

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

**DATE:** November 29, 2012

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

**FROM:** Office of the General Counsel (Miller)  
Office of Telecommunications (Salak)  
Division of Economics (King)

*Handwritten signatures and initials: CM, JWA, JMC, EID, and others.*

RECEIVED - FPSC  
12 NOV 29 AM 11:14  
COMMISSION  
CLERK

**RE:** Docket No. 120238-TP – Proposed repeal of Rule 25-24.585, Rules Incorporated; and Rule 25-24.835, Rules Incorporated. Proposed adoption of Rule 25-4.0051, Certificate Holder Information.

**AGENDA:** 12/10/12 – Regular Agenda – 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\120238.RCM.DOC

### Case Background

Rule 25-24.585, Florida Administrative Code (F.A.C.), on Rules Incorporated sets out the rules which apply to shared tenant service companies. Rule 25-24.835, F.A.C., on Rules Incorporated sets out the rules which apply to competitive local exchange companies. These rules are no longer necessary because the new law, the Regulatory Reform Act of 2011, provides that telecommunications companies are to be treated the same. Separate rules are not needed for shared tenant service providers and competitive local exchange companies. The remaining rules will apply to all local service providers; previously the rules were divided to separately apply to shared tenant service providers and competitive local exchange companies. New Rule 25-

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4.0051, Current Certificate Holder Information will apply to all local service providers and will require them to file updated contact information.

Notice of the rule development appeared in the August 31, 2012, edition of the Florida Administrative Weekly. No one requested a workshop, so no workshop was held.

This recommendation addresses whether the Commission should propose the repeal of Rules 25-24.585 and 25-24.835 and the adoption of Rule 25-4.0051, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission propose the repeal of Rule 25-24.585, F.A.C., Rules Incorporated, and Rule 25-24.835, F.A.C., Rules Incorporated, and propose the adoption of Rule 25-4.0051, F.A.C., New Certificate Holder Information?

**Recommendation:** Yes, the Commission should propose the repeal of Rules 25-24.585 and 25-24.835 and the adoption of Rule 25-4.0051 as set forth in Attachment A. (Miller, Salak)

**Staff Analysis:** Rules 25-24.585 and 25-24.835, F.A.C., address shared tenant service providers and competitive local exchange companies. Rule 25-24.585, F.A.C. on Rules Incorporated sets out the rules which apply to shared tenant service providers. Rule 25-24.835, F.A.C., on Rules Incorporated sets out the rules which apply to competitive local exchange companies. Chapter 364, Florida Statutes, was modified in 2011 to treat all local service providers the same in recognition of competition. Thus, staff recommends that Rule 25-24-585 and 25-24.835 be repealed. The migration to one set of rules for all certificated local telecommunications companies is consistent with that law.

Staff also recommends that the Commission adopt Rule 25-4.0051, F.A.C., to require all telecommunications companies to keep updated contact information with the Commission. Shared tenant service providers and competitive local exchange companies were required to provide the contact information under the existing rules which are being repealed. However, staff believes the information is still necessary and should be required of all the local telecommunications companies. In the matters that continue within the Commission's jurisdiction (such as wholesale carrier disputes), it is important to have contact information.

### **Statement of Estimated Regulatory Costs (SERC)**

The Statement of Estimated Regulatory Costs (attachment B) analyzed whether the rule repeals are likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after implementation. Also, the statute requires consideration of whether the draft rules are likely to have an adverse impact on business competitiveness, productivity, or innovation in excess of the above amount. These rule repeals would not have such impacts. Thus, the rule repeals do not require legislative ratification, pursuant to Section 120.541(3), Florida Statutes. In addition, the SERC addresses a number of other statutory requirements.

Staff recommends that the Commission propose the repeal of Rule 25-24.585 and 25-24.835, F.A.C., and the adoption of Rule 25-4.043, F.A.C.

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

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

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

1 25-24.585 Rules Incorporated.

