

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: October 4, 2012

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Cowdery) *RC*
Division of Economics (King) *SMC*
Office of Telecommunications (Beard) *JWD*
CSB

RE: Docket No. 120241-TP – Initiation of rulemaking to Amend Rules 25-4.004 and 25-4.005, and to Repeal Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C.

AGENDA: 10/16/12 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

RULE STATUS: Proposal may be deferred

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\120241.RCM.DOC

Case Background

On June 8, 2012, Notices of Development of Rulemaking were published in the Vol. 38., No. 23 edition of the Florida Administrative Weekly (F.A.W.) to amend Rules 25-4.004 and 25-4.005 and to repeal Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, Florida Administrative Code (F.A.C.). On July 13, 2012, Notice of Development of Rulemaking was published in the Vol. 38, No. 28 edition of the F.A.W. to repeal Rule 25-24.745, F.A.C. These rules primarily address applications for

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certification, transfer and cancellation of certificates of authorization for shared tenant services, alternative access vendors, and competitive local exchange companies.

The Regulatory Reform Act of 2011 amended Chapter 364, Florida Statutes (F.S.), to significantly change the statutory sections which implement these rules. Currently, there are separate sets of rules in Chapter 25-24, F.A.C., for application, transfer, and revocation of certificates for shared tenant service companies,¹ alternative access vendor service companies,² and competitive local exchange companies (CLECs).³ The 2011 legislation repealed Sections 364.337, which addressed certification of CLECs and alternative access vendors, and Section 364.339, F.S., which addressed certification of shared tenant service providers and alternative access vendor services.

Because of these changes, staff recommends in Issue 1 that, instead of having separate sets of rules concerning certificates for different types of telecommunications companies, all such rules for telecommunications companies should be consolidated into Rules 25-4.004 and 25-4.005, F.A.C. Sections 364.33, Certificate of Necessity or Authority, and 364.335, Application for Certificate of Authority, F.S., which were amended by the Regulatory Reform Act of 2011, are the primary implementing laws for Rules 25-4.004 and 25-4.005. In Issue 2, staff recommends the repeal of the obsolete rules pertaining to application, transfer, and revocation of certificates for shared tenant service companies, alternative access vendor service companies, and competitive local exchange companies. Staff also recommends repeal of several rules which have become obsolete as a result of the recommended change from multiple sets of certificate rules to one set of rules for all telecommunications companies.

This recommendation addresses whether the Commission should propose the amendment of Rules 25-4.004 and 25-4.005, F.A.C., and the repeal of Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, F.S. and Chapter 364, F.S.

¹ Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, and 25-24.572, F.A.C. (Part XII of Chapter 25-24, F.A.C.)

² Rules 25-24.715, 25-24.720, 25-24.725, 25-24.730, and 25-24.735, F.A.C. (Part XIV of Chapter 25-24, F.A.C.)

³ Rules 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C. (Part XV of Chapter 25-24, F.A.C.) A "competitive local exchange company" is any company certificated by the Commission to provide local exchange telecommunications services in Florida on or after July 1, 1995. Section 364.02(5), F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rules 25-4.004, Certificates of Public Convenience and Necessity, and 25-4.005, Transfer of Certificate of Necessity of Authority, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of Rules 25-4.004 and 25-4.005, F.A.C., as set forth in Attachment A. (Cowdery, Beard, Casey)

Staff Analysis: Staff recommends the amendment of Rules 25-4.004, Certificates of Public Convenience and Necessity (p. 11), and 25-4.005, Transfer of Certificate of Public Convenience and Necessity as to All or Portion of Service Area (p. 12), F.A.C., as set forth in Attachment A. The purpose of amending these rules is to clarify and simplify, delete obsolete or unnecessary requirements, and update outdated requirements concerning application and transfer of certificates for telecommunications companies. As discussed above, these rules are being amended in order to implement changes made to Chapter 364, F.S., by the Regulatory Reform Act of 2011.

Rule 25-4.004, Certificates of Public Convenience and Necessity, currently provides that no person shall begin construction or operation of a telephone system or acquire ownership or control thereof without first obtaining a certificate of public convenience and necessity. Staff recommends deleting the current language which references certificates of public convenience and necessity and instead referencing certificates of authority. This change would be consistent with Section 364.33, F.S., which provides that after July 1, 2011, the Commission shall issue certificates of authority instead of certificates of necessity.⁴

Staff recommends that new Subsection (1) of Rule 25-4.004 incorporate certain current rule requirements applicable to certificate applicants for shared tenant service, alternative access vendor and competitive local exchange companies. These requirements are that services may not be provided, nor may deposits or payment for services be collected, until the effective date of a certificate; that marketing and development activities may begin prior to the effective date of the certificate at the applicant's risk that the certificate may not be granted; and that prior to certification, the applicant must advise the public in any customer contacts or advertisements that certification has not and may not be granted.⁵ Staff believes that these provisions should be retained in Rule 25-4.004 concerning certification for all telecommunications companies because these requirements specifically implement the requirement of Section 364.33 that telecommunications service may not be provided to the public before obtaining a certificate.

Staff recommends that new Subsection (2) of Rule 25-4.004, F.A.C., require that an "Application Form for Authority to Provide Telecommunications Company Service Within the

⁴ Section 364.33, F.S., also provides that existing certificates of necessity shall remain valid.

⁵ Rules 25-24.565(1), relating to shared tenant service, 25-24.565(1), relating to alternative access vendors, and 25-24.805(1), relating to CLECs.

State of Florida” be used by all telecommunications companies to apply for a certificate of authority. This form would replace the three different certificate application forms currently used by the different types of companies.⁶ In addition, staff recommends that Subsection 25-4.004(2) require a \$500 application fee for certificates of authority. The current rules require applications for certificates to include a \$250 application fee for shared tenant service⁷ and alternative access vendors⁸ and a \$400 application fee for competitive local exchange companies.⁹ Paragraph 364.335(1)(b), F.S., provides that each applicant for a certificate of authority shall file an application fee with the Commission in an amount not to exceed \$500. Staff believes that it is necessary that applicants be assessed the \$500 fee because of the costs associated administratively to process the application. The current \$400 fee has not been changed in several years. Staff recommends that a \$500 application fee be assessed because a \$500 fee more accurately reflects the cost to the Commission of processing an application.

Staff recommends that Rule 25-4.004, F.A.C., be amended to create a new subsection (3) to require certificate applications be filed with the Commission Clerk. This requirement exists under current Rules 25-24.567(2), relating to shared tenant service, 25-24.720(2), relating to alternative access vendor service, and 25-24.810(2), relating to competitive local exchange companies, which are being recommended for repeal in Issue 2. Staff also recommends that Rule 25-4.004 be amended to create a new subsection (4) to require each certificate holder to update the Clerk’s Office within ten days of a change of its street and mailing address and contact person’s information. This requirements exists under current Rules 25-24.585(2), relating to shared tenant service, 25-24.745(2), relating to alternative access vendor service, and 25-24.835(2), relating to CLECs. Rule 25-24.745 is being recommended for repeal in Issue 2, and Rules 25-24.585 and 25-24.835 are being addressed in a separate docket.

