators. The rules  
11 contained in Part XIV of Chapter 25-24, F.A.C., apply to all Alternative Access Vendor  
12 Service Providers. The rules contained in Part XV of Chapter 25-24, F.A.C., apply to all  
13 competitive local exchange telecommunications companies.

14 (2) In addition to the rules contained in this part, any local exchange company that  
15 provides operator services in a call aggregator context shall also comply with the rules  
16 contained in Part XIII of Chapter 25-24, F.A.C.

17 Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.335, 364.337, 364.3375,  
18 364.3376 FS. History—Revised 12-1-68, Formerly 25-4.02, Amended 2-23-87, 1-8-95, 2-1-99,  
19 4-3-05.

20 **25-4.0185 Periodic Reports.**

21 Each local exchange telecommunications company shall file with the Commission's Division  
22 of Service, Safety and Consumer Assistance~~Competitive Markets and Enforcement~~ the  
23 information required by Commission Form PSC/SSCCMP 28 (~~xx/xx4/05~~), which is  
24 incorporated into this rule by reference. Form PSC/SSCCMP 28, entitled "Engineering Data  
25 Requirements," may be obtained from the Commission's Division of Service, Safety and

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1 Consumer Assistance~~Competitive Markets and Enforcement.~~

2 (1) The information required by schedules 2, 3, 8, 11, and 15 ~~and 16~~ of Form  
3 PSC/SSC~~CMP~~ 28 shall be filed ~~reported~~ on a quarterly basis by the large LECs and  
4 semiannually by the small LECs ~~and shall be filed~~ on or before the end of the month following  
5 the reporting period.

6 (2) Schedules 2, 3, 11, and 15 of Form PSC/SSC 28 shall apply to residential service  
7 only. ~~The information required by Schedule 19 of Form PSC/CMP 28 shall be reported on a~~  
8 ~~semiannual basis and shall be filed on or before the end of the month following the second and~~  
9 ~~fourth quarters.~~

10 Specific Authority 350.127(2) FS.

11 Law Implemented 364.01(4), 364.03, 364.17, 364.183(1) FS.

12 History—New 12-14-86, Amended 7-20-89, 12-27-94, 3-10-96, 4-3-05.

13 **25-4.023 Report of Interruptions.**

14 (1) The Commission shall be informed of any ~~major~~ interruptions to service which are  
15 the result of a tropical system named by the National Hurricane Center that affect 1,000 or  
16 ~~more subscribers for a period of 30 minutes or more as soon as it comes to the attention of the~~  
17 ~~utility.~~ On a daily basis, the Company shall provide the time, the location, the number of  
18 subscribers affected, and the expected estimated duration of the outage and when the  
19 interruption is restored.

20 (2) ~~In addition, a copy of all Florida service interruption reports made to the Federal~~  
21 ~~Communications Commission in accordance with the provisions of Part 63 of Chapter 1 of~~  
22 ~~Title 47; Code of Federal Regulations; Notification of Common Carriers of Service~~  
23 ~~Disruptions (Effective April 12, 1996) shall be immediately forwarded to the Commission's~~  
24 ~~Division of Competitive Markets and Enforcement, Bureau of Service Quality.~~

25 Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.17, 364.183 FS. History—

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1 Revised 12-1-68, Amended 3-31-76, Formerly 25-4.23, Amended 10-1-96, 4-3-05.

2 **25-4.066 Availability of Residential Service.**

3 (1) Each telecommunications company shall provide central office equipment and  
4 outside plant facilities designed and engineered in accordance with realistic anticipated  
5 customer demands for ~~basic~~ residential local telecommunications service within its certificated  
6 area in accordance with its filed tariffs, ~~or orders of the Commission, subject to its ability to~~  
7 ~~secure and provide, for reasonable expense, suitable facilities and rights for construction and~~  
8 ~~maintenance of such facilities.~~

9 (2) Where central office and outside plant facilities are readily available, at least 90  
10 percent of all requests for primary service ~~in any calendar month shall normally be satisfied~~  
11 installed in each exchange of at least 50,00 lines and quarterly in exchanges of less than  
12 50,000 lines within an interval of ~~three~~ five working days after receipt of application when all  
13 tariff requirements relating thereto have been complied with, except those instances where a  
14 later installation date is requested by the applicant or when broadband or video services are  
15 requested in addition to the telecommunications service. ~~where special equipment or services~~  
16 ~~are involved.~~

17 (3) If the applicant requests an installation date beyond ~~three~~ five working days, the  
18 requested date shall be counted as day ~~three~~ five for measurement purposes.

19 (4) ~~When an appointment is made in order for the company to gain access to the~~  
20 ~~customer's premises, the mutually agreed upon date will be day three for measurement~~  
21 ~~purposes.~~ Failure of the customer to ~~be present to~~ afford the company representative entry to  
22 the premises during the appointment period shall exempt the order for measurement purposes.  
23 ~~Whenever a company representative is unable to gain admittance to a customer's premises~~  
24 ~~during the scheduled appointment period, the company representative shall leave a notice,~~  
25 ~~stating the name of the company representative and the date and time the company~~

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1 ~~representative was at the premises.~~

2 ~~(5) Each telecommunications company shall establish as its objective the satisfaction~~  
3 ~~of at least 95 percent of all applications for new service in each exchange within a 30 day~~  
4 ~~maximum interval and, further, shall have as its objective the capability of furnishing service~~  
5 ~~within each of its exchanges to applicants within 60 days after date of application; except~~  
6 ~~those instances where a later installation date is requested by the applicant or where special~~  
7 ~~equipment or services are involved.~~

8 ~~(6) Whenever, for any reason, the service installation cannot be made at the time~~  
9 ~~requested by the applicant or within the prescribed interval, the applicant shall be notified~~  
10 ~~promptly of the delay and the reason therefor.~~

11 ~~(7) Where facility additions are required to make service available, the applicant shall~~  
12 ~~be further advised as to the circumstances and conditions under which service will be provided~~  
13 ~~and as soon as practicable an estimated date when service will be furnished. With respect to~~  
14 ~~applications aged over six months all service dates that result in a further delay due to the~~  
15 ~~company's inability to meet the original estimated date of service shall be identified in the~~  
16 ~~appropriate section of the report of held applications filed with the Commission and shall~~  
17 ~~include an explanation of the reasons therefor.~~

18 ~~(85) Each company shall report primary residential installation performance pursuant~~  
19 ~~to Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company with respect to~~  
20 ~~the availability of service requirements, as outlined in Form PSC/CMP 28 (4/05), incorporated~~  
21 ~~into Rule 25-4.0185, F.A.C., by reference and available from the Division of Competitive~~  
22 ~~Markets and Enforcement. Each company shall explain the reasons for all service orders that~~  
23 ~~are not completed within 30 calendar days.~~

24 Specific Authority 350.127(2) FS. Law Implemented 364.025, 364.03, 364.14, 364.15,  
25 364.183, 364.185 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.66,

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1 Amended 3-10-96, 4-3-05, 4-3-05.

2 **25-4.067 Extension of Facilities - Contributions in Aid of Construction.**

3 ~~(1) Each telecommunications company shall make reasonable extensions to its lines~~  
4 ~~and service and shall include in its tariffs filed with the Commission a statement of its~~  
5 ~~standard extension policy setting forth the terms and conditions under which its facilities will~~  
6 ~~be extended to serve applicants for service within its certificated area.~~

7 ~~(12) Each company's~~ This line extension policy shall have uniform application and  
8 shall provide that the proportion of construction expense to be borne by the utility company in  
9 serving the immediate applicant shall be not less than five times the annual exchange local  
10 telecommunications service revenue of the applicants.

11 ~~(23) If the cost which the servicing utility must bear under subsection (2) above (or has~~  
12 ~~provided in its tariff) equals or exceeds the estimated cost of the proposed extension, the~~  
13 ~~utility shall construct it without cost to the subscribers initially served. If the estimated cost of~~  
14 ~~the proposed extension exceeds the amount which the utility is required to bear, the excess~~  
15 ~~cost may be distributed equitably among all subscribers initially served by the extension.~~

16 ~~However,~~ No portion of construction shall be assessed to the applicant for the provision of  
17 new plant where the new plant parallels and reinforces existing plant or is constructed on or  
18 along any public road or highway and is to be used to serve subscribers in general except in  
19 those instances where the applicant requests that facilities be constructed by other than the  
20 normal serving method.

21 ~~(3) The portion of construction costs paid by the subscriber company's tariffs shall~~  
22 ~~provide that such excess may be paid in cash in a lump sum or as a surcharge over a period of~~  
23 three five years or such other lesser period as the subscriber and company may mutually agree  
24 upon.

25 ~~(4) Line extension tariffs shall also contain provisions designed to require that all~~

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1 ~~subscribers served by a line extension during the first five years after it is constructed shall~~  
2 ~~pay their pro rata share of the costs assignable to them.~~

3 ~~(5) No company shall be required to extend facilities for new service unless the right~~  
4 ~~of way necessary for the construction of line extension is provided by the applicant or group~~  
5 ~~of applicants. Where pole attachments may be made in lieu of new construction costs, the~~  
6 ~~company may charge the subscriber the expense or rental charges for such attachments,~~  
7 ~~provided that the applicant may elect to pay excess construction costs as though the service~~  
8 ~~were provided without the use of attachments.~~

9 ~~(6) Except as provided in filed tariffs, the ownership of all facilities constructed as~~  
10 ~~herein provided shall be vested in the telecommunications company and no portion of the~~  
11 ~~expense assessed against the applicant shall be refundable by the company.~~

12 ~~(7) Nothing in this rule shall be construed as prohibiting any utility from establishing~~  
13 ~~an extension policy more favorable to customers as long as no undue discrimination is~~  
14 ~~practiced between customers under the same or substantially the same circumstances and~~  
15 ~~conditions.~~

16 ~~(48) In the event that a company and applicant are unable to agree in regard to an~~  
17 ~~extension, either party may appeal to the Commission for a review.~~

18 ~~(5) This rule shall apply to residential service only. However, this rule shall not apply~~  
19 ~~to line extensions when the applicant has requested either broadband or video service in~~  
20 ~~addition to telecommunications service.~~

21 Specific Authority 350.127(2), 364.10 FS. Law Implemented 364.025, 364.03, 364.07,  
22 364.08, 364.15 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.67, Amended  
23 3-10-96.

