

State of Florida

Commissioners:  
SUSAN F. CLARK, CHAIRMAN  
J. TERRY DEASON  
JULIA L. JOHNSON  
DIANE K. KIESLING  
JOE GARCIA



DIVISION OF RECORDS &  
REPORTING  
BLANCA S. BAYO  
DIRECTOR  
(904) 413-6770

**Public Service Commission**

DATE: September 7, 1995  
TO: Parties of Record  
FROM: Blanca S. Bayo, Director *BSB*  
Division of Records and Reporting  
RE: Dockets Nos. 950696-TP, 950802-TL, 950803-TL, 950804-TL, 950805-TL,  
950806-TL, 950807-TL, 950840-TL, 950841-TL, 950843-TL, 950845-TL,  
950900-TL, 950901-TL, 950912-TL and 950918-TX

This is to inform you that Chairman Clark has reported the following communications in the above referenced dockets.

- Letter from Representative Scott W. Clemons, dated August 17, 1995.

Representative Clemons' letter and Chairman Clark's response, copies of which are attached, are being made a part of the record in these proceedings. Pursuant to Section 350.042, F.S., any party who desires to respond to an ex parte communication may do so. The response must be received by the Commission within 10 days after receiving notice that the ex parte communication has been placed on the record.

BSB/cp

Attachments

cc: Rob Vandiver/w/letter

DOCUMENT NUMBER-DATE

08788 SEP-7 1995



# Public Service Commission

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

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DATE: September 7, 1995

TO: Blanca Bayó, Director of Records and Reporting

FROM: Wilbur Stiles, Assistant to the Chairman *W/S*

RE: Docket Nos. 950696-TP, 950802-TL, 950803-TL, 950804-TL,  
950805-TL, 950806-TL, 950807-TL, 950840-TL,  
950841-TL, 950843-TL, 950845-TL, 950900-TL,  
950901-TL, 950912-TL, 950918-TX

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I have attached a copy of a letter of August 17, 1995, from State Representative Scott W. Clemons to Chairman Clark, and a copy of her response. This correspondence references matters at issue in the above-referenced proceedings.

Our office sent a copy of these letters to the Division of Records and Reporting on August 28, 1995, without a cover memo with specific instructions to place the memo and attachment on the record. Please place this memorandum and attachment on the record of these proceedings, and give notice of these communications to all parties to the dockets that they have 10 days from receipt of the notice in which to file a response.

F. 10

State of Florida

Susan F. Clark  
Chairman



Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(904) 413-6040  
FAX (904) 487-1716

Public Service Commission

August 25, 1995

Honorable Scott W. Clemons  
Chairman  
Utilities and Telecommunications Committee  
Florida House of Representatives  
410 House Office Building  
Tallahassee, Florida 32399-1300

Dear Chairman Clemons:

Thank you for your letter of August 17, 1995, regarding various Commission responsibilities imposed by the new telecommunications law.

Your letter addresses several areas that the Commission will be considering in the near future. As the Commission considers these matters, we will, of course, be mindful of the Legislature's intent that we concern ourselves with both consumer protection and the development of competition.

Florida law prohibits Commissioners from commenting on the merits of pending proceedings; therefore, I am unable to comment on the substance of your concerns. However, I have referred this letter to the staff with directions that the points you have mentioned be considered in the issue identification in each relevant docket. Also, I will place your letter on the correspondence side of the docket file where it will be available for review by the parties to the proceeding.

Thank you again for your letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan F. Clark".

Susan F. Clark  
Chairman

SFC/jb

cc: Commissioners  
Rob Vandiver

Division or Records and Reporting:

Docket Nos. 950696-TP, 950802-TL, 950803-TL, 950804-TL,  
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AUG 23 1995

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Florida Public Service Comm.  
Commissioner Clark

*Florida House of Representatives*

PETER RUDY WALLACE, SPEAKER OF THE HOUSE

COMMITTEE ON UTILITIES & TELECOMMUNICATIONS

SCOTT W. CLEMONS  
CHAIR

August 17, 1995

SHARON J. MERCHANT  
VICE CHAIR

Susan Clark, Chairman  
Public Service Commission  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Dear Chairman Clark:

I am pleased to learn of the plans the Public Service Commission has made to implement Chapter 95-403, the telecommunications act. For Florida to realize competition as quickly as the Legislature intended, a rather ambitious schedule was included in the act's framework. And, the PSC was tasked with a variety of responsibilities to make the January 1, 1996, starting date for competition a realistic one. It appears that your agency is striving to meet that schedule.