Staff recommends that the title of Rule 25-4.005, F.A.C., Transfer of Certificate of Public Convenience and Necessity as to All or Portion of Service Area, be changed to Transfer of Certificate of Necessity or Authority, in recognition that, pursuant to Section 364.33, F.S., the Commission now issues certificates of authority instead of certificates of necessity. Staff recommends that new Subsection (1) require that all telecommunications companies use the “Application Form for Authority to Provide Telecommunications Company Service Within the State of Florida” to apply for a certificate transfer, replacing the three forms currently in use by the different types of companies.¹⁰ Staff also recommends that Subsection (1) of Rule 25-4.005 be amended to require a \$500 application fee for certificate transfer. Currently, applications for certificate transfer require a \$250 application fee for shared tenant service¹¹ and alternative access vendors,¹² and a \$400 application fee for competitive local exchange companies.¹³

⁶ The new Form PSC/TEL 162 (xx/xx) will replace Form PSC/RAD 37 (5/08), Application Form for Authority to Provide Shared Tenant Service Within the State of Florida; Form PSC/RAD 43 (5/08); Application Form for Authority to Provide Alternative Access Vendor Service Within the State of Florida; Form PSC/RAD 8 (5/08), and; Application Form for Authority to Provide Competitive Local Exchange Service Within the State of Florida.

⁷ Rule 25-24.567, F.A.C.

⁸ Rule 25-24.720, F.A.C.

⁹ Rule 25-24.810, F.A.C.

¹⁰ See footnote 7 above

¹¹ Rule 25-24.569, F.A.C.

¹² Rule 25-24.730, F.A.C.

¹³ Rule 25-24.815, F.A.C.

Pursuant to Subsection 364.335(4) and Paragraph 364.335(1)(b), F.S., as amended in 2011, each applicant for a certificate transfer is required to file an application fee in amount not to exceed \$500. Staff believes that a \$500 transfer application fee more accurately reflects the cost to the Commission of processing an application. Staff also recommends that Subsection (1) incorporate language found in the current shared tenant service and alternative access vendor service rules¹⁴ that the Commission's acceptance of the transfer application fee does not imply that the application will be granted. This language clarifies that approval is not automatic and that statutory criteria must be met.

Staff recommends that Rule 25-4.005 be amended to require that the company transferring a certificate pay all regulatory assessment fees owed pursuant to Sections 350.113 and 364.336, F.S., and Rule 25-4.0161, F.A.C. This provision would eliminate uncertainty and assure that certificate transferors will follow the requirements set forth in Rule 25-4.0161, F.A.C., for paying regulatory assessment fees, to be consistent with Section 364.336, F.S.

Staff recommends deleting the following provisions of Rule 25-4.005, F.A.C.: (1) concerning notice requirements; (2) stating that upon approval of a transfer, the Commission will cancel and reissue the certificate in the name of the transferee and/or amend the service area description; (3) stating the information to be included in the transfer application; (4) providing that subscribers may petition for a transfer to another telephone company; and (5) concerning customer survey about the transfer. The Regulatory Reform Act of 2011 amended Section 364.335, F.S., to delete reference to applicant noticing requirements as prescribed by Commission rule and specified the information required to be provided by each applicant for a certificate of authority. Section 120.52(8), F.S., provides that statutory language granting rulemaking authority shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute. Staff recommends deleting subsections (1), (3), (4), and (5) of Rule 25-4.005, F.A.C., because staff does not believe that Chapter 364, F.S., contains statutory implementing authority for these rule provisions. Staff recommends deleting subsection (2) as obsolete with respect to service area descriptions and unnecessary with respect to the action the Commission will take upon cancellation of a certificate.

Statement of Estimated Regulatory Cost

The Commission staff prepared a Statement of Estimated Regulatory Cost (SERC) pursuant to section 120.541, F.S., which is attached as Attachment B. Based on the SERC, the rule amendments will not require legislative ratification pursuant to subsection 120.541(3), F.S.

The SERC includes an economic analysis pursuant to subparagraph 120.541(2)(a)1, F.S., showing whether the draft rules directly or indirectly are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rules. In addition, the SERC includes an economic analysis pursuant to subparagraph 120.541(2)(a)2,

¹⁴ Rules 25-24.569(1), relating to shared tenant service, and 25-24.730(1), relating to alternative access vendor service.

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F.S., showing whether the draft rules directly or indirectly are likely to have an adverse impact on business competitiveness in excess of \$1 million in the aggregate within five years after the implementation of the rule. The SERC concludes that none of the draft rule amendments would have any of the adverse impacts on the economic measures identified in subparagraphs 120.54(2)(a)1 and 2, F.S., and will not require legislative ratification pursuant to subparagraph 120.54(2)(a)3, F.S.

The SERC includes an economic analysis pursuant to subparagraph 120.541(2)(a)3, F.S., showing whether the draft rule directly or indirectly is likely to increase regulatory cost, including any transaction costs, in excess of \$1 million in the aggregate within five years after implementation of the rules. The SERC concludes that none of the draft rule amendments are expected to introduce new transaction costs or costs to the agency, which are the two components of regulatory costs.

Based upon the above, staff recommends that the Commission propose the amendment of Rules 25-4.004 and 25-4.005, F.A.C., as set forth in Attachment A.

Issue 2: Should the Commission propose the repeal of Rules, 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C.?

Recommendation: Yes. The Commission should propose the repeal of Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C., as set forth in Attachment A. (Cowdery, Beard, Casey)

Staff Analysis: Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C., proposed for repeal, are set forth in Attachment A. Staff recommends that these rules be proposed for repeal in order to implement changes made to Chapter 364, F.S., by the Regulatory Reform Act of 2011, which became effective July 1, 2011.

As discussed in Issue 1, The Regulatory Reform Act of 2011 changed the definition of “telecommunications company” so that it now includes shared tenant service companies, alternative access vendor service companies, and CLECs. For this reason, as previously discussed, staff is recommending that Rules 25-4.004 and 25-4.005, F.A.C., be amended to address applications for and transfers of certificates of authorization for all telecommunications companies. As a result, staff recommends repeal of the certification Rules 25-24.565 (p. 14) and 25-24.567 (p. 14) (shared tenant service), Rules 25-24.715 (p. 18) and 25-24.720 (p. 18) (alternative access vendor), and Rules 25-24.805 (p. 22) and 25-24.810 (p. 22) (CLECs), as obsolete and unnecessary. In Issue 1, discussed above, staff recommends that relevant provisions of these rules related to applications for certificates be incorporated into Rule 25-4.004, F.A.C. Further, staff recommends repeal of the certificate transfer Rules 25-24.568 (p. 15) and 25-24.569 (p. 15) (shared tenant service), Rules 25-24.725 (p. 19) and 25-24.730 (p. 19) (alternative access vendor), and Rule 25-24.815 (p. 23) (CLECs), as obsolete. As discussed in Issue 1, staff is recommending that relevant provisions of these rules relating to certificate transfers be incorporated into Rule 25-4.005, F.A.C.

Staff recommends repeal of Rules 25-24.572, Cancellation of Certificate (p. 16) (shared tenant services), 25-24.735, Cancellation of a Certificate (p. 20) (alternative access vendor), and 25-24.820, Revocation of a Certificate (p. 24) (CLECs), as obsolete, unnecessary, and redundant of statute. Section 120.74(1)(d), F.S., provides that agencies are required to delete rules that are redundant of statutes. Staff believes that these certificate cancellation/revocation rules are redundant of Section 364.285(1), F.S., which grants the Commission the authority to revoke the certificate of any utility which has refused to comply with or has willfully violated any lawful rule or order of the Commission or provision of Chapter 364, F.S. In addition, certificate cancellation provisions in these rules are duplicative of Section 364.335(3), F.S., which provides that a certificate of authority may be terminated by a telecommunications company by submitting notice to the Commission.

