

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: August 6, 2018
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Samantha Cibula, Office of the General Counsel *S.M.C.*
RE: Docket No. 20041017-TI

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

COMMISSION
CLERK

2018 AUG - 6 PM 2: 05

RECEIVED-FPSC

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR



OFFICE OF THE GENERAL COUNSEL
RICHARD D. MELSON
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 10, 2005

Mr. John Rosner
The Florida Legislature
Joint Administrative Procedures Committee
Room 120, Holland Bldg.
Tallahassee, FL 32399-1300

Re: Rule 25-24; Docket No. 041017-TI

Dear Mr. Rosner:

This is in response to your April 12, 2005 memo, a copy of which is attached. We will delete Rule 25-24.600(3). If you have any questions, please call me at 413-6230.

Thank you for your assistance in this matter.

Sincerely,

Marlene K. Stern

Marlene K. Stern
Associate General Counsel

MKS

Attachment

041017 Rosner2.mks.doc

TOM LEE
President



ALLAN G. BENSE
Speaker



THE FLORIDA LEGISLATURE
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

Senator Michael S. "Mike" Bennett, Chair
Representative Ellyn Setnor Bogdanoff, Vice-Chair
Senator Nancy Argenziano
Senator Larcenia J. Bullard
Representative Susan K. Goldstein
Representative Matthew J. "Matt" Meadows

F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

Memorandum

TO: Marlene K. Stern

FROM: John Rosner *JR*

DATE: April 12, 2005

SUBJECT: Public Service Commission Rule 25-24.6003(3)

05 APR 13 AM 11:34
F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL

Thank you for your letter dated April 7, 2005. The explanations and proposed changes address the matters raised in my letter dated March 4, 2005, with one exception. Rule 25-24.600(3) provides that "each company" subject to the rules may petition for exemption from applicable portions of chapter 364, F.S. You identify section 364.337(4), F.S., as statutory authority. However, that statute directs that "a *certificated* intrastate interexchange telecommunications company may petition the commission for a waiver of some or all of the requirements of [chapter 364]" (e.s.) Therefore, the rule should be amended to comport with the statute.

TOM LEE
President



ALLAN G. BENSE
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

Senator Michael S. "Mike" Bennett, Chair
Representative Ellyn Setnor Bogdanoff, Vice-Chair
Senator Nancy Argenziano
Senator Larcenia J. Bullard
Representative Susan K. Goldstein
Representative Matthew J. "Matt" Meadows

F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

Memorandum

TO: Marlene K. Stern
FROM: John Rosner *JR*
DATE: April 12, 2005
SUBJECT: Public Service Commission Rule 25-24.6003(3)

RECEIVED
05 APR 13 AM 11:34
FLA PUBLIC SERVICE COMMISSION
OFFICE OF THE
GENERAL COUNSEL

Thank you for your letter dated April 7, 2005. The explanations and proposed changes address the matters raised in my letter dated March 4, 2005, with one exception. Rule 25-24.600(3) provides that "each company" subject to the rules may petition for exemption from applicable portions of chapter 364, F.S. You identify section 364.337(4), F.S., as statutory authority. However, that statute directs that "a *certificated* intrastate interexchange telecommunications company may petition the commission for a waiver of some or all of the requirements of [chapter 364]" (e.s.) Therefore, the rule should be amended to comport with the statute.

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
RICHARD D. MELSON
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 7, 2005

Mr. John Rosner, Chief Attorney
Joint Administrative Procedures Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

Re: RE: Public Service Commission Rule Chapter 25-24 (IXC Rules)

Dear Mr. Rosner:

Below are responses to your comments on the rules pertaining to intraexchange telecommunications companies (IXCs).

Rule 24.455

The law implemented by this rule is Section 364.337(4). It was incorrect to delete Section 364.337 as law implemented. The language has been revised in accordance with your comments.

Rule 25-24.470(3)

The form has never been adopted so we deleted the effective date from the form. We added the form number to the form.

The Commission's authority to require registration of IXCs comes from Section 364.02(13)(g), Florida Statutes. That section requires that IXCs provide the Commission with the information the Commission deems necessary to communicate with the company. We need to communicate with IXCs for such things as tracking payment of regulatory assessment fees and following up on consumer complaints. Establishing a registration system is the most efficient way to track each company.