24 **25-4.070 Customer Trouble Reports for Residential Service.**

25 (1) Each telecommunications company shall make all reasonable efforts to minimize

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1 the extent and duration of trouble conditions that disrupt or affect residential customer  
2 telephone service. ~~Trouble reports will be classified as to their severity on a service~~  
3 ~~interruption (synonymous with out of service or OOS) or service affecting (synonymous with~~  
4 ~~non-out of service or non-OOS) basis. Service interruption reports shall not be downgraded to~~  
5 ~~a service affecting report; however, a service affecting report shall be upgraded to a service~~  
6 ~~interruption if changing trouble conditions so indicate.~~

7 (a) Companies shall make every reasonable attempt to restore service on the same day  
8 that the interruption is reported to the serving repair center.

9 (b) In the event a subscriber's service is interrupted other than by a negligent or willful  
10 act of the subscriber and it remains out of service in excess of 24 48 hours after being reported  
11 to the company, an appropriate adjustment or refund shall be made to the subscriber  
12 automatically, pursuant to Rule 25-4.110, F.A.C. (Customer Billing). Service interruption time  
13 will be computed on a continuous basis, Sundays and holidays included. Also, if the company  
14 finds that it is the customer's responsibility to correct the trouble, it must notify or attempt to  
15 notify the customer within 24 48 hours after the trouble was reported.

16 ~~(c) If service is discontinued in error by the telephone company, the service shall be~~  
17 ~~restored without undue delay, and clarification made with the subscriber to verify that service~~  
18 ~~is restored and in satisfactory working condition.~~

19 (2) Sundays and Holidays:

20 (a) Except for emergency service providers, such as the military, medical, police, and  
21 fire, companies are not required to provide normal repair service on Sundays. Where any  
22 repair action involves a Sunday or holiday, that period shall be excepted when computing  
23 service standard objectives, but not refunds for ~~OOS conditions~~. service interruptions.

24 (b) Service interruptions occurring on a holiday not contiguous to Sunday will be  
25 treated as in paragraph (2)(a) of this rule. For holidays contiguous to a Sunday or another

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1 holiday, sufficient repair forces shall be scheduled so that repairs can be made if requested by  
2 a subscriber.

3 (3) Service Objectives Standard: Trouble reports for residential customer service shall  
4 be corrected 95 percent of the time within 48 hours.

5 ~~(a) Service Interruption: Restoration of interrupted service shall be scheduled to insure~~  
6 ~~at least 95 percent shall be cleared within 24 hours of report in each exchange that contains at~~  
7 ~~least 50,000 lines and will be measured on a monthly basis. For exchanges that contain less~~  
8 ~~than 50,000 lines, the results can be aggregated on a quarterly basis. For any exchange failing~~  
9 ~~to meet this objective, the company shall provide an explanation with its periodic report to the~~  
10 ~~Commission.~~

11 ~~(b) Service Affecting: Clearing of service-affecting trouble reports shall be scheduled~~  
12 ~~to insure at least 95 percent of such reports are cleared within 72 hours of the report in each~~  
13 ~~exchange which contains at least 50,000 lines and will be measured on a monthly basis. For~~  
14 ~~exchanges which contain less than 50,000 lines, the results can be aggregated on a quarterly~~  
15 ~~basis.~~

16 ~~(e4) If the customer requests that the service be restored on a particular day beyond the~~  
17 ~~objectives outlined service standard in paragraphs (a) and (b) subsection (3) above, the trouble~~  
18 ~~report shall be counted as having met the service standard objective if the requested date is~~  
19 ~~met.~~

20 ~~(45) Priority shall be given to service interruptions that affect public health and safety~~  
21 ~~that are reported to and verified by the company and such service interruptions shall be~~  
22 ~~corrected as promptly as possible on an emergency basis.~~

23 ~~(5) Repeat Trouble: Each telephone company shall establish procedures to insure the~~  
24 ~~prompt investigation and correction of repeat trouble reports such that the percentage of repeat~~  
25 ~~troubles will not exceed 20 percent of the total initial customer reports in each exchange when~~

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1 ~~measured on a monthly basis. A repeat trouble report is another report involving the same item~~  
2 ~~of plant within 30 days of the initial report.~~

3 (6) The service standard objectives of this rule shall not apply to subsequent customer  
4 reports, ~~or (not to be confused with repeat trouble reports)~~, emergency situations, such as  
5 unavoidable casualties where at least 10 percent of an exchange is out of service.

6 (7) ~~Reporting Criteria:~~ Each company shall report pursuant to periodically report the  
7 data specified in Rule 25-4.0185, F.A.C., Periodic Reports, the performance of the company  
8 with respect to customer trouble reports on Form PSC/CMP 28 (4/05), incorporated into Rule  
9 25-4.0185, F.A.C., by reference and available from the Division of Competitive Markets and  
10 Enforcement.

11 (8) This rule shall apply to residential service only.

12 Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.17,  
13 364.18, 364.183, 364.386 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.70,  
14 Amended 6-24-90, 3-10-96, 4-3-05.

15 **25-4.071 Adequacy of Service.**

16 (1) ~~Each telecommunications company shall provide switching equipment, trunking,~~  
17 ~~and associated facilities within its operating territory for the handling of local and toll traffic,~~  
18 ~~designed and engineered on the basis of realistic forecasts of growth so that during the average~~  
19 ~~busy season busy hour at least 97 percent of all calls offered to any trunk group (toll~~  
20 ~~connecting, inter office, extended area service) shall not encounter an all-trunk busy~~  
21 ~~condition.~~

22 (12) Telephone calls to valid numbers shall ~~should~~ encounter a ring-back tone, line  
23 busy signal, or non-working number intercept facility (~~operator or recording~~) after completion  
24 of dialing. The call completion standards established for such calls by category of call is as  
25 follows:

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1           ~~(a) Intra-office Calls—95 percent,~~  
2           ~~(b) Inter-office Calls—95 percent,~~  
3           ~~(c) Extended Area Calls—95 percent, and~~  
4           ~~(d) Intra-LATA DDD Calls—95 percent.~~  
5           ~~(3) All telephone calls to invalid telephone numbers shall encounter an operator or~~  
6 ~~suitable recorded intercept facility, preferably a recording other than the non-working number~~  
7 ~~recording used for valid number calls.~~

8           ~~(4) Intercept service shall be as outlined in Rule 25-4.074, F.A.C.~~

9           ~~(25)~~ A line busy signal (60 impulse per minute tone) shall not be used for any  
10 signaling purpose except to denote that a subscriber's line, other valid terminal, centrex or  
11 PBX trunks, or equipment where the quantity is controlled by the customer is in use.  
12 Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.15, 364.17,  
13 364.18, 364.183, 364.19, 364.386 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly  
14 25-4.71, Amended 6-24-90, 3-10-96.

15 **25-4.073 Answering Time for Residential Service.**

16           (1) Each telephone utility company shall provide equipment designed and engineered  
17 on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide  
18 adequate personnel so as to meet the following service standards ~~criteria~~ under normal  
19 operating conditions:

20           (a) At least 90 percent of all calls directed ~~to repair services and 80 percent of all calls~~  
21 to business and repair offices for residential service shall be answered within ~~30~~ 90 seconds  
22 after the last digit is dialed when no menu driven system is utilized.

23           (b) When a company utilizes a menu driven, automated, interactive answering system  
24 (referred to as the system or as an Integrated Voice Response Unit (IVRU)), at least 95 percent  
25 of the calls offered shall be answered within ~~45~~ 30 seconds after the last digit is dialed. The

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1 initial recorded message presented by the system to the customer shall include the option of  
2 transferring to a live attendant within the first 360 seconds of the message.

3 (c) For subscribers who ~~either~~ select the option of transferring to a live assistant, ~~or do~~  
4 ~~not interact with the system for twenty seconds,~~ the call shall be transferred by the system to a  
5 live attendant. At least 90 percent of the calls shall be answered by the live attendant prepared  
6 to give immediate assistance within 590 seconds of being transferred to the attendant.

7 (d) The terms "answered" as used in paragraphs (a) and (c) above, shall be construed  
8 to mean more than an acknowledgment that the customer is waiting on the line. It shall mean  
9 that the service representative is ready to render assistance.

10 ~~(2) Answering time studies using actual data or any statistically valid substitute for~~  
11 ~~actual data shall be made to the extent and frequency necessary to determine compliance with~~  
12 ~~this rule.~~

13 ~~(23)~~ All telecommunications companies are expected to answer their main published  
14 telephone number on a 24 hour a day basis. Such answering may be handled by a special  
15 operator at the toll center or directory assistance facility when the company offices are closed.  
16 Where after hours calls are not handled as described above, at least the first published business  
17 office number will be equipped with a telephone answering device which will notify callers  
18 after the normal working hours of the hours of operation for that business office. Where  
19 recording devices are used, the message shall include the telephone number assigned to handle  
20 urgent or emergency calls when the business office is closed.