Staff recommends repeal of alternative access vendor Rules 25-24.705, Scope and Waiver (p. 17), 25-24.710, Terms and Definitions (p. 17), and 25-24.745, Records and Reports,

Rules Incorporated (p. 21). As previously discussed, the Regulatory Reform Act of 2011 redefined “telecommunications companies” to include alternative access vendors, and, as a result, separate rules for alternative access vendor services are no longer consistent with Chapter 364, F.S. For this reason, staff recommends that Rules 25-24.705, concerning the scope of and waiver from the alternative access vendor services rules, and 25-24.710, setting forth definitions applicable to those rules, are obsolete and should be repealed. Staff also recommends that Rule 25-24.745 should be repealed as obsolete and unnecessary. This rule lists four other Commission rules and incorporates them by reference as applicable to alternative access vendors. Of these rules, Rule 25-4.019 has been repealed, Rule 25-4.043 is in the process of being repealed, and Rules 25-4.020(2) and 25-4.0161 by their terms already apply to alternative access vendors. Rule 25-24.745(2) contains a provision concerning notification to the Commission of certain company information changes. However, staff is recommending in Issue 1 that Rule 25-4.004 be amended to add a subsection (4) which addresses this requirement for all telecommunications companies, thereby rendering Section 25-24.745(2), concerning alternative access vendors, obsolete, unnecessary and duplicative.

Staff recommends repeal of Rule 25-24.800, F.A.C., Scope (p. 21), as obsolete, unnecessary, and duplicative. Rule 25-24.800(1) provides that Chapters 25-4, 25-9, or 25-14, F.A.C., do not apply to CLECs unless specifically provided by the Chapter 25-24 CLEC rules. This subsection has become obsolete because the Chapter 25-24, F.A.C., competitive local exchange company rules are in the process of being repealed. Further, Sections 25-9.001 and 25-14.001, F.A.C., specify that the provisions of those chapters do not apply to CLECs. In addition, any rules in Chapter 25-4, F.A.C., which apply to CLECs do so specifically by the terms of those rules. Rule 25-24.800(2), F.A.C., provides that CLECs which provide operator services in a call aggregator context shall comply with the Chapter 25-24, F.A.C., operator service provider rules. This provision is obsolete because the operator service provider rules have been repealed.

Statement of Estimated Regulatory Cost

The Commission staff prepared a Statement of Estimated Regulatory Cost (SERC) pursuant to section 120.541, F.S., which is attached as Attachment B. Based on the SERC, the rule amendments will not require legislative ratification pursuant to subsection 120.541(3), F.S.

The SERC includes an economic analysis pursuant to subparagraph 120.541(2)(a)1, F.S., showing whether the draft rules directly or indirectly are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rules. In addition, the SERC includes an economic analysis pursuant to subparagraph 120.541(2)(a)2, F.S., showing whether the draft rules directly or indirectly are likely to have an adverse impact on business competitiveness in excess of \$1 million in the aggregate within five years after the implementation of the rule. The SERC concludes that none of the draft rule amendments would have any of the adverse impacts on the economic measures identified in subparagraphs 120.54(2)(a)1 and 2, F.S., and will not require legislative ratification pursuant to subparagraph 120.54(2)(a)3, FS.

The SERC includes an economic analysis pursuant to subparagraph 120.541(2)(a)3, F.S., showing whether the draft rule directly or indirectly is likely to increase regulatory cost, including any transaction costs, in excess of \$1 million in the aggregate within five years after implementation of the rules. The SERC concludes that none of the draft rule amendments are expected to introduce new transaction costs or costs to the agency, which are the two components of regulatory costs.

Based upon the above, staff recommends that the Commission propose the repeal of Rules 25-24.565, 25-24.567, 25-24.568, 25-24.569, 25-24.572, 25-24.705, 25-24.710, 25-24.715, 25-24.720, 25-24.725, 25-24.730, 25-24.735, 25-24.745, 25-24.800, 25-24.805, 25-24.810, 25-24.815, and 25-24.820, F.A.C., as set forth in Attachment A.

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Issue 3: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules may be filed with the Department of State, and this docket should be closed. (Cowdery)

Staff Analysis: If no requests for hearing or comments are filed, the rules may be filed with the Department of State, and this docket should be closed.

- 1 25-4.004 Certificates of ~~Public Convenience and Necessity~~ or Authority; Application.
- 2 (1) No person shall provide telecommunications services to the public without either a
- 3 certificate of necessity issued prior to July 1, 2011, or a certificate of authority issued after
- 4 July 1, 2011. Services may not be provided, nor may deposits or payment for services be
- 5 collected, until the effective date of a certificate. However, marketing and development
- 6 activities may begin prior to the effective date of the certificate at the applicant's risk that the
- 7 certificate may not be granted. Prior to certification, the applicant must advise the public in
- 8 any customer contacts or advertisements that certification has not and may not be granted.
- 9 (2) Each applicant for a certificate of authority shall submit an application on Form PSC/TEL
- 10 162 (X/XX), entitled "Application Form for Authority to Provide Telecommunications
- 11 Company Service Within the State of Florida," which is incorporated into this rule by
- 12 reference and which is available at http://www.flrules.org/Gateway/reference.asp?No_Ref_
- 13 XXXXX, from the Commission's website at www.floridapsc.com/utilities/telecomm/, or by
- 14 contacting the Commission's Office of Telecommunications. A non-refundable application
- 15 fee of \$500.00 must accompany the filing of each application.
- 16 (3) An application for certificate of authority shall be filed with the Office of Commission
- 17 Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
- 18 Florida 32399-0850.
- 19 (4) Each holder of a certificate of necessity or authority shall file with the Commission's
- 20 Office of Commission Clerk updated information for the following items within ten days after
- 21 a change occurs:
- 22 (a) The street address of the certificate holder including number, street name, city, state and
- 23 zip code, and the mailing address if it differs from the street address.
- 24 (b) Name, title, and phone number of the individual responsible for contact with the
- 25 Commission.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~Except as provided in Chapter 364, F.S., no person shall begin the construction or operation of~~
2 ~~any telephone line, plant or system or an extension thereof or acquire ownership or control~~
3 ~~thereof, either directly or indirectly, without first obtaining from the Florida Public Service~~
4 ~~Commission a certificate that the present or future public convenience and necessity require or~~
5 ~~will require such construction, operation or acquisition.~~

6 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.127(1), 364.33, 364.335, FS.*

7 *History—Revised 12-1-68, Formerly 25-4.04, Amended*

8 **~~25-4.005 Transfer of Certificate of Public Convenience and Necessity or Authority As to~~**
9 **~~All or Portion of Service Area.~~**

10 (1) Except as provided in section 364.33, F.S., a certificate holder and the person seeking to
11 obtain the certificate by transfer from the holder shall submit a joint application on
12 Commission Form PSC/TEL 162 (X/XX), entitled “Application Form for Authority to
13 Provide Telecommunications Company Service Within the State of Florida,” incorporated by
14 reference into Rule 25-4.004, F.A.C. The application shall be filed with the Office of
15 Commission Clerk. A nonrefundable application fee of \$500.00 must accompany the filing of
16 each application to cover processing costs. The Commission’s acceptance of the application
17 fee does not imply that the application for transfer of a certificate will be granted.