With respect to the certification in Section 364.337(3), the Commission has no authority to require it, but if a company wants certification then they can apply and the Commission can grant it. Because certification by the Commission indicates that the company is managerially, technically and financially sound, a company may want it for purposes of acquiring a loan.

Rule 25-24.474(1)

The rule has been revised in accordance with your comments.

Mr. John Rosner, Chief Attorney
Page -2-
April 7, 2005

Rule 25-24.475(1)

The statutory authority supporting the requirement that IXCs must offer discounts on relay service comes from Section 427.704(1)(b), Florida Statutes. Relay service is used to provide telecommunications services to hearing and speech impaired persons and those who communicate with them. Section 427.704(1). Studies have shown that the provision of this service costs approximately twice as much as telecommunications services available to the general public. Section 427.704(1)(b) requires the Commission to “[e]nsure that users of the telecommunications relay service system pay rates no greater than the rates paid for functionally equivalent voice communications services.” IXCs must discount their relay services for this reason.

Rule 25-24.480(2)

This provision has been deleted.

Rule 25-24.600(3)

The citation in this rule has been changed to 364.337(4), which allows for waivers.

If you have any questions about these revisions, please call me at 413-6230. Thank you for your assistance with this matter.

Sincerely,

Marlene K. Stern
Associate General Counsel

IXC REGISTRATION FORM – PSC/CMP 31

Company Name _____

Florida Secretary of State Registration No. _____

Fictitious Name(s) as filed at Fla. Sec. of State

Company Mailing Name

Mailing Address

Web Address

E-mail Address

Physical Address

Company Liaison

Title

Phone

Fax

E-mail address

Consumer Liaison to PSC

Title

Address

Phone

Fax

E-mail address

My company's tariff as required in Section 364.04, Florida Statutes, is enclosed with this form. I understand that my company must notify the Commission of any changes to the above information pursuant to Section 364.02, Florida Statutes. My company will owe Regulatory Assessment Fees for each year or partial year my registration is active pursuant to Section 364.336, Florida Statutes. My company will comply with Section 364.603, Florida Statutes, concerning carrier selection requirements, and Section 364.604, Florida Statutes, concerning billing practices.

Signature of Company Representative

Printed/Typed Name of Representative

Date

Effective: 05 / 05

25-24.455 Scope and Waiver.

(1) This ~~Part~~ applies only to Intrastate Interexchange Companies (IXCs). As provided by Rules 25-4.002, 25-9.001 and 25-14.001, F.A.C., no provision of Chapters 25-4, 25-9, or 25-14, F.A.C., shall apply to IXCs~~Interexchange Companies~~, except as provided by this part.

(2) ~~To the extent these rules are inconsistent with provisions of Chapter 364, Florida Statutes, telephone companies subject to this Part are exempted from such provisions or are subject to different requirements than otherwise prescribed for telephone companies under the authority of Section 364.337, Florida Statutes.~~

~~(3) Any interexchange company may petition for exemption from applicable portions of Chapter 364, Florida Statutes, or for application of different requirements than otherwise prescribed for telephone companies by Chapter 364, Florida Statutes, under the authority of Section 364.337, Florida Statutes.~~

(24) An IXC~~interexchange company~~ may petition for a waiver of any provision of this Part. The waiver shall be granted in whole, granted in part, or denied based on the following: The Commission may grant a waiver to the extent that it determines that it is consistent with the public interest to do so. The Commission may grant the petition in whole or part, may limit the waiver to certain geographic areas and/or may impose reasonable alternative regulatory requirements on the petitioning company. In disposing of a petition, the Commission may consider:

(a) The factors enumerated in Section 364.337(4), Florida Statutes;

~~(b)~~ (b) The extent to which competitive forces may serve the same function as, or obviate the necessity for, the provision sought to be waived; ~~and~~

~~(c)~~ (c) Alternative regulatory requirements for the company which may serve the

purposes of this part; and

(d) Whether the waiver is in the public interest.

~~(5) — Any statutory exemptions or rule waivers granted prior to the adoption of this rule are void, and to the extent not covered in this rule, must be renewed.~~

Specific Authority 350.127(2) FS.