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

4	<u>Section</u>	<u>Title</u>	<u>Portions Applicable</u>
5	<del>25-4.019</del>	<del>Records and Reports in General</del>	<del>All</del>
6	<del>25-4.020</del>	<del>Location and Preservation of Records</del>	<del>All except (1) and (3)</del>
7	<del>25-4.036</del>	<del>Design and Construction of Plant</del>	<del>All</del>
8	<del>25-4.043</del>	<del>Response to Commission Staff Inquiries</del>	<del>All</del>
9	<del>25-4.0161</del>	<del>Regulatory Assessment Fees; Telecommunication</del>	<del>All</del>
10		<del>Companies</del>	
11	<del>25-4.110</del>	<del>Customer Billing</del>	<del>Subsections (11) and (12)</del>
12	<del>25-4.160</del>	<del>Operation of Telecommunications Relay Service</del>	<del>All</del>

13 ~~(2) Each shared tenant service company shall file with the Commission's Office of~~  
14 ~~Commission Clerk updated information for the following items within ten days after either~~  
15 ~~such change occurs.~~

16 ~~(a) The mailing address of the certificate holder.~~

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

18 *Rulemaking Authority 350.127(2), 427.704(8) FS. Law Implemented 350.113, 364.016, 364.17, 364.18, 364.183,*  
19 *364.185, 364.339 FS. History—New 1-28-91, Amended 12-29-91, 11-13-95, 7-29-97, 4-8-98, 12-23-02, 11-16-0,*  
20 *Repealed \_\_\_\_\_.*

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

1 | 25-24.835 Rules Incorporated.

2 | ~~(1) The following rules are incorporated herein by reference and apply to competitive local~~  
3 | ~~exchange companies.~~

5   <u>Section</u>	<u>Title</u>	<u>Portions</u>
6		<u>Applicable</u>
7   25-4.0161	Regulatory Assessment Fees	All
8   25-4.020	Location and Preservation of Records	(2)
9   25-4.043	Response to Commission Staff Inquiries	All
10   25-4.036	Design and Construction of Plant	All
11   25-4.038	Safety	All
12   25-4.160	Operation of Telecommunications Relay	All
13	Service	

14 |

15 | ~~(2) Each company shall file updated information for the following items with the Office of~~  
16 | ~~Commission Clerk within 10 days after any changes to the following:~~

17 | ~~(a) The address of the certificate holder's main corporate and Florida offices (if any) including~~  
18 | ~~street name and address and post office box, city, state and zip code; or~~

19 | ~~(b) Telephone number, name, and address of the individual who is to serve as primary liaison~~  
20 | ~~with the Commission in regard to the ongoing Florida operations of the certificated company.~~

21 | *Rulemaking Authority 350.127(2), 364.337(2), 427.704(8) FS. Law Implemented 364.016,*  
22 | *364.183, 364.336, 364.337(2) FS. History—New 12-27-95, Amended 4-8-98, 6-24-99, 8-25-05,*  
23 | Repealed.

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

1 25-4.0051 Current Certificate Holder Information,  
2 (1) Each company shall file updated information for the following items with the Office of  
3 Commission Clerk within 10 days after any changes to the following:  
4 (a) The address of the certificate holder's main corporate and Florida offices (if any) including  
5 street name and address and post office box, city, state and zip code; or  
6 (b) Telephone number, name, and address of the individual who is to serve as primary liaison  
7 with the Commission in regard to the ongoing Florida operations of the certificated company.  
8 Rulemaking Authority 350.127(2), 364.337(2), 427.704(8), FS. Law implemented 364.016,  
9 364.183, 364.336, 364.337(2) FS. History-New xx-xx-xx.

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**DATE:** November 15, 2012  
**TO:** Cindy B. Miller, Senior Attorney, Office of the General Counsel  
**FROM:** Laura V. King, Economic Analyst, Division of Economics *JWD EAD*  
**RE:** Statement of Estimated Regulatory Costs for Proposed Repeal of Rules 25-24.585 and 25-24.835, Florida Administrative Code (F.A.C.), Rules Incorporated; and Adoption of Rule 25-4.0051, F.A.C., Certificate Holder Information.