18 (2) The company transferring the certificate shall pay to the Commission all regulatory
19 assessment fees owed pursuant to sections 350.113 and 364.336, F.S., and Rule 25-4. 0161,
20 Florida Administrative Code.

21 ~~(1) Request for approval by the Commission of transfer of any certificate of public~~
22 ~~convenience and necessity (or portion thereof) shall be made by joint petition of the certificate~~
23 ~~holder and transferee after reasonable notice has been given to all subscribers affected by the~~
24 ~~proposed transfer. Requests for approval shall be accompanied by an affidavit that notice of~~
25 ~~intention to file the petition has been given:~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

- 1 ~~(a) By mail or personal delivery to the governing bodies of the counties and municipalities~~
2 ~~affected, to the public counsel, and to the Commission;~~
- 3 ~~(b) By a legal advertisement in a newspaper of general circulation in the area affected and~~
4 ~~published on two (2) separate occasions at least two (2) weeks prior to the filing of the joint~~
5 ~~petition on the proposed transfer, and~~
- 6 ~~(c) By written notice subject to Commission approval, issued to each subscriber in the area to~~
7 ~~be transferred concurrent with the filing of the petition.~~
- 8 ~~(2) Upon approving a transfer of certificate, or portion thereof, the Commission will cancel~~
9 ~~same and reissue in the name of the transferee or amend the description of the service area or~~
10 ~~both.~~
- 11 ~~(3) Such joint petitions shall include detailed descriptions of the affected boundaries; the~~
12 ~~number of subscribers, if any, in each petitioned area; changes in rates; service being provided~~
13 ~~by either petitioner in areas to be transferred; pending applications for service held by either~~
14 ~~petitioner; changes in calling scope; customers to be transferred; deposits and deposit interest;~~
15 ~~any financial exchange or consideration for the proposed change, and a list by name and~~
16 ~~telephone number of all customers who will be exempt from the proposed change.~~
- 17 ~~(4) Any subscriber or group of subscribers of a telephone company may petition the~~
18 ~~Commission for transfer from the service area of such telephone company to that of another~~
19 ~~telephone company serving contiguous territory.~~
- 20 ~~(5) If a customer survey is conducted by a telephone company among customers affected by~~
21 ~~the proposed transfer, return postage shall be paid by the company serving the affected~~
22 ~~customer and survey ballots shall be returnable to the Public Service Commission, Attention:~~
23 ~~Division of Regulatory Analysis, for tabulation.~~
- 24 *Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 364.335, 364.336 FS.*
25 *History—New 12-1-68, Amended 5-4-81, Formerly 25-4.05, Amended 9-16-99, _____.*

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~**25-24.565 Certificate of Public Convenience and Necessity Required.**~~

2 (1) ~~No person shall provide shared tenant service without first obtaining a certificate of public~~
3 ~~convenience and necessity from the Commission. Services may not be provided, nor may~~
4 ~~deposits or payment for services be collected, until the effective date of a certificate, if~~
5 ~~granted. However, acquisition of equipment and facilities, as well as advertising and other~~
6 ~~promotional activities, may begin prior to the effective date of the certificate at the applicant's~~
7 ~~risk that it may not be granted. In any customer contracts for advertisements prior to~~
8 ~~certification, the applicant must advise the customer that certification has not and may never~~
9 ~~be granted.~~

10 (2) ~~On or after January 1, 1996, STS providers with certificates granted prior to January 1,~~
11 ~~1996, are authorized to provide shared tenant service statewide to tenants as defined in~~
12 ~~subsection 25-24.560(10), F.A.C.~~

13 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339 FS.*~~

14 ~~*History New 1-28-91, Amended 7-29-97*~~

15 ~~**25-24.567 Application for Certificate.**~~

16 (1) ~~An applicant desiring to provide shared tenant service shall submit an application on~~
17 ~~Commission Form PSC/TEL 37 (5/08), which is incorporated into this rule by reference. Form~~
18 ~~PSC/TEL 37 (5/08), entitled "Application Form for Authority to Provide Shared Tenant~~
19 ~~Service Within the State of Florida," may be obtained from the Commission's website at~~
20 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission's Division of~~
21 ~~Regulatory Analysis. A non-refundable application fee of \$250.00 must accompany the filing~~
22 ~~of all applications.~~

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

25 (3) ~~A certificate will be granted if the Commission determines that such approval is in the~~

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1 ~~public interest.~~

2 ~~(4) Any shared tenant service authority granted hereafter is subject to the following:~~

3 ~~(a) Shared tenant authority granted to all companies is on a statewide basis and is restricted to~~
4 ~~tenants as defined in subsection 25-24.560(10), F.A.C.~~

5 ~~(b) Each shared tenant service applicant shall:~~

6 ~~1. Advise all customers of its current rates and conditions for resold local exchange service~~
7 ~~and its quality of service standards.~~

8 ~~2. Inform each customer in advance of agreement to provide service, that the Florida Public~~
9 ~~Service Commission will not set rates or regulate the service quality standards.~~

10 ~~(c) A certificate to provide shared tenant service does not carry with it the authority to provide~~
11 ~~competitive local exchange telecommunication, alternative access vendor, interexchange or~~
12 ~~pay telephone service. A separate application must be made for such authority.~~

13 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345*~~
14 ~~*FS. History New 1-28-91, Amended 5-8-91, 11-20-91, 7-29-97, 1-5-06, 5-29-08*~~

15 ~~**25-24.568 Improper Use of a Certificate.**~~

16 ~~No certificate of public convenience and necessity authorizing shared tenant service may be~~
17 ~~assigned or transferred by the holder to another without prior Commission approval. No~~
18 ~~certificate shall be used as collateral for any purpose.~~

19 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.339, 364.345*~~
20 ~~*FS. History New 1-28-91, Amended 7-29-97*~~

21 ~~**25-24.569 Application for Approval of Sale, Assignment or Transfer of Certificate.**~~

22 ~~(1) A company desiring to obtain a certificate by sale, assignment or transfer from the holder~~
23 ~~thereof shall submit an application jointly with the certificate holder on Commission Form~~
24 ~~PSC/TEL 37 (5/08), which is incorporated into this rule by reference. Form PSC/TEL 37~~

25 ~~(5/08) is entitled "Application Form for Authority to Provide Shared Tenant Service Within~~
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 ~~the State of Florida.” The application form may be obtained from the Commission’s website at~~
2 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission’s Division of~~
3 ~~Regulatory Analysis. A nonrefundable application fee of \$250.00 must accompany each~~
4 ~~application. The Commission’s acceptance of the application fee does not imply that the~~
5 ~~application for sale, assignment or transfer of a certificate will be granted.~~

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

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

10 ~~(4) A certificate may be sold, assigned or transferred only as a whole.~~

11 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, 364.335, 364.337,*~~
12 ~~*364.339, 364.345 FS. History New 1-28-91, Amended 11-20-91, 7-29-97, 1-5-06, 5-29-08.*~~

13 ~~**25-24.572 Cancellation of a Certificate.**~~

14 ~~(1) The Commission may cancel a company’s certificate for any of the following reasons:~~

15 ~~(a) Violation of the terms and conditions under which the authority was originally granted;~~

16 ~~(b) Violation of Commission rules or orders; or~~

17 ~~(c) Violation of Florida Statutes.~~

18 ~~(2) If a certificated company desires to cancel its certificate, it shall request cancellation from~~
19 ~~the Commission in writing. Cancellation of a certificate shall be ordered subject to the holder~~
20 ~~providing the following information:~~