Having worked closely with the Legislature during the development of the telecommunications legislation, you are aware of the law's two important goals: protecting consumers and encouraging competition. And, you know that the Legislature believes that in the final analysis competition will prove to be the ultimate consumer protection.

The Legislature has passed the law, thus clearly stating our intent that in the near future Floridians should have a choice in local telephone service. It now falls to the PSC to determine if our hopes for a quick emergence of competition will become a reality. In short, we will be observing the PSC's efforts to change its mission from the previous one--being the surrogate for competition--to its new role as the catalyst of competition.

For example, the Legislature's concern for both consumer protection and the development of competition was evidenced in the act's provisions for universal service. In this issue the consumer benefits are self-evident, however, the Legislature also evidenced a concern about its impact on competition. The act refers specifically to the PSC's determining a *mechanism* to provide for universal service. Legislators knew that after considering various mechanisms, the PSC might eventually decide that a fund is necessary. However, they were concerned that a fund could prove to be anti-competitive and so desired the consideration of a variety of options.

Page 2

Chairman Susan Clark

August 17, 1995

Based on a review of the actual list of staff-identified issues provided at a July meeting, the commission appears not to be limiting itself to a fund; however, the title of the proceeding is "Determination of *Funding* for Universal Service and Carrier of Last Resort Responsibilities," and the use of the word "funding" may signal a conflict with the notion of considering other options as well.

Another issue before you that could have an impact on the rapid development of competition is a requirement that ALEC's file tariffs for all services. Legislative intent provides that the Commission is to encourage competition through "flexible regulation" and "by allowing a transitional period in which new entrants are subject to a lesser level of regulatory oversight." I know the tariff issue will be a difficult one to resolve, and I do not presume to recommend to you which way you should decide. I write only to emphasize that the impact of your decision on the pace of the growth of competition must be weighed heavily.

Other issues I understand the PSC will face are the charges assessed payphone operators by incumbent LEC's and the timing of establishing payphone operators' eligibility to subscribe to flat-rate, single-line business local exchange services, as called for in the law. As before, I do not presume to tell you what to decide in these cases. However, I do request that you consider how your decision will aid in fostering competition.

A final example provided to illustrate my interest in stimulating competition and in recognition of the complex nature of the issues you will face regards access to poles, conduits, rights-of-way and other facilities--access which is required pursuant to the law. Section 14 of ch. 95-403, Laws of Florida, does not explicitly provide for the parties to address the PSC should they fail to mutually agree on rates and conditions of access. However, in other similar circumstances, pursuant to the law parties may petition the PSC to bring about a legislatively-mandated agreement. The absence of a means of bringing the PSC into the process may have an impact on a party's ability to compete in a timely fashion. This should be considered when deciding the issue of access to poles, conduits, rights-of-ways, and other facilities.

I am confident that under your leadership the PSC can meet the challenge of transforming itself from the substitute for to the catalyst of competition. I am comfortable relying upon your and your colleagues' judgement and expertise. I write and offer these examples to assure you that I am cognizant of the complexity of your challenges and to emphasize the legislature's keen desire that competition--the biggest consumer protection encompassed in the new law--be encouraged with all deliberate speed.

Sincerely,



Scott W. Clemons

Chairman, Committee on Utilities &  
Telecommunications

Susan F. Clark  
Chairman

State of Florida



Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(904) 413-6040  
FAX (904) 487-1716

## Public Service Commission

August 25, 1995

Honorable Scott W. Clemons  
Chairman  
Utilities and Telecommunications Committee  
Florida House of Representatives  
410 House Office Building  
Tallahassee, Florida 32399-1300

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PSC-RECORDS-REPORTING

Dear Chairman Clemons:

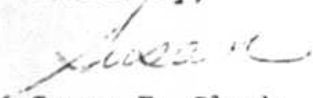
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Florida law prohibits Commissioners from commenting on the merits of pending proceedings; therefore, I am unable to comment on the substance of your concerns. However, I have referred this letter to the staff with directions that the points you have mentioned be considered in the issue identification in each relevant docket. Also, I will place your letter on the correspondence side of the docket file where it will be available for review by the parties to the proceeding.

Thank you again for your letter.