Law Implemented 364.01, 364.02, 364.337(4) FS.

History—New 2-23-87.

25-24.474 Cancellation of a ~~Certificate~~ Registration.

(1) ~~The following are grounds for cancellation of Commission may on its own motion cancel a company's registration certificate for any of the following reasons:~~

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

(b) Violation of Commission rule or order; or

(c) Violation of Florida Statutes.

(2) If a ~~registered-certificated~~ company desires to cancel its ~~registration certificate~~, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) ~~Statement of intent and date to pay~~ Current and any past due Regulatory Assessment Fees, and the associated penalty and interest; and

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

~~(be)~~ A statement on treatment of customer deposits and final bills.

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

(3) Cancellation of the IXC registration ~~Cancellation of a certificate shall be granted~~ ~~ordered~~ subject to the holder providing the information required by subsection (2).

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 350.127(1), 364.02, 364.285, ~~364.337~~, ~~364.345~~ FS.

History—New 2-23-87, Amended 3-13-96.

25-24.480 Records and Reports; Rules Incorporated.

(1) Each IXC shall remit Regulatory Assessment Fees in accordance with Rule 25-4.0161, F.A.C.

(2) Any IXC that keeps its records outside the State shall reimburse the Commission for the reasonable travel expense incurred by each Commission representative during any review of the out-of-state records of the IXC or its affiliates. Reasonable travel expenses are those travel expenses that are equivalent to travel expenses paid by the Commission in the ordinary course of its business.

(a) The IXC shall remit reimbursement for out-of-state travel expenses within 30 days from the date the Commission mails the invoice.

(b) The reimbursement requirement in subsection (2) shall be waived:

1. For any IXC that makes its out-of-state records available at its office located in Florida or at another mutually agreed upon location in Florida within 10 working days from the Commission's initial request. If 10 working days is not reasonable because of the complexity and nature of the issues involved or the volume and type of material requested, the Commission may establish a different time frame for the IXC to bring records into the state. For individual data requests made during an audit, the response time frame established in Rule 25-4.0201, F.A.C., shall control; or

2. For an IXC whose records are located within 50 miles of the Florida state line.

(2) Each IXC shall furnish to the Commission at such times and in such form as the Commission may require, the results of any required tests and summaries of any required records. The IXC shall also furnish the Commission with any information concerning the IXC's facilities or operations which the Commission may reasonably request and require. All such data,

unless otherwise specified, shall be consistent with and reconcilable with the IXC's regulatory assessment fee report to the Commission.

(3) Where an IXC is operated with another enterprise, records must be separated in such manner that the results of the IXC operations may be determined at any time.

(4) Upon notification to the IXC, members may, at reasonable times, make personal visits to the company offices or other places of business within or without the State and may inspect any accounts, books, records, and papers of the IXC which may be necessary in the discharge of Commission duties. Commission staff members will present Commission identification cards as the written authority to inspect records. During such visits the IXC shall provide the staff member(s) with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable with the accommodations provided the IXC's outside auditors.

~~(1) The following rules are incorporated herein by reference and apply to interexchange companies. In these rules, the word "local" should be omitted or interpreted as "toll", as they shall apply only to interexchange and not local service.~~

PORTIONS NOT		
SECTION	TITLE	APPLICABLE
25-4.019	Records and Reports in General	None
25-4.020	Location and Preservation of Records	Subsections (1), (3)
25-4.023	Report of Interruptions	Subsection (1)
25-4.043	Inquiries	None
25-4.0161	Regulatory Assessment Fees	None

~~25-4.079 — Hearing/Speech Impaired Persons — Subsections (1), (2), (3), and (5)~~

~~25-4.115 — Directory Assistance — Subsections (1) and (2)~~

~~(2) — Each company shall file updated information for the following items with the Division of Competitive Markets and Enforcement and the Division of the Commission Clerk and Administrative Services within 10 days after such changes occur.~~

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

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

~~(3) — Each company shall file form PSC/CMP 38 (date) with the Division of Competitive Markets and Enforcement by January 31 of each year. Form PSC/CMP 38 (date), entitled IXC Annual Report Form, is incorporated by reference into this rule and may be obtained from the Division of Communications.~~

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 350.115, 350.117, 364.01(4), 364.02, 364.336, 364.17, 364.18, 364.185, 364.337, 427.704 FS.