21 ~~(a) Statement of intent and date to pay Regulatory Assessment Fee.~~

22 ~~(b) Statement of why the certificate is proposed to be cancelled.~~

23 ~~(c) Proof of individual customer notice regarding discontinuance of service.~~

24 ~~(d) Statement on treatment of customer deposits and final bills.~~

25 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285,*~~

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1 ~~364.339, 364.345 FS. History New 1-28-91, Amended 7-29-97.~~

2 ~~**25-24.705 Scope and Waiver.**~~

3 ~~(1) This part applies to every person or company providing Alternative Access Vendor (AAV)~~
4 ~~service. Chapters 25-4, 25-9 and 25-14, F.A.C., shall apply to Alternative Access Vendor~~
5 ~~service only as provided in this part.~~

6 ~~(2) An AAV service provider may petition for a waiver of any provision of this part. The~~
7 ~~Commission may grant a waiver to the extent that it determines that a waiver is in the public~~
8 ~~interest. The Commission may grant the petition in whole or in part and may prescribe~~
9 ~~different requirements than are set forth in this part. In disposing of a petition, the Commission~~
10 ~~shall consider the factors enumerated in Section 364.337(4), Florida Statutes (1995).~~

11 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337(1), (2), (6) FS.~~
12 ~~History New 1-8-95~~

13 ~~**25-24.710 Terms and Definitions.**~~

14 ~~For purposes of this part the following definitions apply:~~

15 ~~(1) "Affiliated Entity." An entity (whether corporation, partnership, proprietorship or other~~
16 ~~form of business organization) is affiliated with another entity if one has a majority ownership~~
17 ~~interest in the other.~~

18 ~~(2) "Alternative Access Vendor (AAV)." A provider, other than a local exchange~~
19 ~~telecommunications company, of Alternative Access Vendor Service.~~

20 ~~(3) "Alternative Access Vendor Service." The provision of local private line service between~~
21 ~~an entity and its own facilities or the facilities of an affiliated entity at another location or the~~
22 ~~provision of special access service between an end user and an interexchange company.~~

23 ~~(4) "Private line service." Any point to point or point to multipoint service dedicated to the~~
24 ~~exclusive use of the end user for the transmission of any telecommunications service.~~

25 ~~(5) "Special Access Service." Private line service which is connected from the end user's~~

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1 ~~premises to an interexchange company.~~

2 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.337 FS. History~~
3 ~~New 1-8-95.~~

4 ~~**25-24.715 Certificate of Public Convenience and Necessity Required.**~~

5 ~~(1) No person shall provide Alternative Access Vendor Service without first obtaining a~~
6 ~~Certificate of Public Convenience and Necessity from the Commission.~~

7 ~~(2) A certificate authorizes the vendor to provide Alternative Access Vendor Service statewide~~
8 ~~as well as authority to provide interexchange private line service.~~

9 ~~(3) A certificate to provide Alternative Access Vendor Service does not authorize provision of~~
10 ~~interexchange switched service, shared tenant service, pay telephone service or any other~~
11 ~~telecommunications services requiring certification by this Commission. A separate~~
12 ~~application must be made for such authority.~~

13 ~~(4) Applicants for a certificate shall not provide service, collect deposits or collect payment for~~
14 ~~services until a certificate becomes effective. However, at their own risk, applicants may~~
15 ~~acquire equipment and facilities and may advertise and engage in promotional activities before~~
16 ~~a certificate becomes effective. In contacts with potential customers or advertisements before~~
17 ~~certification, applicants shall advise the potential customer that certification has not and may~~
18 ~~never be granted.~~

19 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337 FS.~~
20 ~~History New 1-8-95~~

21 ~~**25-24.720 Application for Certificate.**~~

22 ~~(1) An applicant seeking to provide Alternative Access Vendor service shall submit an~~
23 ~~application on Commission Form PSC/TEL 43 (5/08), entitled "Application Form for~~
24 ~~Authority to Provide Alternative Access Vendor Service within the State of Florida," which is~~
25 ~~incorporated into this rule by reference. The form may be obtained from the Commission's~~

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1 ~~website at www.floridapsc.com/utilities/telecomm/ or by contacting the Division of~~
2 ~~Regulatory Analysis. A nonrefundable application fee of \$250.00 must accompany each~~
3 ~~application to cover processing costs. The Commission's acceptance of the application fee~~
4 ~~does not imply that a certificate will be granted.~~

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

7 ~~(3) A certificate will be granted if the Commission determines that such approval is in the~~
8 ~~public interest.~~

9 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337, 364.345*~~
10 ~~*FS. History New 1-8-95, Amended 1-5-06, 5-29-08.*~~

11 ~~**25-24.725 Certificates Not Transferable.**~~

12 ~~Certificates of public convenience and necessity authorizing Alternative Access Vendor~~
13 ~~service may not be sold, assigned or transferred by the holder without prior Commission~~
14 ~~approval. Certificates shall not be used as collateral for any purpose.~~

15 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.33, 364.335, 364.337, 364.345*~~
16 ~~*FS. History New 1-8-95*~~

17 ~~**25-24.730 Application for Approval of Sale, Assignment, or Transfer of Certificate.**~~

18 ~~(1) A person seeking to obtain a certificate by sale, assignment or transfer from the holder~~
19 ~~shall submit an application jointly with the certificate holder on Commission Form PSC/TEL~~
20 ~~43 (5/08) (entitled "Application Form for Authority to Provide Alternative Access Vendor~~
21 ~~Service within the State of Florida"). The application form may be obtained from the~~
22 ~~Commission's website at www.floridapsc.com/utilities/telecomm/ or the Division of~~
23 ~~Regulatory Analysis. A nonrefundable application fee of \$250.00 must accompany each~~
24 ~~application to cover processing costs. The Commission's acceptance of the application fee~~
25 ~~does not imply that the application for sale, assignment or transfer of a certificate will be~~

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1 ~~granted.~~

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

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

6 ~~(4) A certificate may be sold, assigned or transferred only as a whole.~~

7 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.32, 364.33, 364.335, 364.337,~~
8 ~~364.345 FS. History New 1-8-95, Amended 1-5-06, 5-29-08~~

9 **~~25-24.735 Cancellation of a Certificate.~~**

10 ~~(1) The Commission may cancel an AAV service provider's certificate for any of the~~
11 ~~following reasons:~~

12 ~~(a) Violation of the terms and conditions under which the authority was originally granted;~~

13 ~~(b) Violation of Commission rules or orders;~~

14 ~~(c) Violation of Florida statutes; or~~

15 ~~(d) Failure to provide service for a period of 6 months.~~

16 ~~(2) If a certificated AAV service provider seeks to cancel its certificate, it shall request~~
17 ~~cancellation from the Commission in writing and shall provide the following information with~~
18 ~~its request:~~

19 ~~(a) The date the final Regulatory Assessment Fee was paid;~~

20 ~~(b) A statement of the reasons for cancellation;~~

21 ~~(c) A statement on the treatment of customer deposits and final bills; and~~

22 ~~(d) A representative copy of a customer notice regarding discontinuance of service.~~

23 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 350.113, 350.127(1), 364.285,~~
24 ~~364.337, 364.345 FS. History New 1-8-95.~~

25

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1 ~~25-24.745 Records and Reports; Rules Incorporated.~~