Sincerely,

  
Susan F. Clark  
Chairman

SFC/jb

cc: Commissioners  
Rob Vandiver

Division or Records and Reporting:

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Florida Public Service Comm.  
Commissioner Clark

# Florida House of Representatives

PETER RUDY WALLACE, SPEAKER OF THE HOUSE

## COMMITTEE ON UTILITIES & TELECOMMUNICATIONS

SCOTT W. CLEMONS  
CHAIR

August 17, 1995

SHARON J. MERCHANT  
VICE CHAIR

Susan Clark, Chairman  
Public Service Commission  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Dear Chairman Clark:

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Having worked closely with the Legislature during the development of the telecommunications legislation, you are aware of the law's two important goals: protecting consumers and encouraging competition. And, you know that the Legislature believes that in the final analysis competition will prove to be the ultimate consumer protection.

The Legislature has passed the law, thus clearly stating our intent that in the near future Floridians should have a choice in local telephone service. It now falls to the PSC to determine if our hopes for a quick emergence of competition will become a reality. In short, we will be observing the PSC's efforts to change its mission from the previous one--being the surrogate for competition--to its new role as the catalyst of competition.

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DN  
750696-TP  
Universal  
Service

Susan F. Clark  
Chairman

State of Florida



Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(904) 413-6040  
FAX (904) 487-1716

## Public Service Commission

August 28, 1995

RECEIVED

Honorable Jack N. Tobin  
Representative, District 95  
Florida House of Representatives  
4800 West Copans Road  
Coconut Creek, Florida 33063

FPSC-RECORDS & REPORTING

Dear Representative Tobin:

Thank you for your letter of August 15, 1995, regarding rates for interconnection by Pay Telephone Providers.

The thirteen local exchange companies operating in Florida have each filed tariffs relating to pay telephone interconnection rates in response to the new telecommunications law. The Commission is scheduled to render a decision regarding these tariffs at its September 12, 1995, Agenda Conference.

Florida law prohibits Commissioners from commenting on the merits of pending proceedings; therefore, I am unable to comment on the substance of your concerns. I will, however, place your letter on the correspondence side of the docket file where it will be available for review by the parties to the proceeding.

Thank you again for your letter.

Sincerely,

A handwritten signature in cursive script that reads "Susan".

Susan F. Clark  
Chairman

SFC/jb

cc: Commissioners  
Rob Vandiver

Division of Records and Reporting:

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950901-TL, 950912-TL





Rob,  
Please provide a response for Susan's signature by the end of the week.  
Billy

Florida House of Representatives

4800 West Corning Road  
Cocoa Creek, FL 32903  
305-473-0088

JACK N. TOBIN  
REPRESENTATIVE, DISTRICT 95

301 House Office Building  
Tallahassee, FL 32307-2100  
304-488-3124

August 15, 1995 RECEIVED

AUG 18 1995

The Honorable Susan F. Clark, Chairman  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Florida Public Service Comm.  
Commissioner Clark

Dear Chairman Clark:

This past session Florida made the most sweeping changes to its telecommunications law of any state in the nation. We could not have accomplished this formidable task without the support and assistance of the Public Service Commission.

One of the provisions of the 1995 telecommunications legislation requires all local exchange companies to eliminate mandatory local measured service for all types of service, including pay telephone providers, effective July 1, 1995. Given this clear directive, I was surprised to learn that several local exchange companies intend to raise rates for other services when making the required rate reductions. I also understand that some companies do not plan to honor the July 1st effective date.

The statute clearly required interconnection rates for pay telephone access lines to be reduced on July 1, 1995. It was never our intent to allow rates for other services, such as billed number screening, operator screening, and expanded local calling to be increased. Nor did we intend that pay telephone providers would have to pay a secondary service order charge to receive the benefit of our rate reduction. Actions such as these are contrary to both the letter and the spirit of our directive. It is most important that the Commission review these tariffs when filed and ensure that they comport with the intent of the new statute.

Each piece of the telecommunications statute is an important part of the whole; the final product represents a carefully crafted balance. The role of the PSC in ensuring that Floridians receive the full benefits of competition is most critical. The PSC must be resolute as it faces the inevitable challenges to this goal along the way.

- c o n t i n u e d -

The Honorable Susan Clark  
August 15, 1995  
Page 2

I am excited about the new era we have entered. I look forward to continuing to work together in monitoring and supervising the transition to a fully competitive telecommunications environment. If I or my staff can be of further assistance, please do not hesitate to contact me.