21 ~~(34)~~ Each company shall report, pursuant to Rule 25-4.0185, F.A.C., Periodic Reports,  
22 the performance of the company with respect to answer time, ~~as outlined in Form PSC/CMP~~  
23 ~~28 (4/05), incorporated into Rule 25-4.0185, F.A.C., by reference and available from the~~  
24 ~~Division of Competitive Markets and Enforcement.~~

25 (4) This rule shall apply to residential service only.

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from existing law.

1 Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.386, 365.171 FS.

2 History—New 12-1-68, Amended 3-31-76, Formerly 25-4.73, Amended 11-24-92, 4-3-05.

3 **25-4.074 Intercept Service.**

4 ~~(1) Intercept service shall be engineered to provide a 90 percent completion for~~  
5 ~~changed numbers (with the exception of the 30 day period immediately following an inter-~~  
6 ~~office transfer with directory) and for vacant or non-working numbers.~~

7 ~~(2) Subscriber lines which are temporarily disconnected for nonpayment of bills shall~~  
8 ~~be placed on intercept (preferably operator intercept).~~

9 ~~(3) All private branch exchanges and In-Dial Paging Systems, whether provided by the~~  
10 ~~company or customer and which are equipped for direct in-dialing and installed after the~~  
11 ~~effective date of these rules, shall meet the service requirements outlined herein prior to the~~  
12 ~~assignment of a number block by the telephone company.~~

13 ~~(1)(4) With the exception of n~~Numbers that are changed coincident with the issuance  
14 of a new directory, are not subject to the requirements of this rule. intercept service shall be  
15 provided by each telephone company in accordance with the following:

16 ~~(2a) Intercept service shall be provided for non-working, non assigned, and changed~~  
17 ~~numbers until assigned, re-assigned, or no longer listed in the directory.~~

18 ~~(3) Subscriber lines which are temporarily disconnected for nonpayment of bills shall~~  
19 be placed on intercept.

20 ~~(4) Intercept service shall be provided for calls to invalid numbers.~~

21 ~~(5b) Any 7 digit number (or other number serving a public safety or other emergency~~  
22 ~~agency) when replaced by the universal emergency number “911” shall be intercepted by~~  
23 ~~either a telecommunications company assistance or a public safety agency operator or special~~  
24 ~~recorded announcement for at least one year or until the next directory issue. Also, I~~ntercept  
25 service or alternative routing to a default number shall be provided for the universal

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1 emergency telephone number "911" ~~shall be provided~~ in central offices where the number is  
2 inoperable. The intercept service may be automated with a message indicating the "911"  
3 emergency number is inoperable in that area and to consult the directory for the appropriate  
4 emergency number or if a directory is not available to dial operator for assistance.

5 Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.03, 364.051 FS. History—  
6 New 12-1-68, Amended 3-31-76, Formerly 25-4.74, Amended 3-10-96.

7 **25-4.083 Preferred Carrier Freeze.**

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

9 ~~(2) (1) A PC-Freeze shall not be imposed or removed on a subscriber's account~~  
10 ~~without the subscriber's authorization and shall not be required as a condition for obtaining~~  
11 ~~service.~~

12 ~~(3) (2) A PC-Freeze shall be implemented or removed at no charge to the subscriber.~~

13 ~~(3) The subscriber's authorization shall be obtained for each service for which a PC~~  
14 ~~Freeze is requested. Procedures implemented by local exchange providers must clearly~~  
15 ~~distinguish among telecommunications services (e.g., local, local toll, and toll) subject to a PC~~  
16 ~~Freeze.~~

17 ~~(4) All notification material regarding PC Freezes must include:~~

18 ~~(a) An explanation of what a PC Freeze is and what services are subject to a freeze;~~

19 ~~(b) A description of the specific procedures necessary to lift a PC Freeze and an~~  
20 ~~explanation that the subscriber will be unable to make a change in provider selection unless~~  
21 ~~the subscriber authorizes lifting of the PC Freeze; and~~

22 ~~(c) An explanation that there are no charges for implementing or removing a PC~~  
23 ~~Freeze.~~

24 ~~(5) A local provider shall not solicit, market, or induce subscribers to request a PC-~~  
25 ~~Freeze. A local provider is not prohibited, however, from informing an existing or potential~~

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- 1 ~~new subscriber who expresses concerns about slamming about the availability of a PC Freeze.~~
- 2       (6) ~~A local exchange provider shall not implement a PC Freeze unless the subscriber's~~
- 3 ~~request to impose a freeze has first been confirmed in accordance with one of the following~~
- 4 ~~procedures:~~
- 5       (a) ~~The local exchange provider has obtained the subscriber's written or electronically~~
- 6 ~~signed authorization in a form that meets the requirements of subsection (7);~~
- 7       (b) ~~The local exchange provider has obtained the subscriber's electronic authorization,~~
- 8 ~~placed from the telephone number(s) on which the PC Freeze is to be imposed. The electronic~~
- 9 ~~authorization should confirm appropriate verification data (e.g., the subscriber's date of birth~~
- 10 ~~or the last four digits of the subscriber's social security number) and the information required~~
- 11 ~~in paragraphs (7)(a) through (d). Telecommunications providers electing to confirm PC Freeze~~
- 12 ~~orders electronically shall establish one or more toll free telephone numbers exclusively for~~
- 13 ~~that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or~~
- 14 ~~similar mechanism that records the required information regarding the PC Freeze request,~~
- 15 ~~including automatically recording the originating automatic numbering identification; or~~
- 16       (c) ~~An independent third party has obtained the subscriber's oral authorization to~~
- 17 ~~submit the PC Freeze and confirmed the appropriate verification data (e.g., the subscriber's~~
- 18 ~~date of birth or the last four digits of the subscriber's social security number) and the~~
- 19 ~~information required in paragraphs (7)(a) through (d). The independent third party must not be~~
- 20 ~~owned, managed, or directly controlled by the provider or the provider's marketing agent;~~
- 21 ~~must not have any financial incentive to confirm PC Freeze requests for the provider or the~~
- 22 ~~provider's marketing agent; and must operate in a location physically separate from the~~
- 23 ~~provider or the provider's marketing agent. The content of the verification must include clear~~
- 24 ~~and conspicuous confirmation that the subscriber has authorized a PC Freeze.~~
- 25       (7) ~~A local exchange provider shall accept a subscriber's written and signed~~

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1 ~~authorization to impose a PC Freeze on a preferred provider selection. A written authorization~~  
2 ~~shall be printed in a readable type of sufficient size to be clearly legible and must contain clear~~  
3 ~~and unambiguous language that confirms:~~

4       ~~(a) The subscriber's billing name and address and the telephone number(s) to be~~  
5 ~~covered by the PC Freeze;~~

6       ~~(b) The specific service, (e.g., local, local toll, and toll), separately stated, on which a~~  
7 ~~PC Freeze will be imposed.;~~

8       ~~(c) That the subscriber understands that to make a change in provider selection, the~~  
9 ~~subscriber must lift the PC Freeze; and~~

10       ~~(d) That there will be no charge to the subscriber for a PC Freeze.~~

11       ~~(8) All local exchange providers shall, at a minimum, offer subscribers the following~~  
12 ~~procedures for lifting a PC Freeze:~~

13       ~~(a) Acceptance of a subscriber's written or electronically signed authorization; and~~

14       ~~(b) Acceptance of a subscriber's oral authorization along with a mechanism that allows~~  
15 ~~the submitting provider to conduct a three-way conference call between the provider~~  
16 ~~administering the PC Freeze and the subscriber. The provider administering the PC Freeze~~  
17 ~~shall confirm appropriate verification data (e.g., the subscriber's date of birth or the last four~~  
18 ~~digits of the subscriber's social security number) and the subscriber's intent to lift a specific~~  
19 ~~PC Freeze.~~

20       ~~(9) Information obtained under subsection (6) and paragraph (8)(a) shall be retained by~~  
21 ~~the provider for a period of one year.~~

22       ~~(10) A PC Freeze shall not prohibit a local provider from changing wholesale services~~  
23 ~~when serving the same end user.~~

24       ~~(11) Local providers shall make available an indicator on the customer service record~~  
25 ~~that identifies whether the subscriber currently has a PC Freeze in place.~~

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1           ~~(12) Local providers shall make available the ability for the subscriber's new local~~  
2 ~~provider to initiate a local PC Freeze using the local service request.~~

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

8 Specific Authority 350.127, 364.01, 364.603 FS. Law Implemented 364.01, 364.603 FS.  
9 History—New 9-9-04.

10 **25-4.107 Information to Residential Customers; Installment Plan.**

11           ~~(1) Each company shall provide such information and assistance as is reasonable to~~  
12 ~~assist any customer or applicant in obtaining telephone service adequate to his~~  
13 ~~communications needs. At the time of initial contact, each local exchange telecommunications~~  
14 ~~company shall advise the person applying for or inquiring about residential or single line~~  
15 ~~business service of the rate for the least expensive one party basic local exchange telephone~~  
16 ~~service available to him unless he requests specific equipment or services. At the time of~~  
17 ~~initial contact, eEach company shall inform all persons applying for residential service of the~~  
18 ~~availability of the company's installment plan for the payment of service connection charges.~~  
19 ~~The information will be provided at the time of initial contact and shall include, but not be~~  
20 ~~limited to, information on rate amounts and installment time periods and procedures. Each~~  
21 ~~company shall permit residential customers to pay service connection charges in equal~~  
22 ~~monthly installments over a period of at least 3 months. A company may charge a monthly~~  
23 ~~service fee of \$1.00 to applicants who elect to pay the service connection charge in~~  
24 ~~installments.~~

25           (2) Upon customer request, the person shall also be given an 800 number to call to

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1 receive information on the "No Sales Solicitation" list offered through the Department of  
2 Agriculture and Consumer Services, Division of Consumer Services.

3 (3) In any discussion of enhanced or optional services, each service shall be identified  
4 specifically, and the price of each service shall be given. ~~Such person shall also be informed of~~  
5 ~~the availability of and rates for local measured service, if offered in his exchange. Local~~  
6 ~~exchange telecommunications companies shall submit copies of the information provided to~~  
7 ~~customer service representatives to the Division of Competitive Markets and~~  
8 ~~Enforcement for prior approval.~~

9 ~~(2) At the earliest time practicable, the company shall provide to that customer the~~  
10 ~~billing cycle and approximate date he may expect to receive his monthly billing.~~

11 (4) This rule shall apply to residential service only.

12 Specific Authority 350.127(2), 364.14(2) FS. Law Implemented 364.025, 364.0252, 364.03,  
13 364.04, 364.051, 364.15, 350.127 FS. History--New 7-5-79, Amended 11-30-86, 11-28-89, 3-  
14 31-91, 10-30-91.

15 **25-4.109 Residential Customer Deposits.**

16 (1) Deposit required; establishment of credit. Each local exchange company's (LEC)  
17 tariff shall contain their specific criteria for determining the amount of initial deposit. Each  
18 LEC may require an applicant for service to satisfactorily establish credit, but such  
19 establishment of credit shall not relieve the customer from complying with the company's  
20 rules for prompt payment of bills. Credit will be deemed so established if:

21 (a) The applicant for service has been a customer of any LEC within the last two years  
22 and during the last twelve (12) consecutive months of service did not have more than one  
23 occasion in which a bill was paid after becoming delinquent and has never had service  
24 disconnected for non-payment.

25 (b) The applicant for service furnishes a satisfactory guarantor to secure payment of

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1 bills for the service requested. A satisfactory guarantor shall, at the minimum, be a customer  
2 of the company with a satisfactory payment record. A guarantor's liability shall be terminated  
3 when a residential customer whose payment of bills is secured by the guarantor meets the  
4 requirements of subsection (4) of this rule. Guarantors providing security for payment of  
5 residential customers' bills shall only be liable for bills contracted at the service address  
6 contained in the contract of guaranty.

7 (c) The applicant pays a cash deposit.

8 (d) The applicant for service furnishes an irrevocable letter of credit from a bank or a  
9 surety bond.

10 (2) Amount of deposit. The amount of the initial required deposit shall not exceed an  
11 amount equal to the charges for one month's local exchange service plus two months  
12 estimated toll service provided by or billed by the LEC. If, after ninety (90) days service, the  
13 actual deposit is found to be greater than an amount equal to one month's local service plus  
14 two months actual average toll service provided by or billed by the LEC, the company shall,  
15 upon demand of the subscriber to the Company, promptly refund the difference. These deposit  
16 rules apply to local exchange service and toll service provided by or billed by the LEC only  
17 and do not apply to special arrangement agreements covering termination equipment  
18 installations for which the telephone company may require a reasonable deposit.

19 (3) New or additional deposits. A company may require upon reasonable written notice  
20 of not less than 15 days, a new deposit, where previously waived or returned, or an additional  
21 deposit, in order to secure payment of current bills. Provided, however, that the total amount  
22 of required deposit should not exceed twice the actual average monthly toll provided by or  
23 billed by the LEC plus one month's local service charge, for the 90-day period immediately  
24 prior to the date of notice. In the event the customer has had service less than 90 days, then the  
25 company shall base its new or additional deposit upon the actual average monthly billing

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1 available. ~~When the company has a good reason to believe payment by a nonresidential~~  
2 ~~customer is in jeopardy and toll usage provided by or billed by the LEC is significantly above~~  
3 ~~normal for that customer, the company may request a new or additional deposit. If the deposit~~  
4 ~~requested is not paid within 48 hours, the company may discontinue service.~~

5 (4) Refund of deposit. After a customer has established a satisfactory payment record  
6 and has had continuous service for a period of 23 months, the company shall refund the  
7 residential customer's deposits and shall, at its option, ~~either refund or pay the higher rate of~~  
8 ~~interest specified below for nonresidential deposits~~, providing the customer has not, in the  
9 preceding 12 months:

10 (a) Made more than one late payment of a bill (after the expiration of 15 days from the  
11 date of mailing or delivery by the company);

12 (b) Paid with a check refused by a bank;

13 (c) Been disconnected for nonpayment, or at any time; and

14 (d) Used service in a fraudulent or unauthorized manner.

15 (5) Interest on deposit.

16 (a) Each telephone company which requires deposits to be made by its customers shall  
17 pay a minimum interest on such deposits of 6 percent per annum. ~~The company shall pay an~~  
18 ~~interest rate of 7 percent per annum on deposits of nonresidential customers qualifying under~~  
19 ~~subsection (4) when the utility elects not to refund such deposit after 23 months.~~

20 (b) The deposit interest shall be simple interest in all cases and settlement shall be  
21 made annually, either in cash or by credit on the current bill. This does not prohibit any  
22 company paying a higher rate of interest than required by this rule. No customer depositor  
23 shall be entitled to receive interest on their deposit until and unless a customer relationship and  
24 the deposit have been in existence for a continuous period of six months. Then he or she shall  
25 be entitled to receive interest from the day of the commencement of the customer relationship

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1 and the placement of deposit. Nothing in this rule shall prohibit a company from refunding at  
2 any time a deposit with an accrued interest.

3 (6) Record of deposits. Each company having on hand deposits from customers or  
4 hereafter receiving deposits from them shall keep records to show:

5 (a) The name of each customer making the deposit;

6 (b) The premises occupied by the customer when the deposit was made;

7 (c) The date and amount of deposit; and

8 (d) Each transaction concerning the deposit such as interest payment, interest credited  
9 or similar transactions.

10 (7) Receipt for deposit. A non-transferable certificate of deposit shall be issued to each  
11 customer and means provided so that the customer may claim the deposit if the certificate is  
12 lost. The deposit receipt shall contain notice that after ninety (90) days service, the subscriber  
13 is entitled to refunds of any deposit over and above an amount equal to one month's local  
14 service plus two months' average toll service provided by or billed by the LEC.

15 (8) Refund of deposit when service is discontinued. Upon termination of service, the  
16 deposit and accrued interest may be credited against the final account of the LEC and the  
17 balance, if any, shall be returned promptly to the customer but in no event later than forty-five  
18 (45) days after service is discontinued.

19 (9) This rule shall apply to residential service only.

20 Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.07, 364.19 FS. History—  
21 New 12-1-68, Amended 4-1-69, 7-20-73, 3-31-76, 6-10-80, 9-16-80, 1-31-84, 10-13-88, 8-29-  
22 89, 4-25-94.

23 **25-4.110 Customer Billing for Local Exchange Telecommunications Companies.**

24 (1) Each company shall issue bills monthly or may offer customers a choice of billing  
25 intervals that includes a monthly billing interval.

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from existing law.

1           ~~(2) Each billing party shall set forth on the bill all charges, fees, and taxes which are~~  
2 ~~due and payable.~~

3           ~~(a) There shall be a heading for each originating party which is billing to that customer~~  
4 ~~account for that billing period. The heading shall clearly and conspicuously indicate the~~  
5 ~~originating party's name. If the originating party is a certificated telecommunications~~  
6 ~~company, the certificated name must be shown. If the originating party has more than one~~  
7 ~~certificated name, the name appearing in the heading must be the name used to market the~~  
8 ~~service.~~

9           ~~(b) The toll free customer service number for the service provider or its customer~~  
10 ~~service agent must be conspicuously displayed in the heading, immediately below the heading,~~  
11 ~~or immediately following the list of charges for the service provider. For purposes of this~~  
12 ~~subparagraph, the service provider is defined as the company which provided the service to~~  
13 ~~the end user. If the service provider has a customer service agent, the toll free number must be~~  
14 ~~that of the customer service agent and must be displayed with the service provider's heading~~  
15 ~~or with the customer service agent's heading, if any. For purposes of this subparagraph, a~~  
16 ~~customer service agent is a person or entity that acts for any originating party pursuant to the~~  
17 ~~terms of a written agreement. The scope of such agency shall be limited to the terms of such~~  
18 ~~written agreement.~~

19           ~~(c) Each charge shall be described under the applicable originating party heading.~~

20           ~~(d)1. Taxes, fees, and surcharges related to an originating party heading shall be shown~~  
21 ~~immediately below the charges described under that heading. The terminology for Federal~~  
22 ~~Regulated Service Taxes, Fees, and Surcharges must be consistent with all FCC required~~  
23 ~~terminology.~~

24           ~~2. The billing party shall either:~~

25           ~~a. Identify Florida taxes and fees applicable to charges on the customer's bill and~~

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1 identify the assessment base and rate for each percentage based tax, fee, and surcharge, or

2           ~~b.(i) Provide a plain language explanation of any line item and applicable tax, fee, and~~  
3 ~~surcharge to any customer who contacts the billing party or customer service agent with a~~  
4 ~~billing question and expresses difficulty in understanding the bill after discussion with a~~  
5 ~~service representative.~~

6           ~~(ii) If the customer requests or continues to express difficulty in understanding the~~  
7 ~~explanation of the authority, assessment base or rate of any tax, fee or surcharge, the billing~~  
8 ~~party shall provide an explanation of the state, federal, or local authority for each tax, fee, and~~  
9 ~~surcharge; the line items which comprise the assessment base for each percentage based tax,~~  
10 ~~fee, and surcharge; or the rate of each state, federal, or local tax, fee, and surcharge consistent~~  
11 ~~with the customer's concern. The billing party or customer service agent shall provide this~~  
12 ~~information to the customer in writing upon the customer's request.~~

13           ~~(2e) If each recurring charge due and payable is not itemized, each bill shall contain~~  
14 ~~the following statement: "Further written itemization of local billing available upon request."~~  
15 In addition, the billing party will provide a plain language explanation to any customer who  
16 contacts the billing party.

17           (3) Each LEC shall provide an itemized bill for local service:

18           (a) With the first bill rendered after local exchange service to a customer is initiated or  
19 changed; and

20           (b) To every customer at least once each twelve months.

21           (4) The annual itemized bill shall be accompanied by a bill insert or bill message  
22 ~~stuffer~~ which explains the itemization and advises the customer to verify the items and charges  
23 on the itemized bill. This bill insert or bill message ~~stuffer~~ shall be submitted to the  
24 Commission's Division of Regulatory Compliance ~~Competitive Markets and Enforcement~~ for  
25 prior approval. ~~The itemized bill provided to residential customers and to business customers~~

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1 ~~with less than ten access lines per service location shall be in easily understood language. The~~  
2 ~~itemized bill provided to business customers with ten or more access lines per service location~~  
3 ~~may be stated in service order code, provided that it contains a statement that, upon request, an~~  
4 ~~easily understood translation is available in written form without charge. An itemized bill shall~~  
5 include, but not be limited to the following information, separately stated:

6 (a) Number and types of access lines;

7 (b) Charges for access to the system, by type of line;

8 ~~(c) Touch tone service charges;~~

9 ~~(cd) Charges for each custom calling features, separated by feature or package;~~

10 ~~(de) Unlisted number charges;~~

11 ~~(ef) Local directory assistance charges;~~

12 ~~(fg) Other tariff charges; and~~

13 ~~(gh) Other nontariffed, regulated charges contained in the bill.~~

14 (5) All bills rendered by a local exchange company shall clearly state the following  
15 items:

16 (a) Any discount or penalty. The originating party is responsible for informing the  
17 billing party of all such penalties or discounts to appear on the bill, in a form usable by the  
18 billing party;

19 (b) Past due balance;

20 (c) Amounts or items for which nonpayment will result in disconnection of the  
21 customer's basic local service, including a statement of the consequences of nonpayment;

22 (d) Long-distance monthly or minimum charges, if included in the bill;

23 (e) Long-distance usage charges, if included in the bill;

24 (f) Usage-based local charges, if included in the bill;

25 (g) Telecommunications Access System Surcharge, per subsection 25-4.160(3),

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1 F.A.C.;

2 (h) "911" fee per Section 365.171(13), F.S.; and

3 (i) Delinquent date.

4 (6) Each company shall make appropriate adjustments or refunds where the  
5 subscriber's service is interrupted by other than the subscriber's negligent or willful act, and  
6 remains out of order in excess of 48 ~~24~~ hours after the subscriber notifies the company of the  
7 interruption. The refund to the subscriber shall be the pro rata part of the month's charge for  
8 the period of days and that portion of the service and facilities rendered useless or inoperative;  
9 except that the refund shall not be applicable for the time that the company stands ready to  
10 repair the service and the subscriber does not provide access to the company for such  
11 restoration work. The refund may be accomplished by a credit on a subsequent bill for  
12 telephone service.

13 (7)(a) Bills shall not be considered delinquent prior to the expiration of 15 days from  
14 the date of mailing or delivery by the company. ~~However, the company may demand~~  
15 ~~immediate payment under the following circumstances:~~

16 1. ~~Where service is terminated or abandoned;~~

17 2. ~~Where toll service is two times greater than the subscriber's average usage as~~  
18 ~~reflected on the monthly bills for the three months prior to the current bill, or, in the case of a~~  
19 ~~new customer who has been receiving service for less than four months, where the toll service~~  
20 ~~is twice the estimated monthly toll service; or~~

21 3. ~~Where the company has reason to believe that a business subscriber is about to go~~  
22 ~~out of business or that bankruptcy is imminent for that subscriber.~~

23 (b) ~~The demand for immediate payment shall be accompanied by a bill which itemizes~~  
24 ~~the charges for which payment is demanded, or, if the demand is made orally, an itemized bill~~  
25 ~~shall be mailed or delivered to the customer within three days after the demand is made.~~

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1           ~~(e) If the company cannot present an itemized bill, it may present a summarized bill~~  
2 ~~which includes the customer's name and address and the total amount due. However, a~~  
3 ~~customer may refuse to make payment until an itemized bill is presented. The company shall~~  
4 ~~inform the customer that he may refuse payment until an itemized bill is presented.~~

5           (8) Each telephone company shall include a bill insert or bill message advising each  
6 subscriber of the directory closing date and the subscriber's opportunity to correct any error or  
7 make changes as the subscriber deems necessary in advance of the closing date. It shall also  
8 state that at no additional charge and upon the request of any residential subscriber, the  
9 exchange company shall list an additional first name or initial under the same address,  
10 telephone number, and surname of the subscriber. The notice shall be included in the billing  
11 cycle closest to 60 days preceding the directory closing date.

12           (9) Annually, each telephone company shall include a bill insert or bill message  
13 advising each residential subscriber of the option to have the subscriber's name placed on the  
14 "No Sales Solicitation" list maintained by the Department of Agriculture and Consumer  
15 Services, Division of Consumer Services, and the 800 number to contact to receive more  
16 information.

17           (10) Where any undercharge in billing of a customer is the result of a company  
18 mistake, the company may not backbill in excess of 12 months. ~~Nor may the company recover~~  
19 ~~in a ratemaking proceeding any lost revenue which inures to the company's detriment on~~  
20 ~~account of this provision.~~

21           ~~(11) Local Communications Services Tax.~~

22           ~~(a) The Local Communications Services Tax is comprised of the discretionary~~  
23 ~~communications services tax levied by the governing authority of each municipality and~~  
24 ~~county authorized by Chapter 202, F.S.~~

25           ~~(b) When a municipality or county levies the Local Communications Services Tax~~

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1 ~~authorized by Chapter 202, F.S., the local exchange company may collect that tax only from~~  
2 ~~its subscribers receiving service within that municipality or county.~~

3 ~~(c) A local exchange company may not incorporate any portion of the Local~~  
4 ~~Communications Services Tax into its other rates for service.~~

5 ~~(12) State Communications Services Tax.~~

6 ~~(a) The State Communications Services Tax is comprised of the Gross Receipts Tax~~  
7 ~~imposed by Chapter 203, F.S., the communications services sales tax imposed by Chapter 202,~~  
8 ~~F.S., and any local option sales tax.~~

9 ~~(b) A local exchange company may not incorporate any portion of the State~~  
10 ~~Communications Services Tax into its other rates for service.~~

11 ~~(113) Each LEC shall apply partial payment of an end user/customer bill first towards~~  
12 ~~satisfying any unpaid regulated charges. The remaining portion of the payment, if any, shall be~~  
13 ~~applied to nonregulated charges.~~

14 ~~(14) All bills produced shall clearly and conspicuously display the following~~  
15 ~~information for each service billed in regard to each company claiming to be the customer's~~  
16 ~~presubscribed provider for local, local toll, or toll service:~~

17 ~~(a) The name of the certificated company;~~

18 ~~(b) Type of service provided, i.e., local, local toll, or toll; and~~

19 ~~(c) A toll free customer service number.~~

20 ~~(15) This section applies to LECs that provide transmission services or bill and collect~~  
21 ~~on behalf of Pay Per Call providers. Pay Per Call services are defined as switched~~  
22 ~~telecommunications services between locations within the State of Florida which permit~~  
23 ~~communications between an end use customer and an information provider's program at a per~~  
24 ~~call charge to the end user/customer. Pay Per Call services include 976 services provided by~~  
25 ~~the LECs and 900 services provided by interexchange carriers.~~

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1           ~~(a) Charges for Pay Per Call service (900 or 976) shall be segregated from charges for~~  
2 ~~regular long distance or local charges by appearing separately under a heading that reads as~~  
3 ~~follows: "Pay Per Call (900 or 976) nonregulated charges." The following information shall be~~  
4 ~~clearly and conspicuously disclosed on each section of the bill containing Pay Per Call service~~  
5 ~~(900 or 976) charges:~~

- 6           ~~1. Nonpayment of Pay Per Call service (900 or 976) charges will not result in~~  
7 ~~disconnection of local service;~~  
8           ~~2. End users/customers can obtain free blocking of Pay Per Call service (900 or 976)~~  
9 ~~from the LEC;~~  
10           ~~3. The local or toll free number the end user/customer can call to dispute charges;~~  
11           ~~4. The name of the IXC providing 900 service; and~~  
12           ~~5. The Pay Per Call service (900 or 976) program name.~~

13           ~~(b) Pay Per Call Service (900 and 976) Billing. LECs and IXCs who have a tariff or~~  
14 ~~contractual relationship with a Pay Per Call (900 or 976) provider shall not provide Pay Per~~  
15 ~~Call transmission service or billing services, unless the provider does each of the following:~~

16           ~~1. Provides a preamble to the program which states the per minute and total minimum~~  
17 ~~charges for the Pay Per Call service (900 and 976); child's parental notification requirement is~~  
18 ~~announced on preambles for all programs where there is a potential for minors to be attracted~~  
19 ~~to the program; child's parental notification requirement in any preamble to a program~~  
20 ~~targeted to children must be in language easily understandable to children; and programs that~~  
21 ~~do not exceed \$3.00 in total charges may omit the preamble, except as provided in~~  
22 ~~subparagraph (11)(b)3.;~~

23           ~~2. Provides an 18 second billing grace period in which the end user/customer can~~  
24 ~~disconnect the call without incurring a charge; from the time the call is answered at the Pay~~  
25 ~~Per Call provider's premises, the preamble message must be no longer than 15 seconds. The~~

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from existing law.