History—New 2-23-87, Amended 4-5-88, 7-11-88, 6-3-90, 10-25-90, 11-20-91, 12-29-91, 12-22-92, 12-27-94, 3-13-96, 10-1-96.

25-24.600 Application and Scope.

(1) The term “company” for the purpose of this Part also includes IXCs.

(2) This Part applies to:

(a) Every company that provides operator services as defined in Section 364.02, Florida Statutes,

(b) Every company that bills and collects in its own name for operator services provided by other entities, and

(c) Call aggregators as defined in this part.

~~(2) In addition to the rules contained in this Part, every company providing operator services shall also comply with the rules contained in Part X of Chapter 25-24, F.A.C.~~

(3) Each company subject to this Part may petition for exemption from applicable portions of Chapter 364, Florida Statutes, or for application of different requirements than those prescribed for telecommunications companies in Chapter 364, Florida Statutes, under the authority of Section ~~364.01(4)(b)~~337(4), Florida Statutes.

Specific Authority 350.127(2), 364.3376(8) FS.

Law Implemented 364.01, 364.3376, ~~364.337(4)~~ FS.

History—New 9-6-93, Amended 9-10-97, 2-1-99.

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR



OFFICE OF THE GENERAL COUNSEL
RICHARD D. MELSON
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 11, 2005

Mr. John Rosner
Joint Administrative Procedures Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

Re: Amendments to Chapter 25-24, F.A.C.

Mr. Rosner:

Pursuant to section 120.54(3)(e)(6), Florida Statutes, we are tolling the time to file this rule for adoption. Please do not hesitate to call me if you have any questions.

Sincerely,

Marlene K. Stern

Marlene K. Stern
Associate General Counsel

MKS
041017 Toll Time.mks.doc

TOM LEE
President



ALLAN G. BENSE
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

Senator Michael S. "Mike" Bennett, Chair
Representative Elyn Setnor Bogdanoff, Vice-Chair
Senator Nancy Argenziano
Senator Loretta J. Bullard
Representative Susan K. Goldstein
Representative Matthew J. "Matt" Meadows

F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

March 4, 2005

Ms. Marlene K. Stern
Office of the General Counsel
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule Chapter 25-24

Dear Ms. Stern:

I have completed a review of chapter 25-24 and prepared the following comments for your consideration and response.

25-24.455

(2): In light of the fact that section 364.337, F.S., is deleted as law implemented, please identify the specific statutory authority supporting this rule. *Assuming* statutory authority exists, the following comments apply. The rule provides in two instances that the Commission *may* grant a petition for waiver and *may* consider certain factors in disposing the petition. However, no standards or criteria are disclosed to apprise the reader of whether or not the petition will be granted or the factors will be considered under any circumstances. See section 120.52(8)(d), F.S. (rule is invalid exercise of delegated legislative authority where it is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency). The rule should be amended to disclose criteria to apprise the reader of the circumstances governing when the petition will be granted and when the factors will be considered.

25-24.470(3)

The effective date of the form is 7/15/03. The date should appear in the rule. Likewise, the form number should appear on the form.

In light of section 364.337(3), F.S., please explain why Intrastate Interexchange Companies are being registered as opposed to being certificated. Please identify the specific statutory authority supporting the requirement of registration.

Ms. Marlene K. Stern
March 4, 2005
Page 2

25-24.474(1):

The rule provides that the Commission *may* cancel a company's registration. For the reasons discussed above, the rule should be amended to disclose criteria pursuant to which the commission will or will not take such action.

25-24.475(1)

Please identify the specific statutory authority supporting the requirement that IXCs must offer discounts.

25-24.480(2)

Please identify the specific statutory authority supporting this paragraph.

25-24.600(3)

Section 364.01(4)(b), F.S., does not provide exemption authority.

I am available at your convenience to discuss the foregoing comments.

Sincerely,



John Rosner
Chief Attorney

cntl 134983

JR:yw s:\atty\yvonne\24-25 jr