Sincerely,



Jack N. Tobin  
Florida House of Representatives  
District 95

JNT/rls

cc: Jack Shreve, Public Council  
House Committee on Utilities and Telecommunications

Susan F. Clark  
Chairman

State of Florida



Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(904) 413-6040  
FAX (904) 487-1716

## Public Service Commission

August 28, 1995

Honorable John Grant  
Senator, 13th District  
The Florida Senate  
610 West Waters Avenue  
Suite A  
Tampa, Florida 33604

RECORDED  
PSC-RECORDS-REPORTING

Dear Senator Grant:

Thank you for your letter of August 15, 1995, regarding rates for interconnection by Pay Telephone Providers.

The thirteen local exchange companies operating in Florida have each filed tariffs relating to pay telephone interconnection rates in response to the new telecommunications law. The Commission is scheduled to render a decision regarding these tariffs at its September 12, 1995, Agenda Conference.

Florida law prohibits Commissioners from commenting on the merits of pending proceedings; therefore, I am unable to comment on the substance of your concerns. I will, however, place your letter on the correspondence side of the docket file where it will be available for review by the parties to the proceeding.

Thank you again for your letter.

Sincerely,

A handwritten signature in cursive script that reads "Susan".

Susan F. Clark  
Chairman

SFC/jb

cc: Commissioners  
Rob Vandiver

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950901-TL, 950912-TL

JAMES A. SCOTT  
President



PETER R. WALLACE  
Speaker



RECEIVED  
THE FLORIDA LEGISLATURE  
95 OCT 18 11 2:40  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE  
FLORIDA PUBLIC SERVICE COM. DIVISION OF APPEALS

Senator Charles Williams, Chairman  
Representative Dean Saunders, Vice Chairman  
Senator W.G. "Bill" Bankhead  
Senator Katherine Harris  
Representative Debbie Horan  
Representative Charles W. Sembler II

CARROLL WEBB, EXECUTIVE DIRECTOR  
AND GENERAL COUNSEL  
Room 120, Holland Building  
Tallahassee, Florida 32399-1300  
Telephone (904) 488-9110

October 16, 1995

Ms Diana W Caldwell  
Associate General Counsel  
Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd  
Tallahassee FL 32399-0850

**RE: Rule Chapter 25-24**

Dear Ms. Caldwell:

I have reviewed the referenced rules and have the following comments for your consideration and reply:

**25-24.800** Subsection (2) merely paraphrases the statute. In addition, substitution of the qualifying language "consistent with the public interest" for the statutory language "in the public interest" may result in a different standard. Furthermore, the phrase "in the public interest" should be defined in this rule in order to provide a meaningful standard.

In the second sentence of subsection (2), use of the word "may" vests unbridled discretion in the Commission to grant an exemption. Although the statute gives the Commission discretion to grant an exemption, the Commission must establish adequate standards in its rules for the exercise of that discretion.

**25-24.815** This rule provides for the assignment or transfer of a certificate. However, the law implemented, section 364.335, F.S., refers only to transfers of certificates. In the absence of a definition the difference between an assignment and a transfer is unclear. Furthermore, if there

is a difference between the two, what is the Commission's authority to grant a certificate through assignment?

Also, in subsection (5) provision is made for assignment or transfer of a certificate effective upon filing where both the assignor and assignee or the transferor and transferee are currently certificated. However, it appears from both the statute and Rule 25-24.805 that certificates could be granted for different geographic areas, and applicants qualified for one area may not be qualified for another. The statute provides that a certificate be granted "upon a showing that the applicant have sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served." To be consistent with the statute subsection (5) should provide that both parties be certificated in the same geographical area.

The last sentence in subsection (5) appears to shift the burden of proof from the applicant to the party protesting the transfer or assignment. This results in a modification of the statutory provision.

25-24.820

This rule provides for the cancellation of certificates. However, the law implemented, s.364.335, refers only to revocation, suspension, transfer, or amendment of certificates. It appears that the word "cancellation" as used in this rule is equivalent to revocation or suspension. If so, it would be less confusing to use the term utilized in the statute. If not, what is the Commission's authority to cancel a certificate?

25-24.825

Subsection (1) requires each company subject to these rules to file and maintain with the Commission a current price list setting forth specified information. Section 364.04, F.S., which is cited as law implemented, requires only filing with the Commission and printing and opening to public inspection certain information related to rates. What is the Commission's authority to require companies to "maintain" a current price list with the Commission? Similarly, subsection (3) requires price list revisions to be received by the Commission at least one day before the effective date; however, there is no requirement in s. 364.04, F.S., for rate information to be updated.