2 (1) ~~The following rules are incorporated herein by reference and apply to Alternative Access~~
3 ~~Vendor service companies:~~

4 <u>Section</u>	<u>Title</u>
5 25-4.019	Records and Reports in General
6 25-4.020(2)	Location and Preservation of Records
7 25-4.043	Response to Commission Staff Inquiries
8 25-4.0161	Regulatory Assessment Fees; Telecommunications
9	Companies

10 (2) ~~Each AAV service provider shall file with the Commission's Division of Competitive~~
11 ~~Markets and Enforcement updated information for the following items within 10 days after~~
12 ~~any such change occurs:~~

13 (a) ~~Mailing address of the certificate holder; and~~

14 (b) ~~Name, title, and phone number of the individual responsible for Commission contacts.~~

15 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.016, 364.17, 364.18, 364.183,~~
16 ~~364.185, 364.337 FS. History New 1-8-95, Amended 11-13-95.~~

17 ~~25-24.800 Scope.~~

18 (1) ~~This part applies only to Competitive Local Exchange Companies. The provisions of~~
19 ~~Chapter 25-4, 25-9 or 25-14, F.A.C., shall not apply to Competitive Local Exchange~~
20 ~~Companies, unless specifically provided by this part.~~

21 (2) ~~In addition to the rules contained in this part, any Competitive Local Exchange Company~~
22 ~~which provides operator services in a call aggregator context shall also comply with the rules~~
23 ~~contained in Part XIII of Chapter 25-24, F.A.C.~~

24 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History New 12-~~
25 ~~27-95, Amended 2-1-99.~~

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1 ~~**25-24.805 Certificate of Public Convenience and Necessity Required.**~~

2 ~~(1) No person shall provide competitive local exchange telecommunications service without~~
3 ~~first obtaining a certificate of public convenience and necessity from the Commission. The~~
4 ~~certificate shall be for statewide authority, unless precluded by Section 364.337(1), F.S., to~~
5 ~~provide all Commission approved telecommunications services. Services may not be~~
6 ~~provided, nor may deposits or payment for services be collected, until the effective date of a~~
7 ~~certificate. However, marketing and development activities may begin prior to the effective~~
8 ~~date of the certificate at the applicant's risk that it may not be granted. Prior to certification,~~
9 ~~the applicant must advise the public in any customer contacts or advertisements that~~
10 ~~certification has not and may not be granted.~~

11 ~~(2) Any Alternative Access Vendor certificated prior to July 1, 1995, may become a~~
12 ~~Competitive Local Exchange Company by filing with the Commission's Office of~~
13 ~~Commission Clerk a letter of intent to provide local exchange service. An application fee is~~
14 ~~not required to be paid in conjunction with such filing. Authorization associated with such~~
15 ~~letter of intent shall be effective January 1, 1996, or upon receipt by the Commission,~~
16 ~~whichever is later. Competitive Access Vendors authorized pursuant to this section shall be~~
17 ~~subject to all rules applicable to Competitive Local Exchange Telecommunications~~
18 ~~Companies.~~

19 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History New 12-*~~
20 ~~*27-95.*~~

21 ~~**25-24.810 Application for Certificate.**~~

22 ~~(1) An applicant for a certificate shall submit an application on Form PSC/TEL 8 (5/08),~~
23 ~~which is incorporated into this rule by reference. Form PSC/TEL 8 (5/08), entitled~~
24 ~~“Application Form for Authority to Provide Competitive Local Exchange Service Within the~~
25 ~~State of Florida”, may be obtained from the Commission's website at~~

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1 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission's Division of~~
2 ~~Regulatory Analysis. A non-refundable application fee of \$400.00 must accompany the filing~~
3 ~~of each application.~~

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

6 ~~*Rulemaking Authority 350.127(2) FS. Law Implemented 364.335 FS. History New 12-27-95,*~~
7 ~~*Amended 1-5-06, 5-29-08.*~~

8 ~~**25-24.815 Application for Approval of Sale, Assignment or Transfer of Certificate.**~~

9 ~~(1) A person obtaining a certificate by sale, assignment or transfer from the holder thereof~~
10 ~~shall submit jointly with the certificate holder an application on Form PSC/TEL 8 (5/08),~~
11 ~~which is incorporated into this rule by reference. Form PSC/TEL 8 (5/08), entitled~~
12 ~~"Application Form for Authority to Provide Competitive Local Exchange Service Within the~~
13 ~~State of Florida", may be obtained from the Commission's website at~~
14 ~~www.floridapsc.com/utilities/telecomm/ or by contacting the Commission's Division of~~
15 ~~Regulatory Analysis. A non-refundable application fee of \$400.00 must accompany the filing~~
16 ~~of each application.~~

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

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

21 ~~(4) A certificate may be sold, assigned or transferred only as a whole.~~

22 ~~(5) In the case of sale, assignment or transfer where the assignor and assignee or transferor or~~
23 ~~transferee are all currently certificated by the Commission and there are no pending actions~~
24 ~~against them, a sale, assignment or transfer shall be considered effective upon filing. Any~~
25 ~~party protesting the sale, assignment or transfer shall be required to prove why the sale,~~

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1 ~~assignment or transfer is not in the public interest.~~

2 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.335, 364.345(2) FS. History~~
3 ~~New 12-27-95, Amended 1-5-06, 5-29-08.~~

4 ~~**25-24.820 Revocation of a Certificate.**~~

5 ~~(1) The Commission may on its own motion, after notice and opportunity for hearing, revoke a~~
6 ~~company's certificate for any of the following reasons:~~

7 ~~(a) Violation of a term or condition under which the authority was originally granted;~~

8 ~~(b) Violation of Commission rule or order;~~

9 ~~(c) Violation of Florida Statute; or~~

10 ~~(d) Violation of a price list standard.~~

11 ~~(2) If a certificated company desires to cancel its certificate, it shall request cancellation from~~
12 ~~the Commission in writing and shall provide the following with its request. Cancellation of a~~
13 ~~certificate shall be ordered subject to the holder providing the required information:~~

14 ~~(a) A statement of intent and date certain to pay regulatory assessment fee.~~

15 ~~(b) A statement of why the certificate is proposed to be cancelled.~~

16 ~~(c) A statement as to how customer deposits and final bills will be handled.~~

17 ~~(d) Proof of individual customer notice regarding discontinuance of service.~~

18 ~~Rulemaking Authority 350.127(2) FS. Law Implemented 364.345 FS. History New 12-27-95~~

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FLORIDA PUBLIC SERVICE COMMISSION
OFFICE OF TELECOMMUNICATIONS
APPLICATION FORM
FOR
AUTHORITY TO PROVIDE TELECOMMUNICATIONS COMPANY SERVICE
WITHIN THE STATE OF FLORIDA

Instructions

- A. This form is used as an application for an original certificate and for approval of transfer of an existing certificate. In the case of a transfer, the information provided shall be for the transferee (See Page 8).
- B. Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
- C. Use a separate sheet for each answer which will not fit the allotted space.
- D. Once completed, submit the original and one copy of this form along with a non-refundable application fee of **\$500.00** to:

**Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770**

- E. A filing fee of **\$500.00** is required for the transfer of an existing certificate to another company.
- F. If you have questions about completing the form, contact:

**Florida Public Service Commission
Office of Telecommunications
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6600**

1. This is an application for (check one):

Original certificate (new company).

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority rather than apply for a new certificate.

2. Name of company:

3. Name under which applicant will do business (fictitious name, etc.):

4. Official mailing address:

Street/Post Office Box: _____
City: _____
State: _____
Zip: _____

5. Florida address:

Street/Post Office Box: _____
City: _____
State: _____
Zip: _____

6. Structure of organization:

- Individual
- Foreign Corporation
- General Partnership
- Other, please specify:

- Corporation
- Foreign Partnership
- Limited Partnership

If individual, provide:

Name: _____
Title: _____
Street/Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

7. **If incorporated in Florida**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:
8. **If foreign corporation**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:
9. **If using fictitious name (d/b/a)**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida. The Florida Secretary of State fictitious name registration number is:
10. **If a limited liability partnership**, please proof of registration to operate in Florida. The Florida Secretary of State registration number is:
11. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.

Name: _____
Title: _____
Street/Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

12. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable. The Florida registration number is:

13. Provide F.E.I. Number:

14. Who will serve as liaison to the Commission in regard to the following?

(a) The application:

Name: _____
Title: _____
Street Name & Number: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

(b) Official point of contact for the ongoing operations of the company:

Name: _____
Title: _____
Street Name & Number: _____
Post Office Box: _____
City: _____
State: _____
Zip: _____
Telephone No.: _____
Fax No.: _____
E-Mail Address: _____
Website Address: _____

(c) Where will you officially designate as your place of publicly publishing your schedule (a/k/a tariffs or price lists)?

- Florida Public Service Commission
- Website – *Website address:*
- Other – *Please provide address:*

15. List the states in which the applicant:

(a) has operated as a telecommunications company.

(b) has applications pending to be certificated as a telecommunications company.

(c) is certificated to operate as a telecommunications company.

(d) has been denied authority to operate as a telecommunications company and the circumstances involved.

(e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

(f) has been involved in civil court proceedings with another telecommunications entity, and the circumstances involved.

16. Have any of the officers, directors, or any of the ten largest stockholders previously been:

(a) adjudged bankrupt, mentally incompetent (and not had his or her competency restored), or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. Yes No

If yes, provide explanation.

(b) granted or denied a certificate in the State of Florida (this includes active and canceled certificates). Yes No

If yes, provide explanation and list the certificate holder and certificate number.

(c) an officer, director, partner or stockholder in any other Florida certificated or registered telephone company. Yes No

If yes, give name of company and relationship. If no longer associated with company, give reason why not.

17. Submit the following:

(a) **Managerial capability:** resumes of employees/officers of the company that would indicate sufficient managerial experiences of each. Please explain if a resume represents an individual that is not employed with the company and provide proof that the individual authorizes the use of the resume.

(b) **Technical capability:** resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance. Please explain if a resume represents an individual that is not employed with the company and provide proof that the individual authorizes the use of the resume.

(c) **Financial Capability:** applicant's audited financial statements for the most recent three (3) years. If the applicant does not have audited financial statements, it shall so be stated. Unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

1. the balance sheet,
2. income statement, and
3. statement of retained earnings.

Note: *It is the applicant's burden to demonstrate that it possesses adequate managerial capability, technical capability, and financial capability. Additional supporting information can be supplied at the discretion of the applicant.*

THIS PAGE MUST BE COMPLETED AND SIGNED

REGULATORY ASSESSMENT FEE: I understand that all telephone companies must pay a regulatory assessment fee. Regardless of the gross operating revenue of a company, a minimum annual assessment fee, as defined by the Commission, is required.

RECEIPT AND UNDERSTANDING OF RULES: I acknowledge receipt and understanding of the Florida Public Service Commission's rules and orders relating to the provisioning of telecommunications company service in Florida.

APPLICANT ACKNOWLEDGEMENT: By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide telecommunications company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "**Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083.**"

I understand that any false statements can result in being denied a certificate of authority in Florida.

COMPANY OWNER OR OFFICER

Print Name: _____
Title: _____
Telephone No.: _____
E-Mail Address: _____

Signature: _____ Date: _____

CERTIFICATE TRANSFER

As current holder of Florida Public Service Commission Certificate Number _____, I have reviewed this application and join in the petitioner's request for a transfer of the certificate.

COMPANY OWNER OR OFFICER

Print Name: _____

Title: _____

Street/Post Office Box: _____

City: _____

State: _____

Zip: _____

Telephone No.: _____

Fax No.: _____

E-Mail Address: _____

Signature: _____ Date: _____

State of Florida



Public Service Commission
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-M-E-M-O-R-A-N-D-U-M-

DATE: September 19, 2012

TO: Kathryn Cowdery, Senior Attorney, Office of the General Counsel

FROM: Laura V. King, Economic Analyst, Division of Economics

RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-4.004, Florida Administrative Code (F.A.C.), Certificates of Public Convenience and Necessity and 25-4.005, Transfer of Certificate of Public Convenience and Necessity and Repeal of Rules 25-24.565, Certificate of Public Convenience and Necessity Required; 25-24.567, Application for Certificate; 25-24.568, Improper Use of a Certificate; 25-24.569, Application for Approval of Sale, Assignment or Transfer of Certificate; 25-24.572, Cancellation of a Certificate; 25-24.705, Scope and Waiver; 25-24.710, Terms and Definitions; 25-24.715, Certificate of Public Convenience and Necessity Required; 25-24.720, Application for Certificate; 25-24.725; Certificates Not Transferable, 25-24.730; Application for Approval of Sale, Assignment, or Transfer of Certificate; 25-24.735, Cancellation of a Certificate; 25-24.745, Records and Reports; Rules Incorporated; 25-24.800, Scope; 25-24.805, Certificate of Public Convenience and Necessity Required; 25-24.810, Application for Certificate; 25-24.815, Application for Approval of Sale, Assignment or Transfer of Certificate; 25-24.820, Revocation of a Certificate.

Summary of Rules

Rule 25-4.004, F.A.C., Certificates of Public Convenience and Necessity, establishes the requirement that no person shall begin construction or operation of any telephone system, an extension thereof, or acquire ownership or control thereof, either directly or indirectly, without first obtaining a certificate from the Commission. The rule applies to incumbent local exchange providers and has not been revised since 1968. Certification requirements for other types of local service providers are currently contained in other rules. The intent of the draft rule is to have one streamlined certification process which applies to all local telecommunications providers. The draft rule imposes no new requirements and has eliminated some steps that are no longer necessary. In addition, the draft rule: (1) makes clear that no person shall provide telecommunications services without a certificate of necessity (prior to July 1, 2011), or a certificate of authority (after July 1, 2011); (2) outlines the specific filing requirements, including that payment of a \$500 nonrefundable application fee must accompany the filing; and, (3) requires certificate holders to file with the Commission Clerk updated information (address, telephone number, etc.) within ten days after a change occurs.

Like the certification rule, Rule 25-4.005, Transfer of Certificate of Public Convenience applies to incumbent local exchange companies and has not been amended since 1999. This rule requires that any request to transfer a certificate must be made by joint petition and notice be given to all subscribers affected by the proposed transfer. In addition, the rule outlines several requirements that must be fulfilled prior to the petition for transfer being considered or approved by the Commission. The intent of the draft rule is to have one streamlined process for the transfer of a certificate of necessity or authority. The draft rule imposes no new requirements and has eliminated some steps that are no longer necessary. The draft rule requires: (1) a joint application be filed by the certificate holder and the person seeking to obtain the certificate; (2) payment of a \$500 nonrefundable application fee must accompany the filing; and, (3) the company transferring the certificate pay all regulatory assessment fees owed.

The rules summarized below are to be repealed because they have been made obsolete with the implementation of statutory changes to Chapter 364, F.S., made by the Regulatory Reform Act of 2011, culminating with the amendments to Rules 25-4.004 and 25-4.005, F.A.C.

- Rule 25-24.565, F.A.C., Certificate of Public Convenience and Necessity Required, states that no person provide shared tenant service (STS) without first obtaining certification from the Commission.
- Rule 25-24.567, F.A.C., Application for Certificate, outlines the application process for STS certification, including payment of a \$250 nonrefundable application fee.
- Rule 25-24.568, F.A.C., Improper Use of a Certificate, specifies that a STS certificate may not be assigned or transferred by the holder without prior Commission approval and can not be used as collateral.
- Rule 25-24.569, F.A.C., Application for Approval of Sale, Assignment or Transfer of Certificate, this rule outlines the process to assign, transfer, or sell a STS certificate by completing the appropriate application and requiring payment of a \$250 nonrefundable fee.
- Rule 25-24.572, F.A.C., Cancellation of a Certificate, delineates under what circumstances the Commission may cancel a STS provider's certificate. Also, it outlines how the STS provider may request cancellation.
- Rule 25-24.705, F.A.C., Scope and Waiver, this rules specifically outlines which rules apply to Alternative Access Vendors (AAV) and how an AAV may file a petition for a waiver of any rule or part.
- Rule 25-24.710, F.A.C., Terms and Definitions, this rules defines specific terms as they are applied to an AAV provider.
- Rule 25-24.715, F.A.C., Certificate of Public Convenience and Necessity Required, requires that no person provide AAV service without first obtaining certification from the Commission.
- Rule 25-24.720, F.A.C., Application for Certificate, outlines the application process for AAV certification, including payment of a \$250 nonrefundable application fee.
- Rule 25-24.725, F.A.C., Certificates Not Transferable, specifies that an AAV certificate may not be sold, assigned, or transferred by the holder without prior Commission approval and can not be used as collateral.
- Rule 25-24.730, F.A.C., Application for Approval of Sale, Assignment, or Transfer of Certificate, this rule outlines the process to assign, transfer, or sell an AAV

- certificate by completing the appropriate application and requiring payment of a \$250 nonrefundable fee.
- Rule 25-24.735, F.A.C., Cancellation of a Certificate, delineates under what circumstances the Commission may cancel an AAV provider's certificate. Also, it outlines how the AAV provider may request cancellation.
 - Rule 25-24.745, F.A.C., Records and Reports; Rules Incorporated, this rule identifies and incorporates by reference other rules which AAV are required to follow. In addition, established the reporting requirements when there is a change of address or a change in the name, title, and/or phone number of the individual responsible for Commission contacts.
 - Rule 25-24.800, F.A.C., Scope, specifically outlines which rules apply to Competitive Local Exchange Companies (CLECs) and to CLECs which provide operator services in a call aggregator context.
 - Rule 25-24.805, F.A.C., Certificate of Public Convenience and Necessity Required, states that no person shall provide CLEC service without first obtaining certification from the Commission.
 - Rule 25-24.810, F.A.C., Application for Certificate, outlines the application process for CLEC certification, including payment of a \$400 nonrefundable application fee.
 - Rule 25-24.815, F.A.C., Application for Approval of Sale, Assignment or Transfer of Certificate, this rule outlines the process to assign, transfer, or sell a CLEC certificate by completing the appropriate application and requiring payment of a nonrefundable \$400 fee.
 - Rule 25-24.820, F.A.C., Revocation of a Certificate, this rule delineates under what circumstances the Commission may revoke a CLEC certificate. Also, it outlines how the CLEC provider may request cancellation.

Economic Analysis Showing Whether The Rules Discussed Above Are Likely To Have An Adverse Impact On Either Economic Growth Or Business Competitiveness In Excess Of \$1 Million Within 5 Years

Section 120.541(2)(a)1 requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Similarly, Section 120.541(2)(a)2 requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on business competitiveness in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. The rule amendments are intended to reduce regulatory oversight and to streamline the procedures for obtaining and transferring certificates to provide local service; as such, these rules are not expected to adversely impact economic growth, private job sector employment, private sector investment, and business competitiveness during the five year period identified in the statute.

Economic Analysis Showing Whether The Rules Discussed Above Are Likely To Increase Regulatory Costs In Excess Of \$1 Million Within 5 Years

Section 120.541(2)(a)3 requires an economic analysis showing whether the draft rule directly or indirectly is likely to increase regulatory cost, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Although the fees for the application and transfer are being increased, it is extremely unlikely to increase regulatory costs in excess of \$1 million within 5 years. The number of applications and transfers has been steadily declining, staff does not believe this trend will change. In fact, in 2011, the Commission issued only 14 certificates. In order to reach regulatory costs in excess of \$1 Million within 5 years the Commission would need to grant approximately 800 application/transfer requests per year.

Estimated Number Of Entities Required To Comply And General Description Of Individuals Affected

Section 120.541(2)(b) requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals anticipated to be affected by the rule. The individuals affected by Subsections (1), (2), and (3) of Rule 25-4.004, F.A.C., are those persons or entities applying to become telecommunications companies. It is difficult to estimate the number; however, in 2009 there were 28 entities, in 2010 there were 25, and in 2011 there were 14 entities. Since Subsection (4) requires each certificate holder to file updated information, such as a change of address or telephone number, with the Commission Clerk, all AAVs, STS, CLECs, and ILECs are required to comply. This number totals 325.

All of the 325 currently certified entities would be required to comply with the provisions of draft Rule 25-4.005, F.A.C. when seeking to transfer their certificates.

Rule Implementation And Enforcement Cost And Impact On Revenues For The Agency And Other State And Local Government Entities

Section 120.541(2)(c) requires a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues. The rule development process includes a sequence of actions by the agency which vary according to the rule being implemented. These steps include rule drafting; a rule development workshop; preparing, filing, and presenting a rule recommendation (including a SERC); Commission consideration of the draft rule recommendation at an Agenda Conference; a rule hearing if one is requested; a possible additional agenda conference for those cases where a rule hearing is conducted or written comments are filed; and ultimately, filing the rule with the Secretary of State. Most of the costs to the agency associated with these rule development actions, including a possible rule hearing, are fixed costs and not likely to be affected substantially for the level of complexity associated with the development of these rules. Enforcement costs with the rule change are also primarily fixed costs and should remain at approximately the same levels as they have been in the past.

Increases to the application filing fee and transfer fee are expected to have a minimal impact on the revenues for the agency because the Commission receives few application and transfer requests. The impact on state and local government revenue is expected to be nil.

Estimated Transactional Costs To Individuals And Entities

Section 120.541(2)(d) requires a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. Under the draft rule, entities or individuals wishing provide telecommunications services or to obtain a certificate by transfer would be required to prepare the appropriate application/form and submit a nonrefundable fee of \$500.

Impact On Small Businesses, Small Cities, Or Small Counties

Section 120.541(2)(e) requires an analysis of the impact of the proposed rule change on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. Staff believes the impact of the proposed rule changes on small businesses, small counties, and small cities will be de minimus.

Additional Information Deemed Useful By The Agency

None.

cc: Jim Dean
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