

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Amendment of Rule 25-4.110,	)	DOCKET NO. 910060-TP
F.A.C., Pertaining to customer	)	ORDER NO. 25045
Billing.	)	ISSUED: 9/12/91
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NOTICE OF RULEMAKING

NOTICE is hereby given that the Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-4.110, F.A.C., relating to Customer Billing.

The attached Notice of Rulemaking will appear in the September 13, 1991 edition of the Florida Administrative Weekly. If requested, a hearing will be held at the following time and place:

9:30 a.m., October 8, 1991  
 The Public Service Commission  
 Room 106, Fletcher Building  
 101 East Gaines Street  
 Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than October 4, 1991.

By Direction of the Florida Public Service Commission, this  
 12th day of SEPTEMBER, 1991.

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 STEVE TRIBBLE, Director  
 Division of Records & Reporting

( S E A L )

RCB  
 AMD4110.SMJ

by: Kay Ferguson  
 Chief, Bureau of Records

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 2

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 910060-TP

RULE TITLE:

CUSTOMER BILLING

RULE NO.: 25-4.110

PURPOSE AND EFFECT: The Commission, in its February 12, 1991 Order approving the initiation of rulemaking in pay per call (900/976) services noted the need for increased protection for consumers of those services. The proposed rules accomplish that goal.

SUMMARY: The proposed rules provide that partial payments by customers be applied by local exchange companies first to satisfying any unpaid regulated charges. The proposed rules provide a definition of pay per call services and change "900/976 services" to "pay per call services (900 or 976)".

The proposed rules provide requirements for pay per call services in the areas of notification, children's parental consent, promotion of children's programs, disclosure of prices for merchandise, meeting internal standards of local exchange companies and interexchange carriers and program promotion which must be met for transmission and or billing services to be provided.

The proposed rules provide for the availability of free blocking of pay per call services and for dispute resolution,

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 3

including adjustment of certain complaints, rules relating to collection and safeguards against disconnection for failure to pay charges for pay per call (PPC) services.

RULEMAKING AUTHORITY: 350.127, F.S.

LAW IMPLEMENTED: 364.17, 350.113, 364.03, 364.04, 364.05, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THIS RULE:

The net effect to the agency should be minimal because 900/976 complaints are a small fraction of total complaints. LECs and IXC's that provide transmission and/or bill and collect services on behalf of PPC telephone services could be directly affected by the proposed additions. The full EIS elaborates on this impact. Some of the IXC's are small businesses and may be affected by the rule changes. Also, many of the PPC service providers are small businesses. The exact amount of loss of revenues to the information providers is undeterminable in advance but could be a significant percentage of the companies' gross revenues. The impact on competition could be significant for Florida PPC providers. The net change in employment cannot be determined with certainty but the gain in employment at the LECs is likely to be short-term.

The analysis was prepared using data collected from surveys to ten LECs, two IXC's, and one PPC provider, workshop testing, and discussion with staff. Standard microeconomic analysis was

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 4

used to determine the likely economic impacts.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:  
TIME AND DATE: 9:30 A.M., TUESDAY, OCTOBER 8, 1991.

PLACE: Room 106, 101 East Gaines Street, Tallahassee, Florida.  
THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE RULE IS:

25-4.110 Customer Billing.

(1) Each company shall issue bills monthly. Each bill shall show the delinquent date, set forth a clear listing of all charges due and payable, and not later than December 1, 1982, contain the following statement: "Written itemization of local billing available upon request."

(a) Each local exchange company shall provide an itemized bill for local service:

1. With the first bill rendered after local exchange service to a customer is initiated or changed; and

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 5

2. to every customer at least once each twelve months.

(b) The 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. This bill stuffer shall be submitted to the Division of Communications for prior approval. The itemized bill provided to residential customers and to business customers with less than 10 access lines per service location shall be in easily understood language. The itemized bill provided to business customers with 10 or more access lines per service location may be stated in service order code, provided that it contains a statement that, upon request, an easily understood translation is available in written form without charge. An itemized bill shall include, but not be limited to the following information, separately stated:

1. Number and types of access lines;
2. Charges for access to the system, by type of line;
3. zone charges;
4. touch tone service charges;
5. charges for custom calling features, separated by feature;
6. unlisted number charges;

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 6

7. local directory assistance charges;
8. other tariff charges;
9. other nontariffed, regulated charges contained in the bill.

