

State of Florida



## Public Service Commission

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

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

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**DATE:** September 22, 2014

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

**FROM:** Office of the General Counsel (Cowdery) *GC*  
Division of Economics (Rome) *ED*  
Office of Telecommunications (Casey, Salak) *CS* *J.W.D.*

**RE:** Docket No. 140141-TP – Proposed repeal of Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and amendment of Rules 25-4.003, and 25-22.061, F.A.C.

**AGENDA:** 10/02/14 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Balbis

**RULE STATUS:** Issue 1 may not be deferred because of the 90-day time limit of Section 120.54(3)(e)2., F.S., which runs Nov. 11, 2014.

**SPECIAL INSTRUCTIONS:** None

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#### Case Background

On August 12, 2014, the Commission proposed repeal of Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and amendment of Rules 25-4.003, and 25-22.061, F.A.C.<sup>1</sup> The Notices of Proposed Rules were published in the Florida Administrative Register on August 13, 2014. On August 14, 2014, staff of the Joint Administrative Procedures Committee (JAPC) filed comments on proposed Rule 25-4.003, F.A.C. The proposed repealed Rules 25-4.002, 25-24.505, 25-24.514, 25-24.555, and 25-24.560, F.A.C., and amended Rule 25-

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<sup>1</sup> See Order No. PSC-14-0412-NOR-TP, issued August 13, 2014.

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22.061, F.A.C, which were not addressed in the JAPC comments, were filed with the Department of State on September 12, 2014, and will become effective on October 2, 2014.

This recommendation addresses whether the Commission should make changes to proposed Rule 25-4.003, F.A.C., based on JAPC staff's comments. The Commission has jurisdiction pursuant to Chapter 364, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission adopt changes to proposed Rule 25-4.003, F.A.C., to address JAPC's comments?

**Recommendation:** Yes, the Commission should adopt proposed Rule 25-4.003, F.A.C., with changes, as set forth in Attachment A. (Cowdery, Salak, Casey).

**Staff Analysis:** Rule 25-4.003, F.A.C., provides definitions of terms that apply for the purpose of Chapter 25-4, F.A.C., Telephone Companies. In Order No. PSC-14-0412-NOR-TP, issued August 13, 2014, the Commission proposed that Rule 25-4.003, F.A.C., be amended to reduce the number of definitions from sixty to sixteen in order to delete terms that are unnecessary<sup>2</sup> or no longer addressed in Chapter 25-4, F.A.C.

By letter of August 14, 2014, JAPC staff submitted two comments on proposed Rule 25-4.003, F.A.C. JAPC staff states that in proposed Rule 25-4.003(6), F.A.C., defining "Company," "Telecommunications Company," or "Telephone Company," the citation to section 364.02(14), Florida Statutes, should be to subsection (13) of that same statute. Staff agrees with JAPC and recommends that this change be made.

JAPC staff also comments on proposed Rule 25-4.003(9), F.A.C., defining "Local Service Area," noting that the term "local service area" is not used in rule Chapter 25-4 or within Chapter 364, Florida Statutes, and asked Commission staff to review whether the definition is necessary for inclusion in Rule 25-4.003, F.A.C. Rule 25-4.003, F.A.C., specifically defines terms for the purpose of Chapter 25-4, F.A.C. The term "local service area" is not referenced in Chapter 25-4, F.A.C. For this reason, staff does not believe it is necessary to include the definition of "local service area" in Rule 25-4.003, F.A.C., and that the definition should be deleted.

Staff has determined that deletion of the definition of "local service area" will not increase the regulatory costs of the rule, and therefore a revised statement of estimated regulatory costs is not required.<sup>3</sup> For the above-stated reasons, staff recommends that the Commission adopt proposed Rule 25-4.003, F.A.C., with changes, as set forth in Attachment A.

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<sup>2</sup> Agencies are required by Section 120.74(1)(c), Florida Statutes, to delete unnecessary rules.

<sup>3</sup> See Section 120.541(1)(c), Florida Statutes

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

**Recommendation:** Yes. A Notice of Change should be published in the Florida Administrative Register for proposed Rule 25-4.003, F.A.C. After the Notice of Change is published, proposed Rule 25-4.003, F.A.C., may be filed for adoption with the Secretary of State and the docket should be closed. (Cowdery)

**Staff Analysis:** If the Commission approves the changes to Rule 25-4.003, F.A.C., a Notice of Change must be published in the Florida Administrative Register. After the Notice of Change is published, proposed Rule 25-4.003, F.A.C., may be filed for adoption with the Secretary of State and the docket should be closed.