- 1 ~~program may allow an end user/customer to affirmatively bypass a preamble;~~  
2       3. ~~Provides on each program promotion targeted at children (defined as younger than~~  
3 ~~18 years of age) clear and conspicuous notification, in language understandable to children, of~~  
4 ~~the requirement to obtain parental permission before placing or continuing with the call. The~~  
5 ~~parental consent notification shall appear prominently in all advertising and promotional~~  
6 ~~materials, and in the program preamble. Children's programs shall not have rates in excess of~~  
7 ~~\$5.00 per call, and shall not include the enticement of a gift or premium;~~  
8       4. ~~Promotes its services without the use of an autodialer or broadcasting of tones that~~  
9 ~~dial a Pay Per Call (900 or 976) number;~~  
10       5. ~~Prominently discloses the additional cost per minute or per call for any other~~  
11 ~~telephone number that an end user/customer is referred to either directly or indirectly;~~  
12       6. ~~In all advertising and promotional materials, displays charges immediately above,~~  
13 ~~below, or next to the Pay Per Call number, in type size that can be seen as clearly and~~  
14 ~~conspicuously at a glance as the Pay Per Call number. Broadcast television advertising~~  
15 ~~charges, in Arabic numerals, must be shown on the screen for the same duration as the Pay Per~~  
16 ~~Call number is shown, each time the Pay Per Call number is shown. Oral representations shall~~  
17 ~~be equally as clear;~~  
18       7. ~~Provides on Pay Per Call services that involve sales of products or merchandise~~  
19 ~~clear preamble notification of the price that will be incurred if the end user/customer stays on~~  
20 ~~the line, and a local or toll free number for consumer complaints; and~~  
21       8. ~~Meets internal standards established by the LEC or IXC as defined in the applicable~~  
22 ~~tariffs or contractual agreement between the LEC and the IXC; or between the LEC/IXC and~~  
23 ~~the Pay Per Call (900 or 976) provider which when violated, would result in the termination of~~  
24 ~~a transmission or billing arrangement.~~  
25       (12)(e) Pay Per Call (900 and 976) Blocking. Each LEC shall provide blocking where

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1 ~~technically feasible of Pay Per Call service (900 and 976), at the request of the end~~  
2 ~~user/customer at no charge. Each LEC or IXC must implement a bill adjustment tracking~~  
3 ~~system to aid its efforts in adjusting and sustaining Pay Per Call charges.~~ The LEC or IXC will  
4 adjust the first bill containing Pay Per Call charges upon the end user's/customer's stated lack  
5 of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will  
6 be made if necessary to reflect calls billed in the following month which were placed prior to  
7 the Pay Per Call service inquiry. At the time the charge is removed, the end user/customer  
8 shall be notified of the availability of ~~may agree to~~ free blocking of Pay Per Call service (900  
9 and 976).

10 ~~(d) Dispute resolution for Pay Per Call service (900 and 976). Charges for Pay Per Call~~  
11 ~~service (900 and 976) shall be automatically adjusted upon complaint that:~~

12 ~~1. The end user/customer did not receive a price advertisement, the price of the call~~  
13 ~~was misrepresented to the consumer, or the price advertisement received by the consumer was~~  
14 ~~false, misleading, or deceptive;~~

15 ~~2. The end user/customer was misled, deceived, or confused by the Pay Per Call (900~~  
16 ~~or 976) advertisement;~~

17 ~~3. The Pay Per Call (900 or 976) program was incomplete, garbled, or of such quality~~  
18 ~~as to render it inaudible or unintelligible, or the end user/customer was disconnected or cut off~~  
19 ~~from the service;~~

20 ~~4. The Pay Per Call (900 and/or 976) service provided out of date information; or~~

21 ~~5. The end user/customer terminated the call during the preamble described in~~  
22 ~~subparagraph 25 4.110(11)(b)2., F.A.C., but was charged for the Pay Per Call service (900 or~~  
23 ~~976).~~

24 ~~(e) If the end user/customer refuses to pay a disputed Pay Per Call service (900 or 976)~~  
25 ~~charge which is subsequently determined by the LEC to be valid, the LEC or IXC may~~

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1 ~~implement Pay Per Call (900 and 976) blocking on that line.~~

2 ~~(f) Credit and Collection. LECs and IXC's billing Pay Per Call (900 and 976) charges~~  
3 ~~to an end user/customer in Florida shall not:~~

4 ~~1. Collect or attempt to collect Pay Per Call service (900 or 976) charges which are~~  
5 ~~being disputed or which have been removed from an end user's/customer's bill; or~~

6 ~~2. Report the end user/customer to a credit bureau or collection agency solely for non-~~  
7 ~~payment of Pay Per Call (900 or 976) charges.~~

8 ~~(g) LECs and IXC's billing Pay Per Call service (900 and 976) charges to end~~  
9 ~~users/customers in Florida shall implement safeguards to prevent the disconnection of phone~~  
10 ~~service for non-payment of Pay Per Call (900 or 976) charges.~~

11 ~~(136) Companies that bill for local service must provide notification with the~~  
12 ~~customer's first bill or via letter, and annually thereafter that a PC Freeze is available at no~~  
13 ~~charge. Existing customers must be notified annually that a PC Freeze is available at no~~  
14 ~~charge. Notification shall conform to the requirements of Rule 25-4.083.~~

15 ~~(17) The customer must be given notice on the first or second page of the customer's~~  
16 ~~next bill in conspicuous bold face type when the customer's presubscribed provider of local,~~  
17 ~~local toll, or toll service has changed.~~

18 ~~(148) If a customer notifies a billing party that they did not order an item appearing on~~  
19 ~~their bill or that they were not provided a service appearing on their bill, the billing party shall~~  
20 ~~promptly provide the customer a credit for the item and remove the item from the customer's~~  
21 ~~bill, with the exception of the following:~~

22 ~~(a) Charges that originate from:~~

23 ~~1. Billing party or its affiliates;~~

24 ~~2. A governmental agency;~~

25 ~~3. A customer's presubscribed intraLATA or interLATA interexchange carrier; and~~

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from existing law.

1 (b) Charges associated with the following types of calls:

2 1. Collect calls;

3 2. Third party calls;

4 3. Customer dialed calls for; and

5 4. Calls using a 10-10-xxx calling pattern.

6 (159)(a) Upon request from any customer, a billing party must restrict charges in its  
7 bills to only:

8 1. Those charges that originate from the following:

9 a. Billing party or its affiliates;

10 b. A governmental agency;

11 c. A customer's presubscribed intraLATA or interLATA interexchange carrier; and

12 2. Those charges associated with the following types of calls:

13 a. Collect calls;

14 b. Third party calls;

15 c. Customer dialed calls; and

16 d. Calls using a 10-10-xxx calling pattern.

17 (b) Customers must be notified of this right by billing parties annually and at each time

18 a customer notifies a billing party that the customer's bill contained charges for products or  
19 services that the customer did not order or that were not provided to the customer.

20 (c) Small local exchange telecommunications companies as defined in Section

21 364.052(1), F.S., are exempted from this subsection.

22 ~~(20) Nothing prohibits originating parties from billing customers directly, even if a~~  
23 ~~charge has been blocked from a billing party's bill at the request of a customer.~~

24 (16) In addition to the requirements listed in subsections (1) through (15) above, a  
25 local provider shall meet the requirements as prescribed by the Federal Communications

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1 Commission in Title 47, Code of Federal Regulations, Part 64, Sections 64.2400 and 64.2401,  
2 Truth-in-Billing Requirements for Common Carriers, revised as of October 1, 2007, which  
3 are incorporated into this rule by reference.  
4 Specific Authority 350.127, 364.604(5) FS. Law Implemented 350.113, 364.03, 364.04,  
5 364.05, 364.052, 364.17, 364.19, 364.602, 364.604 FS. History--New 12-1-68, Amended 3-31-  
6 76, 12-31-78, 1-17-79, 7-28-81, 9-8-81, 5-3-82, 11-21-82, 4-13-86, 10-30-86, 11-28-89, 3-31-  
7 91, 11-11-91, 3-10-96, 12-28-98, 7-5-00, 11-16-03.

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PERIODIC REPORTS

ENGINEERING DATA REQUIREMENTS

<u>SCHEDULE</u>	<u>TITLE</u>	<u>SUBMISSION</u> <u>Large LECs/Small LECs</u>
2	<del>Summary of Completed</del> <u>New Primary Service Orders</u>	Quarterly/Semiannually
3	Summary of Held Applications	Quarterly/Semiannually
8	Access Line Data	Quarterly/Semiannually
11	Repair Service-Trouble Reports	Quarterly/Semiannually
15	Answer Time- <del>Repair Service</del>	Quarterly/Semiannually
<del>16</del>	<del>Answer Time Business Office</del>	<del>Quarterly/Semiannually</del>
<del>19</del>	<del>Central Office NXX Data</del>	<del>Semiannually with Monthly Updates</del>

NAME OF COMPANY (a) \_\_\_\_\_

RULE 25-4.066, F. A. C.

SCHEDULE 2

COMPLETED NEW PRIMARY SERVICE ORDERS

MONTH (b) \_\_\_\_\_

QUARTER ENDING (b) (e) \_\_\_\_\_

Exchange Size	Total Orders	Delayed for Const.	Total Complete ≤ 53 Days	Percent Complete ≤ 53 Days	Standard Met Yes or No	Total Complete ≤ 30 Days	Percent Complete ≤ 30 Days	Standard Met Yes or No	Total Complete ≤ 60 Days	Percent Complete ≤ 60 Days	Standard Met Yes or No
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Enter the name of the company in line a.

~~If the exchange is greater than 50,000 access lines enter the month and year of the reported data in line b. If the exchange is less than 50,000 access lines enter the quarter and year for exchanges with less than 50,000 access lines in line c, since the data is to be accumulated over the entire quarter. Enter the ending period of the report (such as March 31, 2004) if month three was March, 2004) in line b.~~

- 1) Under column 1, group exchanges together for those having access lines of 50,000 or more and separately group together exchanges having fewer than 50,000 access lines. Enter the name of the exchange in column 1.
- 2) Enter the total number of primary service order requests received during the quarter.
- 3) Enter the number of orders being held for new construction.
- 4) Enter the total number of orders completed within 53 days including appointments, and customer requests met.
- 5) Enter the percentage of service orders completed within 53 days (column 4 divided by column 2 minus column 3).
- 6) Enter Y if at least 90% were completed or N if the rule was not met.
- 7) ~~Enter the total number of orders completed within 30 days.~~
- 8) ~~Enter the percentage of service orders completed within 30 days (column 7 divided by column 2 minus column 3).~~
- 9) ~~Enter Y if 95% were completed within 30 days or N if the rule was not met.~~
- 10) ~~Enter the percentage of service orders completed within 30 days (column 10 divided by column 2 minus column 3).~~
- 11) ~~Enter the percentage of service orders completed within 60 days.~~
- 12) ~~Enter Y if 100% were completed within 60 days or N if the rule was not met.~~

NAME OF COMPANY (a) \_\_\_\_\_

RULE 25-4.066, F. A. C.

SCHEDULE 3

SUMMARY OF HELD APPLICATIONS

MONTH (b) \_\_\_\_\_

Exchange	Right-of-way or Permits	Company Construction OSP	Company Required COE	Company Other	Subscriber Action	31-60 Days	Over 60 Days
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Enter the name of the company line a.

Enter the month and year of the reported data in line b.

- 1) Enter the name of the exchange.
- 2) Enter the total number of orders waiting on right-of-way or permits.
- 3) Enter the total number of orders held for OSP construction.
- 4) Enter the total number of orders held for central office equipment.
- 5) Enter the total number of orders held due to other company circumstances and explain the reason for the delay.
- 6) Enter the total number of orders held due to action on the part of the subscriber.
- 7) Enter the total number of orders aged 31-60 days.
- 8) Enter the total orders aged over 60 days.

NAME OF COMPANY (a) \_\_\_\_\_

RULE 25-4.0185, F. A. C.

SCHEDULE 8

ACCESS LINE DATA

QUARTER AND YEARMONTH (b) \_\_\_\_\_

Exchange	Retail Lines			Resale Lines			UNE-P			Pay Phones	Total Lines
	Total	Res	Bus	Total	Res	Bus	Total	Res	Bus		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Enter the name of the company in line a.

Enter the ~~month~~ quarter and year of the reported data in line b.

- 1) Enter the name of the exchange in column 1.
- 2) Enter the total retail lines in column 2.
- 3) Enter the number of residential retail lines in column 3.
- 4) Enter the number of business retail lines in column 4.
- 5) Enter the total number of resale lines in column 5.
- 6) Enter the number of residential resale lines in column 6.
- 7) Enter the number of business resale lines in column 7.
- 8) Enter the total number of unbundled network element-platforms (UNE-P) in column 8.
- 9) Enter the number of residential UNE-P in column 9.
- 10) Enter the number of business UNE-P in column 10.
- 11) Enter the total number of pay phone access lines in column 11.
- 12) Enter the total number of access lines in column 12 by adding columns 2, 5, 8, and 11.

NAME OF COMPANY (a) \_\_\_\_\_  
 SCHEDULE 11 REPAIR SERVICE-TROUBLE REPORTS

RULE 25-4.070, F. A. C.

MONTH (b) \_\_\_\_\_

QUARTER ENDING (b) (c) \_\_\_\_\_

Exchange	Total Reports	Total Exempt	Out of Service	Cleared Within 48 24 Hours	% Cleared Within 48 24 Hours	Rule Satisfied (Y or N)	Service Affecting	Cleared Within 72 Hours	% Cleared Within 72 Hours	Rule Satisfied (Y or N)
(1)	(2)	(3)	(4)	(45)	(56)	(67)	(8)	(9)	(10)	(11)

Enter the name of the company in line a.

~~If the exchange is greater than 50,000 access lines enter the month and year of the reported data in line b.~~

~~If the exchange is less than 50,000 access lines enter the quarter and year for exchanges with less than 50,000 access lines in line c, since the data is to be accumulated over the entire quarter. Enter the ending period of the report (such as March 31, 2004) if month three was March, 2004) in line b.~~

- 1) Under column 1, group exchanges together for those having access lines of 50,000 or more and separately group together exchanges having fewer than 50,000 access lines. Enter the name of the exchange in column 1.
- 2) Enter the total of all trouble reports received during the quarter, in each exchange in column 2.  
 Note: If it is determined that a trouble involves inside wire or CPE, the trouble report should be closed at that time and recorded as cleared if the company has notified or attempted to notify the customer of the cause within the required time frame. If the required time frame is not met, the trouble shall be counted as not cleared.
- 3) Enter the total number of exempted reports for each exchange in column 3.  
 Note: Exempt reports are those due to emergency situations such as unavoidable casualties where at least 10% of an exchange is out-of-service.
- ~~4) Enter the total number of Out Of Service (OOS) reports in column 4. Include Customer Requests beyond 24 hours and Appointments made when a premises visit is made in order to obtain access.~~
- ~~45) Enter the total number of OOS troubles cleared within 48 24 hours in column 5. Customer Requests and Appointments are counted as being cleared within 48 24 hours if the trouble has been cleared within the agreed date.~~
- ~~56) Enter the percent of OOS troubles cleared within 48 24 hours in column 6 (column 4 2 minus column 3).~~
- ~~67) Enter a "Y" if at least 95% were completed or an "N" if not in column 67.~~

- ~~7) Enter the total number of Service Affecting (SA) trouble reports in column 8.~~
- ~~8) Enter the number of SA reports cleared within 72 hours in column 9. Customer Requests and Appointments are counted as being cleared within 72 hours if the trouble has been cleared within the agreed date.~~
- ~~9) Enter the percent of SA troubles cleared within 72 hours in column 10 (column 9 divided by column 8).~~
- ~~10) Enter a "Y" if at least 95% were completed or an "N" if not in column 11.~~

NAME OF COMPANY (a) \_\_\_\_\_

RULE 25-4.073, F. A. C.

SCHEDULE 15

ANSWER TIME ~~REPAIR SERVICE~~

QUARTER ENDING (b) Period Ending

(b)

Categories	Month (c)				Month (d)				Month (e)			
	Attempts (1)	Ans'd w/in Std. (2)	Percent Ans'd w/in Std. (3)	Std. Met Yes or No (4)	Attempts (5)	Ans'd w/in Std. (6)	Percent Ans'd w/in Std. (7)	Std. Met Yes or No (8)	Attempts (9)	Ans'd w/in Std. (10)	Percent Ans'd w/in Std. (11)	Std. Met Yes or No (12)
Automated Answer w/in 3015 Sec (IVRU)												
Ans'd by Attendant w/in 9030 Sec (No IVRU)												
Ans'd by Attendant w/in 9055 Sec (IVRU)												

Enter the name of the company in line a.

Enter the ending period of the report (such as March 31, 2004) ~~if month three was March, 2004~~ in line b.

~~Enter the name of the month for the first month's data (such as January) in column c.~~

~~First Month's Data~~

- 1) Enter the total number of calls to the business and repair offices in columns by category during the quarter.
- 2) Enter the total number of calls that were answered within standard in column 2.
- 3) Enter the percentage of calls that were answered within the standard (column 2 divided by column 1) in column 3.
- 4) Enter whether the standard was met. Enter "Y" for Yes or "N" for No in column 4.

~~Enter the name of the month for the second month's data (such as February) in column d.~~

~~5) Enter the total number of calls to repair in column 5 by category.~~

~~6) Enter the total number of calls that were answered within the standard in column 6.~~



Date: December 23, 2008

~~7) — Enter the percentage of calls that were answered within the standard (column 6 divided by column 5) in column 7.~~

~~8) — Enter whether the standard was met. Enter "Y" for Yes or "N" for No in column 8.~~

~~Enter the name of the month for the third month's data (such as March) in column e.~~

~~9) — Enter the total number of calls to repair in column 9 by category.~~

~~10) — Enter the total number of calls that were answered within the standard in column 10.~~

~~11) — Enter the percentage of calls that were answered within the standard (column 10 divided by column 9) in column 11.~~

~~12) — Enter whether the standard was met. Enter "Y" for Yes or "N" for No in column 12.~~

NAME OF COMPANY \_\_\_\_\_ (a)

RULE 25-4.073, F. A. C.

SCHEDULE 16

ANSWER TIME BUSINESS OFFICE

MONTH (b) \_\_\_\_\_

Period Ending (b)

Categories	Month (c)				Month (d)				Month (e)			
	Attempts	Ans'd w/in Std.	Percent Ans'd w/in Std.	Std. Met Yes or No	Attempts	Ans'd w/in Std.	Percent Ans'd w/in Std.	Std. Met Yes or No	Attempts	Ans'd w/in Std.	Percent Ans'd w/in Std.	Std. Met Yes or No
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Automated Answer w/in 15 Sec (IVRU)												
Ans'd by Attendant w/in 30 Sec (No IVRU)												
Ans'd by Attendant w/in 55 Sec (IVRU)												

Enter the name of the company in line a.

Enter the ending period of the report (such as March 31, 2004 if month three was March, 2004) in line b.

Enter the name of the month for the first month's data (such as January) in column c.

- 1) Enter the total number of calls to the business office in column 1 by category
- 2) Enter the total number of calls that were answered within standard in column 2.
- 3) Enter the percentage of calls that were answered within the standard (column 2 divided by column 1) in column 3.
- 4) Enter whether the standard was met. Enter "Y" for Yes or "N" for No in column 4.

Enter the name of the month for the second month's data (such as February) in column d.