(c) Each bill rendered by a local exchange company shall:

1. separately state the following items:
  - a. any discount or penalty, if applicable,
  - b. past due balance,
  - c. unregulated charges, identified as unregulated,
  - d. long-distance charges, if included in the bill,
  - e. franchise fee, if applicable,
  - f. taxes as applicable on purchases of local and long distance service; and
2. contain a statement that nonpayment of regulated charges may result in discontinuance of service and that the customer may contact the business office (at a stated number) to determine the amount of regulated charges in the bill.

(2) Each company shall make appropriate adjustments or refunds where the subscribers's service is interrupted by other than the subscriber's negligent or willful act, and remains out of order in excess of twenty-four (24) hours after the subscriber notifies the company of the interruption. The refund to the

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 7

subscriber shall be the pro rata[e] part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative; except that the refund shall not be applicable for the time that the company stands ready to repair the service and the subscriber does not provide access to the company for such restoration work. The refund may be accomplished by a credit on a subsequent bill for telephone service.

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

1. Where service is terminated or abandoned.
2. Where toll service is two (2) times greater than the subscriber's average usage as reflected on the monthly bills for the three (3) months prior to the current bill or, in the case of a new customer who has been receiving service for less than four (4) months, where the toll service is twice the estimated monthly toll service.
3. Where the company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is imminent for that

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 8

subscriber.

(b) The demand for immediate payment shall be accompanied by a bill which itemizes the charges for which payment is demanded or, if the demand is made orally, an itemized bill shall be mailed or delivered to the customer within three (3) days after the demand is made.

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

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

(5) Annually, each telephone company shall include a bill



ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 9

insert advising each residential subscriber of the option to have his/her name placed on the "No Sales Solicitation" list maintained by the Department of Agriculture and Consumer Services, Division of Consumer Services, and the 800 number to contact to receive more information.

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

(7) Franchise fees and municipal telecommunications taxes.

(a) When a municipality charges a company any franchise fee, or municipal telecommunications tax authorized by Section 166.231 F.S., the company may collect that fee only from its subscribers receiving service within that municipality. When a county charges a company any franchise fee, the company may collect that fee only from its subscribers receiving service within that county.

(b) A company may not incorporate any franchise fee or municipal telecommunications tax into its other rates for service.

(c) This subsection shall not be construed as granting a municipality or county the authority to charge a franchise fee or

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 10

municipal telecommunications tax. This subsection only specifies the method of collection of a franchise fee if a municipality or county, having authority to do so, charges a franchise fee or municipal telecommunications tax.

(8) (a) When a company elects to add the Gross Receipts Tax onto the customer's bill as a separately stated component of that bill, the company must first remove from the tariffed rates any embedded provisions for the Gross Receipts Tax.

(b) If the tariffed rates in effect have a provision for gross receipts tax, the rates must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida Statutes, thereby rendering the customer's bill unaffected by the election to add the Gross Receipts Tax as a separately stated tax.

(c) This subsection shall not be construed as a mandate to elect to separately state the Gross Receipts Tax. This subsection only specifies the method of applying such an election.

(d) All services sold to another telecommunications vendor, provided that the applicable rules of the Department of Revenue are satisfied, must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida Statutes, unless those services have been adjusted by some other

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 11

Commission action.

(e) When a nonrate base regulated telecommunications company exercises the option of adding the gross receipts tax as a separately stated component on the customer's bill then that company must file a tariff indicating such. No corresponding rate reduction is required for nonrate base regulated telephone companies.

(9) Each local exchange company shall apply partial payment of an end user/customer bill first towards satisfying any unpaid regulated charges. The remaining portion of the payment (if any) shall be applied to nonregulated charges.

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

(a) Charges for Pay Per Call service (900 or 976) shall be segregated from charges for regular long distance or local

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 12

charges by appearing separately under a heading that reads as follows: "Pay Per Call (900 or 976) nonregulated charges". The following information shall be clearly and conspicuously disclosed on each section of the bill containing Pay Per Call service (900 or 976) charges:

1. Nonpayment of Pay Per Call service (900 or 976) charges will not result in disconnection of local service;
2. End users/customers can obtain free blocking of Pay Per Call service (900 or 976) from the local exchange telephone company;
3. The local or toll-free number the end user/customer can call to dispute charges;
4. With 900 service, the name of the interexchange carrier providing 900 service; and
5. The Pay Per Call service (900 or 976) program name.