In addition, paragraph (1)(d) requires a company to provide information regarding levels of service quality. However, this is not one of the items listed in s.364.04, F.S.

What is the Commission's authority for subsection (5)? There is no authority in section 364.04, F.S., for the Commission to impose this

Ms. Diana W. Caldwell  
October 16, 1995  
Page 3

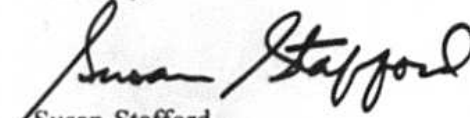
requirement.

25-24.835

The history notes were omitted after this rule. What is the Commission's authority to require a company to provide the information in the customer's first bill?

Please call me if you wish to discuss these comments.

Sincerely,



Susan Stafford  
Staff Attorney

#97932

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State of Florida

Commissioners:

SUSAN F. CLARK, CHAIRMAN  
J. TERRY DEASON  
JULIA L. JOHNSON  
DIANE K. KIESLING  
JOE GARCIA



DIVISION OF APPEALS  
DAVID E. SMITH  
DIRECTOR  
(904) 413-6245

## Public Service Commission

November 8, 1995

-via facsimile-

Ms. Susan Stafford  
Staff Attorney  
Joint Administrative Procedures  
Committee  
Room 120, Holland building  
Tallahassee, FL 32399-1300

RE: PSC Docket No. 950918-TX  
Rules relating to Alternative Local Exchange Companies  
Chapter 25-24.800, et. seq.

Dear Ms. Stafford:

I wanted to follow-up on our conversation of November 3, 1995, concerning your written comments on Rules 25-24.800, 25-24.815, 25-24.820, 25-24.825, and 25-24.830, dated October 12, 1995. Pursuant to your comments the following changes will be proposed for the Commission's consideration. In addition, explanations will be made where changes were not proposed.

(1) Rule 15-14.800. Staff will recommend that subsection (2), which authorizes the Commission to grant waivers, should be deleted in its entirety as it paraphrases section 364.337(4), Florida Statutes, as amended by Chapter 95-403, Laws of Florida. Where the statutes provide specific authority, it is not necessary to restate that authority in the rule.

Although immaterial if the Commission approves staff's recommendation, I wanted to address the comment relating to defining the term "in the public interest." In any proceeding before the Commission, the public interest is considered. Commission Rule 25-22.026(3), F.A.C., states that the Commission staff's primary duty "is to represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration." In addition, section 350.0611, F.S., creates the Public Counsel who is charged with the duty to "provide legal representation for the people of the state in proceedings before the commission." Finally, any decision of the Commission is made in a public forum in accordance with Commission procedures which provide for points of entry for any party. With these safeguards in place, the opportunity for unbridled discretion on the part of the Commission is soundly checked.

(2) Rule 25-24.815 provides for the transfer or assignment of a certificate. By order, the Commission transfers certificates to unaffiliated entities and assigns certificates to affiliated entities. The definitions of the terms are synonymous, therefore, the Commission is not without authority to grant assignment of certificates.

As to your concern that transfers could occur to different geographic areas, please be aware that ALEC are certificated with statewide authority to provide telecommunications service. Any transfer would be with the statewide service authority and therefore, no inconsistencies in geographic area would occur.

In response to your comment on the shifting of the burden of proof, the companies who are involved in a transfer have already shown the Commission that they have the managerial, financial, and technical capabilities to provide telecommunications services which are the primary requirements the Commission would look at. Once a company has met the requirements of the Commission and received a certificate, unless other circumstances are brought to the Commission's attention such as by a party protesting the transfer, the Commission would not have reason to deny the transfer.

(3) Rule 25-24.820. Staff is recommending the term "cancellation" be replaced with the term "revocation" to be consistent with the statutory authority.

(4) Rule 25-24.825. The Commission's authority to require price lists be updated and maintained is inherent from the statutory authority. Without updated price lists, the Commission cannot adequately respond to customers who contact the Commission with comments or questions. However, for clarity, staff will recommend the rule history be supplemented with a cite to include additional statutory references.

(5) Rule 25-24.830. Staff will recommend the rule history be supplemented with statutory cites.

Thank you for your assistance and cooperation. Please feel free to contact me if you have any further comments or questions.

Sincerely,

*Diana W. Caldwell*  
Diana W. Caldwell  
Associate General Counsel