1 **25-4.003 Definitions.**

2 For the purpose of Chapter 25-4, F.A.C., the definitions of the following terms apply:

3 (1) ~~“Access Line” or “Subscriber Line” or “Subscriber Loop”.~~ The circuit or channel between  
4 the demarcation point at the customer’s premises and the serving end or class 5 central office.

5 ~~(2) “Average Busy Season Busy Hour Traffic.” The average traffic volume for the busy~~  
6 ~~season busy hours.~~

7 ~~(3) “Billing Party.” Any entity that bills an end user on its own behalf or on behalf of an~~  
8 ~~originating party.~~

9 ~~(4) “Busy Hour.” The continuous one hour period of the day during which the greatest volume~~  
10 ~~of traffic is handled in the office.~~

11 ~~(5) “Busy Season.” The calendar month or period of the year (preferably 30 days but not to~~  
12 ~~exceed 60 days) during which the greatest volume of traffic is handled in the office.~~

13 ~~(2) (6) “Call.” An attempted telephone message.~~

14 ~~(3) (7) “Central Office.” A location where there is an assembly of equipment that establishes~~  
15 ~~the connections between subscriber access lines, trunks, switched access circuits, private line~~  
16 ~~facilities, and special access facilities with the rest of the telephone network.~~

17 ~~(4) “Certificate of Authority.” Certificates received by all companies providing~~  
18 ~~telecommunications services after July 1, 2011.~~

19 ~~(5) “Certificate of Necessity.” Certificate received by all incumbent local exchange~~  
20 ~~companies, shared tenant service providers, alternative access vendors, competitive local~~  
21 ~~exchange companies, and pay telephone service providers to provide telecommunication~~  
22 ~~services prior to July 1, 2011.~~

23 ~~(8) “Commission.” The Florida Public Service Commission.~~

24 ~~(6) (9) “Company,” “Telecommunications Company,” or “Telephone Company;” or~~  
25 ~~“Utility.” These terms may be used interchangeably herein and shall mean~~

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1 “telecommunications company” as defined in Section ~~364.02(13)~~(14), F.S.  
2 ~~(10) Competitive Local Exchange Telecommunications Company (CLEC).” Any company~~  
3 ~~certificated by the commission to provide local exchange telecommunications services in~~  
4 ~~Florida on or after July 1, 1995.~~  
5 ~~(11) “Completed call.” A call which has been switched through an established path so that~~  
6 ~~two-way conversation or data transmission is possible.~~  
7 ~~(12) “Disconnect” or “Disconnection.” The dissociation or release of a circuit. In the case of a~~  
8 ~~billable call, the end of the billable time for the call whether intentionally terminated or~~  
9 ~~terminated due to a service interruption.~~  
10 ~~(13) “Drop or Service Wire.” The connecting link that extends from the local distribution~~  
11 ~~service terminal to the protector or telephone network interface device on the customer’s~~  
12 ~~premises.~~  
13 (7) (14) “Exchange.” The entire telephone plant and facilities used in providing telephone  
14 service to subscribers located in an exchange area. An exchange may include more than one  
15 central office unit. A central office or group of central offices with the subscriber’s stations  
16 and lines connected, forming a local system which furnishes means of telephonic  
17 intercommunication without toll charges between subscribers within a specified area.  
18 ~~(15) “Exchange (Service) Area.” The territory of a local exchange company (LEC) within~~  
19 ~~which local telephone service is furnished at the exchange rates applicable within that area.~~  
20 ~~(16) “Extended Area Service.” A type of telephone service whereby subscribers of a given~~  
21 ~~exchange or area may complete calls to, and receive messages from, one or more other~~  
22 ~~exchanges or areas without toll charges, or complete calls to one or more other exchanges or~~  
23 ~~areas without toll message charges.~~  
24 ~~(17) “Foreign Exchange Service.” A classification of LEC exchange service furnished under~~  
25 ~~tariff provisions whereby a subscriber may be provided telephone service from an exchange~~  
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- 1 ~~other than the one from which he would normally be served.~~
- 2 ~~(18) “Information Service.” Telephone calls made to 900 or 976 type services, but does not~~  
3 ~~include Internet services.~~
- 4 ~~(19) “Intercept Service.” A service arrangement provided by the telecommunications company~~  
5 ~~whereby calls placed to an unequipped non working, disconnected, or discontinued telephone~~  
6 ~~number are intercepted by operator, recorder, or audio response computer and the calling party~~  
7 ~~informed that the called telephone number is not in service, has been disconnected,~~  
8 ~~discontinued, or changed to another number, or that calls are received by another telephone.~~  
9 ~~This service is also provided in certain central offices and switching centers to inform the~~  
10 ~~calling party of conditions such as system blockages, inability of the system to complete a call~~  
11 ~~as dialed, no such office code, and all circuits busy.~~
- 12 ~~(20) “Inter office Call.” A telephone call originating in one central office but terminating in~~  
13 ~~another central office, both of which are in the same designated exchange area.~~
- 14 ~~(21) “Interstate Toll Message.” Those toll messages that do not originate and terminate within~~  
15 ~~the same state.~~
- 16 ~~(22) “Intertoll Trunk.” A line or circuit between two toll offices, two end offices, or between~~  
17 ~~an end office and toll office, over which toll calls are passed.~~
- 18 ~~(23) “Intra office Call.” A telephone call originating and terminating within the same central~~  
19 ~~office.~~
- 20 ~~(24) Intrastate Interexchange Company (IXC).” Any entity that provides intrastate~~  
21 ~~interexchange telecommunications services.~~
- 22 ~~(25) “Intrastate Toll Message.” Those toll messages which originate and terminate within the~~  
23 ~~same state.~~
- 24 ~~(26) “Invalid Number.” A number comprised of an unassigned area code number or a non-~~  
25 ~~working central office code (NXX).~~

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1 ~~(27) “Large LEC.” A LEC certificated by the Commission prior to July 1, 1995, that had in~~  
2 ~~excess of 100,000 access lines in service on July 1, 1995.~~

3 ~~(28) “Local Access and Transport Area (LATA)” or “Market Area.” A geographical area,~~  
4 ~~which is loosely based on standard metropolitan statistical areas (SMSAs), within which a~~  
5 ~~LEC may transport telecommunication signals.~~

6 ~~(29) “Local Exchange Telecommunications Company (LEC).” Any telecommunications~~  
7 ~~company, certificated by the Commission prior to July 1, 1995, to provide local exchange~~  
8 ~~telecommunications service.~~

9 ~~(8)(30) “Local Provider (LP).” Any telecommunications company providing local~~  
10 ~~telecommunications service, excluding pay telephone providers and call aggregators.~~

11 ~~(31) “Local Service Area” or “Local Calling Area.” The area within which telephone service~~  
12 ~~is furnished subscribers under a specific schedule of rates and without toll charges. A LEC’s~~  
13 ~~local service area may include one or more exchange areas or portions of exchange areas.~~

14 ~~(32) “Local Toll Provider (LTP).” Any entity providing intraLATA or intramarket area long~~  
15 ~~distance telecommunications service.~~

16 ~~(33) “Main Station.” The principal telephone associated with each service to which a~~  
17 ~~telephone number is assigned and which is connected to the central office equipment by a~~  
18 ~~circuit or channel.~~

19 ~~(9)(34) “Message.” A completed telephone call.~~

20 ~~(10) “Number Portability.” Consumer’s ability to change providers and still keep the same~~  
21 ~~phone number.~~

22 ~~(35) “Mileage Charge.” A tariff charge for circuits and channels connecting other services that~~  
23 ~~are auxiliary to local exchange service such as off premises extensions, foreign exchange and~~  
24 ~~foreign central office services, private line services, and tie lines.~~

25 ~~(36) New Construction.” New construction is the installation of facilities to serve unserved~~  
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1 ~~areas; new construction is not the rearrangement or repair of defective facilities to serve an~~  
2 ~~existing area. Adding to or the rearrangement of existing facilities is not considered “new~~  
3 ~~construction” unless an engineer work order is issued.~~

4 ~~(37) “Normal Working Days.” The normal working days for installation and construction shall~~  
5 ~~be all days except Saturdays, Sundays, and holidays. The normal working days for repair~~  
6 ~~service shall be all days except Sundays and holidays. Holidays shall be the days which are~~  
7 ~~observed by each individual telephone company.~~

8 ~~(38) “Optional Calling Plan.” An optional service furnished under tariff provisions which~~  
9 ~~recognizes the need of some subscribers for extended area calling without imposing the cost~~  
10 ~~on the entire body of subscribers.~~

11 ~~(39) “Originating Party.” Any person, firm, corporation, or other entity, including a~~  
12 ~~telecommunications company or a billing clearinghouse, that provides any~~  
13 ~~telecommunications service or information service to a customer or bills a customer through a~~  
14 ~~billing party, except the term “originating party” does not include any entity specifically~~  
15 ~~exempted from the definition of “telecommunications company” as provided in Section~~  
16 ~~364.02(14)(a) through (f), F.S.~~

17 ~~(40) “Out of Service.” The inability, as reported by the customer, to complete either incoming~~  
18 ~~or outgoing calls over the subscriber’s line. “Out of Service” shall not include:~~

19 ~~(a) Service difficulties such as slow dial tone, circuits busy, or other network or switching~~  
20 ~~capacity shortages;~~

21 ~~(b) Interruptions caused by a negligent or willful act of the subscriber; and~~

22 ~~(c) Situations in which a company suspends or terminates service because of nonpayment of~~  
23 ~~bills, unlawful or improper use of facilities or service, or any other reason set forth in~~  
24 ~~approved tariffs or Commission rules.~~

25 ~~(41) “Outside Plant.” The telephone equipment and facilities installed on, along, or under~~  
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1 ~~streets, alleys, highways, or on private rights-of-way between the central office and~~  
2 ~~subscribers' locations or between central offices of the same or different exchanges.~~  
3 ~~(11)(42) "Pay Telephone Service Provider Company." Any telecommunications company that~~  
4 ~~provides pay telephone service as defined in Section 364.3375, F.S.~~  
5 ~~(12)(43) "PC-Freeze." (Preferred Carrier Freeze) A service offered that restricts the~~  
6 ~~customer's carrier selection until further notice from the customer.~~  
7 ~~(44) "Price regulated local exchange telecommunications company." Any local exchange~~  
8 ~~telecommunications company certificated by the Commission prior to July 1, 1995 that has~~  
9 ~~elected to become subject to price regulation pursuant to Section 364.051, F.S.~~  
10 ~~(13)(45) "Provider." Any entity providing telecommunication service, excluding pay~~  
11 ~~telephone providers and call aggregators (i.e., local, local toll, and toll providers).~~  
12 ~~(46) "Rate of return regulated local exchange telecommunications company." Any local~~  
13 ~~exchange telecommunications company certificated by the Commission prior to July 1, 1995~~  
14 ~~that has not elected to become subject to price regulation pursuant to Section 364.051, F.S.~~  
15 ~~(47) "Service Objective." A quality of service which is desirable to be achieved under normal~~  
16 ~~conditions.~~  
17 ~~(48) "Service Standard." A level of service that a telecommunications company, under normal~~  
18 ~~conditions, is expected to meet in its certificated territory as representative of adequate~~  
19 ~~services.~~  
20 ~~(49) "Small LEC." A LEC certificated by the Commission prior to July 1, 1995, which had~~  
21 ~~fewer than 100,000 access lines in service on July 1, 1995.~~  
22 ~~(14)(50) "Station." A telephone instrument consisting of a transmitter, receiver, and associated~~  
23 ~~apparatus so connected as to permit sending or receiving telephone messages.~~  
24 ~~(15)(51) "Subscriber" or "Customer." These terms may be used interchangeably herein and~~  
25 ~~shall mean any person, firm, partnership, corporation, municipality, cooperative organization,~~  
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1 or governmental agency supplied with telecommunications ~~communication~~ service by a  
2 telecommunications company.

3 ~~(52) “Subscriber Line.” or “Subscriber Loop.” See “Access Line.”~~

4 ~~(53) “Switching Center.” Location at which telephone traffic, either local or toll, is switched~~  
5 ~~or connected from one circuit or line to another. A local switching center may be comprised of~~  
6 ~~several central office units.~~

7 ~~(54) “Toll Connecting Trunk.” A trunk that connects a local central office with its toll~~  
8 ~~operating office.~~

9 ~~(55) “Toll Message.” A completed telephone call between stations in different exchanges for~~  
10 ~~which message toll charges are applicable.~~

11 ~~(56) “Toll Provider (TP).” Any entity providing interLATA long distance telecommunications~~  
12 ~~service.~~

13 ~~(57) “Traffic Study.” The process of recording usage measurements which can be translated~~  
14 ~~into required quantities of equipment.~~

15 ~~(58) “Trouble Report.” Any oral or written report from a subscriber or user of telephone~~  
16 ~~service to the telephone company indicating improper function or defective conditions with~~  
17 ~~respect to the operation of telephone facilities over which the telephone company has control.~~

18 ~~(59) “Trunk.” A communication channel between central office units or entities, or private~~  
19 ~~branch exchanges.~~

20 ~~(60) “Valid Number.” A number for a specific telephone terminal in an assigned area code and~~  
21 ~~working central office which is equipped to ring and connect a calling party to such terminal~~  
22 ~~number.~~

23 *Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.16, 364.32,*  
24 *364.335, 364.337, 364.3375, 364.3376, 364.602, 364.603, 364.604 FS. History—Revised 12-1-*  
25 *68, Amended 3-31-76, Formerly 25-4.03, Amended 2-23-87, 3-4-92, 12-21-93, 3-10-96, 12-*  
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1 | 28-98, 7-5-00, 4-3-05, Repromulgated 5-8-05, Amended 11-20-08,\_\_\_\_\_.

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