- 5) Enter the total number of calls to the business office in column 5 by category.
- 6) Enter the total number of calls that were answered within the standard in column 6.

Date: December 23, 2008

~~7) — Enter the percentage of calls that were answered within the standard (column 6 divided by column 5) in column 7.~~

~~8) — Enter whether the standard was met. Enter "Y" for Yes or "N" for No in column 8.~~

~~Enter the name of the month for the third month's data (such as March) in column e.~~

~~9) — Enter the total number of calls to the business office in column 9.~~

~~10) — Enter the total number of calls that were answered within the standard in column 10.~~

~~11) — Enter the percentage of calls that were answered within the standard (column 10 divided by column 9) in column 11.~~

~~12) — Enter whether the standard was met. Enter "Y" for Yes or "N" for No in column 12.~~

NAME OF COMPANY \_\_\_\_\_ (a)

RULE 25-4.0185, F. A. C.

SCHEDULE 19 \_\_\_\_\_ CENTRAL OFFICE NXX DATA

MONTH (b) \_\_\_\_\_

NPA	NXX	Sub	Central Office	Exchange	LATA	Toll Center	Milliwatt Line	Quiet Line	CO	CLLI Code
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Enter the name of the company in line a.

Enter the month and year of the reported data in line b.

- 1) Enter the Area Code in column 1.
- 2) Enter the three digit central office identifier in column 2.
- 3) Enter in column 3 an (a) if this is the only switch or home switch for the NXX or enter (b) if this is a remote switch.
- 4) Enter the name of the central office in column 4.
- 5) Enter the name of the Exchange in column 5.
- 6) Enter the LATA or Market Area in column 6.
- 7) Enter the toll center name in column 7.
- 8) Enter the milliwatt supply number for the designated NXX in column 8.
- 9) Enter the quiet line determination number for the central office in column 9.
- 10) Enter the central office telephone number in column 10.
- 11) Enter the Common Language Location Identifier (the 11 digit alphanumeric code used to identify the location) in column 11.

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:** December 23, 2008  
**TO:** Office of General Counsel (Cowdery) *CC*  
**FROM:** Division of Economic Regulation (Hewitt) *CH*  
**RE:** Proposed Amendment of: Rule 25-4.002, F.A.C., Application and Scope; Rule 25-4.0185, F.A.C., Periodic Reports; Rule 25-4.023, F.A.C., Report of Interruptions; Rule 25-4.066, F.A.C., Availability of Service, Rule 25-4.067, F.A.C., Extension of Facilities - Contributions in Aid of Construction; Rule 25-4.070, F.A.C. Customer Trouble Reports, Rule 25-4.071, F.A.C., Adequacy of Service; Rule 25-4.073, F.A.C., Answering Time, Rule 25-4.074, F.A.C., Intercept Service; Rule 25-4.083, F.A.C., Preferred Carrier Freeze; Rule 25-4.107, F.A.C., Information to Customers; Rule 25-4.109, F.A.C., Customer Deposits; and Rule 25-4.110, F.A.C., Customer Billing of Local Exchange Telecommunications Companies; Proposed Repeal of: Rule 25-4.046, Incremental Cost Data Submitted by Local Exchange Companies; Rule 25-4.108, Initiation of Service.  
Docket Nos. 080159-TP and 080641-TP

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## DETAILED DESCRIPTION OF THE PROPOSED RULE

### *1. Why are the rule amendments being proposed?*

The ILECs jointly petitioned for a revision or repeal of the service quality rules in light of the competitive environment. The amendments and appeals are intended to allow the companies more flexibility in managing their workforce and to simplify, streamline, and clarify the rules.

### *2. What do the rules do and how do they accomplish the goal?*

These rules are among those that regulate Incumbent Local Exchange Companies (ILECs) service. The rules require periodic reports, report of interruptions, intercept service, and information to customers. Staff uses the periodic reports and interruptions information to ensure customer quality of service and to have the information available for customers.

Rule 25-4.002, Application and Scope; defines reasonable service standards. Would delete the residential only reference to Part II and Part V rules.

Rule 25-4.0185, Periodic Reports; requires informational reports on form PSC/CMP 28. Would change CMP to SSC. The rule would be amended to add language to clarify that Schedules 2, 3, 11, and 15 of Form PSC/CMP 28 shall apply to residential service only since the rules upon which the reports are based apply to residential service only.

Rule 25-4.023, Report of Interruptions; requires reports of major interruptions. Would be amended to require that the Commission be informed daily during times of named tropical storm systems; and in addition, the number of subscribers affected.

Rule 25-4.066, Availability of Service; requires equipment and plant to meet demand. Would be amended to apply to residential service only. Service would have to be installed within five days instead of three.

Rule 25-4.067, Extension of Facilities - Contributions in Aid of Construction; provides for construction cost responsibility. Subscribers would have to pay their portion of construction costs over three years instead of five. Would be made explicitly for residential services only.

Rule 25-4.070, Customer Trouble Reports; requires companies to minimize the extent and duration of trouble conditions and reports thereof. Amendment would be for residential application only. Trouble reports for out of service conditions would have to be corrected in 48 hours instead of 24 hours. Trouble reports for service affecting condition would have to be corrected in 48 hours instead of 72 hours. Distinction between trouble reports for out of service condition and service affecting condition would be deleted, and corrections for all trouble reports would be required within 48 hours.

Rule 25-4.071, Adequacy of Service; requires adequate service. The call completion standard of 95 percent would be eliminated.

Rule 25-4.073, Answering Time; requires timely answering. Amendments would be for residential service only and to increase company answering time from 30 seconds to 90 seconds. If an automated system is used, 95 percent of the calls would have to be answered within 30 seconds instead of 15 seconds; an option to transfer to a live attendant within the first 30 seconds would be extended to 60 seconds. If transferred, a call would have to be answered by a live attendant within 90 seconds instead of 55 seconds.

Rule 25-4.074, Intercept Service; concerned with application of intercept service for changed numbers, vacant or non-working numbers. Amendment would clarify requirements.

Rule 25-4.083, Preferred Carrier Freeze; regulates PC freezes. Local providers would have to meet the requirements of the Federal Preferred Carrier Freeze rule.

Rule 25-4.107, Information to Customers; would add "Residential" to title and "Installment Plan" to clarify to whom and what it applies. Service connection charges would be payable over at least 3 months.

Rule 25-4.109, Customer Deposits; regulates customer deposits. Amendment would be for residential application only. Would eliminate references to nonresidential customers.

Rule 25-4.110, Customer Billing for Local Exchange Telecommunications Companies; regulates customer bills. Amendments would streamline the requirements but require a plain language explanation to a contacting customer. A company would have to make an adjustment or refund for interruptions of 48 hours instead of 24 hours. Customer dialed calls to Pay Per Call (900 and /or 976) services charges would be credited or removed from a customer's bill when a customer notifies a billing party that they did not order an item appearing on their bill.

Rule 25-4.046, Incremental Cost Data Submitted by Local Exchange Companies; proposed repeal. Sets forth requirements for incremental cost data submitted by ILECs. Rule unneeded. Staff may request data as needed.

Rule 25-4.108, Initiation of Service; proposed repeal. A portion of the rule is unnecessary and duplicative of statute. The service connection charge installment plan requirements from Rule 25-4.108 would be moved to Rule 25-4.107.

### IMPACT ON THE PSC

#### *Incremental costs*

There should be minimal costs to implement the proposed rule amendments and repeals. There should be no incremental cost to the Commission.

#### *Incremental benefits*

The rule amendments and repeals would benefit the Commission by having more simple, streamlined, and clarified rules. Staff would have less paperwork to handle with the proposed changes.

### WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSAL

#### *Utilities*

The proposed rule amendments and repeals would affect 10 ILECs.

#### *Customers*

Customers applying for service and reading the rules would be affected by the simplified, streamlined, and clarified rules.

#### *Outside business and local governments*

There should be no negative impacts on small businesses, small cities, or small counties resulting from an adoption of the above rule changes.

### HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

#### *Estimated transactional costs to individuals and entities*

#### *Utilities*

The proposed rule amendments and rule repeals would likely decrease ILEC administrative costs overall. There may be some additional one-time, nonrecurring costs to comply with some specific changes in reporting activities and servicing customers. ILECs should benefit from less stringent time requirements for answering, correcting trouble reports, and service installations. They may need less personnel and fewer vehicles for servicing customers. The net impact should be positive for the ILECs.

*Customers*

Customers would be able to understand the clarified and streamlined rules better. However, with regard to the amendments, customers would possibly have increased aggravation costs from longer answering times with the ILEC, more dropped calls, longer time for repairs to be made, and longer time for installation of new service. These costs do not have a price to the residential customer but would be real and would vary from customer to customer. The ILECs submitted a report that showed there are alternative telecommunication providers in most of the state which give dissatisfied customers a competitive choice if they are not satisfied with their carrier's service. Joint Petitioners maintain that in a competitive environment, companies must provide an acceptable level of service; otherwise, customers can and will switch to competitors.

Subscribers would have to pay their portion of construction costs over three years instead of five which would cause a higher monthly payment.

*Outside business including specifically small businesses*

Small businesses have different service plans and would not likely experience the same benefits or costs as residential customers. Small businesses depending on calling or receiving calls from residential customers would benefit from knowing the number of outages when a tropical storm hits. Small businesses depending on calling or receiving calls from residential customers could lose some revenues when residential customers have their troubles fixed possibly an additional 24 hours later or their new service installed an additional 2 days later. The amount of lost revenue would be difficult to estimate.

*Local governments*

Local governments should have no transactional costs from the rule amendments or repeals.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSAL

No other pertinent comments are germane to the proposed rule changes.

CH: kb

cc: Mary Andrews Bane  
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