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### Summary of Proposed Rule Revisions

Rules 25-24.585 and 25-24.835, F.A.C., Rules Incorporated, apply to shared tenant service (STS) providers and competitive local exchange companies (CLEC) respectively. These rules contain almost identical provisions. Subsection 1 of each rule lists regulations that are incorporated by reference and Subsection 2 outlines what information must be kept current with the Office of Commission Clerk, including the providers address, telephone number, and/or changes to its Commission liaison.

The above rules are recommended for repeal because of changes to Chapter 364, F.S., made by the Regulatory Reform Act of 2011. Specifically, the legislation changed the definition of "telecommunications company" so that it now encompasses several types of providers, including STS and CLEC, and separate rule provisions are no longer necessary. As such, proposed Rule 25-4.0051, F.A.C., does not include any new regulatory requirements, but instead combines existing requirements found in Rules 25-24.585 and 25-24.835 F.A.C., into one rule applicable to all "telecommunications companies."

### Economic Analysis Showing Whether the Rules Are Likely to Have an Adverse Impact on Either Economic Growth or Business Competitiveness in Excess of \$1 Million within 5 Years

Subparagraph 120.541(2)(a)1, Florida Statutes (F.S.), 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. Subparagraph 120.541(2)(a)2, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. The draft rules were evaluated for the potential for having adverse impacts on measures of economic activity noted above.



The proposed rule repeals and revisions are intended to streamline regulations in the telecommunications industry as specified by the Regulatory Reform Act of 2011. Existing regulatory requirements found in Rules 25-24.585 and 25-24.835, F.A.C., are now being combined into proposed Rule 25-4-0051, F.A.C., applicable to all “telecommunications companies.” This streamlining measure is consistent with the ongoing review of all telecommunications rules to determine those that should be consolidated and or repealed to achieve one set of rules applicable to all telecommunications companies. Since the proposed rule does not include new regulatory requirements, it is not expected to impact economic growth, private sector job creation, private sector investment, or adversely impact business competitiveness, productivity, or innovation.

Economic Analysis Showing Whether the Rules Are Likely to Increase Regulatory Costs in Excess of \$1 Million within 5 Years

Subparagraph 120.541(2)(a)3, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. The proposed revisions are meant to consolidate existing requirements into one rule applicable to all telecommunications companies. As such, it will not result in additional regulatory requirements or changes to industry business practices, nor introduce any new transactional costs.

Estimated Number of Entities Required to Comply and General Description of the Types of Individuals Likely to be Affected

Paragraph 120.541(2)(b), F.S., 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 likely to be affected by the rule. The proposed rule revisions would affect 19 STS companies and 296 CLEC. Customers of these companies are not excepted to be affected by the draft rule amendments, if adopted.

Rule Implementation and Enforcement Costs to the Agency and State and Local Government Entities, and Effect on State or Local Revenues

Paragraph 120.541(2)(c), F.S., 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 proposed revisions are not expected to cause increases in costs related to their implementation or enforcement, nor are they expected to have any effect on state or local revenues.

Estimated Transactional Costs to Individuals and Entities Including Local Governments

Paragraph 120.541(2)(d), F.S., 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. The draft language in Rule 25-4.0051, F.A.C., identifies what information must be kept current with the Office of the Commission Clerk, and

these regulatory requirements are the same as those currently found in Rules 25-24.585 and 25-24.835, F.A.C. (recommended for repeal). As such, the proposed rule does not create any new regulatory requirements and is not expected to introduce new transactional costs either to individuals or to local government entities.

**Impact on Small Businesses, Small Cities, or Small Counties**

Paragraph 120.541(2)(e), F.S., requires an analysis of the impact of the proposed changes on small businesses as defined in 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. The proposed rule does not create any new regulatory requirements but instead streamlines existing regulations. Therefore, the proposed rule will not cause adverse economic impacts to small businesses, small cities, or small counties.

**Additional Information Deemed Useful by the Agency**

No workshop has been requested in conjunction with the proposed revisions. No regulatory alternatives have been submitted pursuant to Paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in Paragraph 120.541(2)(a), F.S., will be exceeded as a result of the proposed revisions.

cc: Jim Dean  
Beth Salak  
ECR SERC File