(b) Pay Per Call Service (900 and 976) Billing. Local exchange companies and interexchange carriers who have a tariff or contractual relationship with a Pay Per Call (900 or 976) provider shall not provide Pay Per Call transmission service and/or billing services, unless the provider does each of the following:

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 13

1. Provides an 18 second or longer preamble to the program which states the total minimum charge for the Pay Per Call service (900 and 976); child's parental notification requirement is announced on all preambles for all programs; child's parental notification requirement in any preamble to a program targeted to children must be in language easily understandable to children; programs that do not exceed \$3.00 in total charges may omit the preamble, and the program may allow an end user/customer to affirmatively bypass a preamble.
2. Provides the end user/customer the ability to disconnect the call during or at the conclusion of the preamble without incurring a charge;
3. Provides on each program promotion targeted at children (defined as 17 years and younger) clear and conspicuous notification, in language understandable to children, of the requirement to obtain parental permission before placing or continuing with the call. The parental consent notification shall appear prominently in all advertising and promotional materials, and in the program preamble. Children's programs shall not

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 14

- have rates in excess of \$5.00 per call, and shall not include the enticement of a gift or premium.
4. Promotes its services without the use of an autodialer or broadcasting of tones that dial a Pay Per Call (900 and 976) number;
  5. Prominently discloses the additional cost per minute or per call for any other telephone number that an end user/customer is referred to either directly or indirectly;
  6. Discloses clearly and conspicuously in all advertising and promotional materials the name of the information provider or sponsor and all charges for Pay Per Call services, displayed in the same print size as the Pay Per Call number;
  7. Provides on Pay Per Call services that involve sales of products or merchandise clear preamble notification of the price that will be incurred if the end user/customer stays on the line, and a local or toll free number for consumer complaints;
  8. Meets internal standards established by the local exchange company or the interexchange carrier as defined in the applicable tariffs or contractual agreement between the LEC and the IXC; or between

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 15

the LEC/IXC and the Pay Per Call (900 or 976) provider which when violated, would result in the termination of a transmission and/or billing arrangement.

(c) Pay Per Call (900 and 976) Blocking. Each local exchange company shall provide blocking (where technically feasible) of Pay Per Call service (900 and 976), at the request of the end user/customer at no charge. Each local exchange company or interexchange carrier must implement a bill adjustment tracking system to aid its efforts in adjusting and sustaining Pay Per Call charges. The carrier will adjust the first bill containing Pay Per Call charges upon the end user's/customer's stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. At the time the charge is removed, the end user/customer may agree to free blocking of Pay Per Call service (900 and 976).

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

1. The end user/customer did not receive a price advertisement, the price of the call was misrepresented to the consumer, or the price advertisement received by the consumer was false,

ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 16

misleading, or deceptive;

2. The end user/customer was misled, deceived, or confused by the Pay Per Call (900 or 976) advertisement;
3. The Pay Per Call (900 or 976) program was incomplete, garbled, or of such quality as to render it inaudible or unintelligible, or the end user/customer was disconnected or cut off from the service;
4. The Pay Per Call (900 and/or 976) service provided out-of-date information;
5. The end user/customer terminated the call during the eighteen (18) second preamble described in 25-4.110 (10) (b) (1), but was charged for the Pay Per Call service (900 or 976).

e) If the end user/customer refuses to pay a disputed Pay Per Call service (900 or 976) charge which is subsequently determined by the LEC to be valid, the LEC or IXC may implement Pay Per Call (900 and 976) blocking on that line.

(f) Credit and Collection. Local exchange companies and interexchange carriers billing Pay Per Call (900 and 976) charges to an end user/customer in Florida shall not;

1. Collect or attempt to collect Pay Per Call service



ORDER NO. 25045  
DOCKET NO. 910060-TP  
PAGE 17

(900 or 976) charges which are being disputed or which have been removed from an end user's/customer's bill;

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

(g) Local exchange companies and interexchange carriers billing Pay Per Call service (900 and 976) charges to end users/customers in Florida shall implement safeguards to prevent the disconnection of phone service for non-payment of Pay Per Call (900 or 976) charges.

Specific Authority: 350.127, F.S.

Law Implemented: 364.17, 350.113, 364.03, 364.04, 364.05, F.S.

History: New 12/1/68, Amended 3/31/76, 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, 3/31/91.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Brown

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:  
Florida Public Service Commission

DATE PROPOSED RULE APPROVED: August 27, 1991

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant