

ORIGINAL

DOCKET NO. 970882-TI

CERTIFICATION OF  
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES  
FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

(2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

(a) Are filed not more than 90 days after the notice;

or

(b) Are filed not more than 90 days after the notice

AFA \_\_\_\_\_ not including days an administrative determination was pending;  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_ or

(c) Are filed more than 90 days after the notice, but

CMU \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_ not less than 21 days nor more than 45 days from the date of  
 LEG \_\_\_\_\_ publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but

OPC \_\_\_\_\_  
 RCH \_\_\_\_\_ not less than 14 nor more than 45 days after the adjournment of  
 SEC \_\_\_\_\_  
 WAS \_\_\_\_\_  
 OTH \_\_\_\_\_

SO DEC-8 11 2:32  
FILED

DOCUMENT NUMBER-DATE

13944 DEC 10 88

FPSC-RECORDS/REPORTING

the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

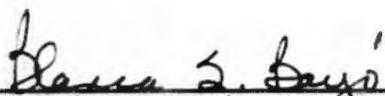
25-4.003

25-4.110

25-4.118

Under the provision of subparagraph 170.54(3)(e)6., F.S.,  
the rules take effect 20 days from the date filed with the  
Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)

  
\_\_\_\_\_  
BLANCA S. BAYÓ, Director  
Division of Records & Reporting

\_\_\_\_\_  
Number of Pages Certified

( S E A L )

DWC

1 25-4.003 Definitions.

2 For the purpose of Chapter 25-4, the definitions to the following  
3 terms apply:

4 (1) "Access Line" or "Subscriber Line." The circuit or  
5 channel between the demarcation point at the customer's premises  
6 and the serving end or class 5 central office.

7 (2) "Alternative Local Exchange Telecommunications Company  
8 (ALEC)." Any telecommunications company, as defined in Section  
9 364.02(1), Florida Statutes.

10 (3) "Average Busy Season-Busy Hour Traffic." The average  
11 traffic volume for the busy season busy hours.

12 (4) "Busy Hour." The continuous one-hour period of the day  
13 during which the greatest volume of traffic is handled in the  
14 office.

15 (5) "Busy Season." The calendar month or period of the year  
16 (preferably 30 days but not to exceed 60 days) during which the  
17 greatest volume of traffic is handled in the office.

18 (6) "Call." An attempted telephone message.

19 (7) "Central Office." A location where there is an assembly  
20 of equipment that establishes the connections between subscriber  
21 access lines, trunks, switched access circuits, private line  
22 facilities, and special access facilities with the rest of the  
23 telephone network.

24 (8) "Commission." The Florida Public Service Commission.

25 (9) "Company," "Telecommunications Company," "Telephone

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

1 | Company," or "Utility." These terms may be used interchangeably  
2 | herein and shall mean "telecommunications company" as defined in  
3 | Section 364.02(12), Florida Statutes.

4 |       (10) "Completed call." A call which has been switched through  
5 | an established path so that two-way conversation or data  
6 | transmission is possible.

7 |       (11) "Disconnect" or "Disconnection." The dissociation or  
8 | release of a circuit. In the case of a billable call, the end of  
9 | the billable time for the call whether intentionally terminated or  
10 | terminated due to a service interruption.

11 |       (12) "Drop or Service Wire." The connecting link that extends  
12 | from the local distribution service terminal to the protector or  
13 | telephone network interface device on the customer's premises.

14 |       (13) "Exchange." The entire telephone plant and facilities  
15 | used in providing telephone service to subscribers located in an  
16 | exchange area. An exchange may include more than one central  
17 | office unit.

18 |       (14) "Exchange (Service) Area." The territory of a local  
19 | exchange company (LEC) within which local telephone service is  
20 | furnished at the exchange rates applicable within that area.

21 |       (15) "Extended Area Service." A type of telephone service  
22 | whereby subscribers of a given exchange or area may complete calls  
23 | to, and receive messages from, one or more other exchanges or areas  
24 | without toll charges, or complete calls to one or more other  
25 | exchanges or areas without toll message charges.

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

1 (16) "Extension Station." An additional station connected on  
2 the same circuit as the main station and subsidiary thereto.

3 (17) "Foreign Exchange Service." A classification of LEC  
4 exchange service furnished under tariff provisions whereby a  
5 subscriber may be provided telephone service from an exchange other  
6 than the one from which he would normally be served.

7 (18) "Intercept Service." A service arrangement provided by  
8 the telecommunications company whereby calls placed to an  
9 unequipped non-working, disconnected, or discontinued telephone  
10 number are intercepted by operator, recorder, or audio response  
11 computer and the calling party informed that the called telephone  
12 number is not in service, has been disconnected, discontinued, or  
13 changed to another number, or that calls are received by another  
14 telephone. This service is also provided in certain central  
15 offices and switching centers to inform the calling party of  
16 conditions such as system blockages, inability of the system to  
17 complete a call as dialed, no such office code, and all circuits  
18 busy.

19 (19) "Interexchange Company (IXC)." Any telecommunications  
20 company, as defined in Section 364.02(12), Florida Statutes, which  
21 provides telecommunications service between local calling areas as  
22 those areas are described in the approved tariffs of individual  
23 LECs. IXC includes, but is not limited to, MLDAs as defined in  
24 subsection (35) of these definitions.

25 (20) "Inter-office Call." A telephone call originating in one

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

1 central office but terminating in another central office, both of  
2 which are in the same designated exchange area.

3 (21) "Interstate Toll Message." Those toll messages which do  
4 not originate and terminate within the same state.

5 (22) "Intertoll Trunk." A line or circuit between two toll  
6 offices, two end offices, or between an end office and toll office,  
7 over which toll calls are passed.

8 (23) "Intra-office Call." A telephone call originating and  
9 terminating within the same central office.

10 (24) "Intra-state Toll Message." Those toll messages which  
11 originate and terminate within the same state.

12 (25) "Invalid Number." A number comprised of an unassigned  
13 area code number or a non-working central office code (NXX).

14 (26) "Large LEC." A LEC certificated by the Commission prior  
15 to July 1, 1995, that had in excess of 100,000 access lines in  
16 service on July 1, 1995.

17 (27) "Local Access and Transport Area (LATA)" or "Market  
18 Area." A geographical area, which is loosely based on standard  
19 metropolitan statistical areas (SMSAs), within which a LEC may  
20 transport telecommunication signals.

21 (28) "Local Exchange Telecommunications Company (LEC)." Any  
22 telecommunications company, as defined in Section 364.02(6),  
23 Florida Statutes.

24 (29) "Local Provider (LP)." Any telecommunications company  
25 providing local telecommunications service, excluding pay telephone

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

1 providers and call aggregators.

2 (30) "Local Service Area" or "Local Calling Area." The area  
3 within which telephone service is furnished subscribers under a  
4 specific schedule of rates and without toll charges. A LEC's local  
5 service area may include one or more exchange areas or portions of  
6 exchange areas.

7 (31) "Local Toll Provider (LTP)." Any telecommunications  
8 company providing intraLATA or intramarket area long distance  
9 telecommunications service.

10 (32) "Main Station." The principal telephone associated with  
11 each service to which a telephone number is assigned and which is  
12 connected to the central office equipment by an individual or party  
13 line circuit or channel.

14 (33) "Message." A completed telephone call.

15 (34) "Mileage Charge." A tariff charge for circuits and  
16 channels connecting other services that are auxiliary to local  
17 exchange service such as off premises extensions, foreign exchange  
18 and foreign central office services, private line services, and tie  
19 lines.

20 (35) "Multiple Location Discount Aggregator (MLDA)." An  
21 entity that offers discounted long distance telecommunications  
22 services from an underlying IXC to unaffiliated entities. An  
23 entity is a MLDA if one or more of the following criteria applies:

24 (a) It collects fees related to interexchange  
25 telecommunications services directly from subscribers,

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

1 (b) It bills for interexchange telecommunications services in  
2 its own name,

3 (c) It is responsible for an end user's unpaid interexchange  
4 telecommunications bill, or

5 (d) A customer's bill cannot be determined by applying the  
6 tariff of the underlying IXC to the customer's individual usage.

7 (36) "Normal Working Days." The normal working days for  
8 installation and construction shall be all days except Saturdays,  
9 Sundays, and holidays. The normal working days for repair service  
10 shall be all days except Sundays and holidays. Holidays shall be  
11 the days which are observed by each individual telephone utility.

12 (37) "Optional Calling Plan." An optional service furnished  
13 under tariff provisions which recognizes the need of some  
14 subscribers for extended area calling without imposing the cost on  
15 the entire body of subscribers.

16 (38) "Out of Service." The inability, as reported by the  
17 customer, to complete either incoming or outgoing calls over the  
18 subscriber's line. "Out of Service" shall not include:

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

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

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

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

1 tariffs or Commission rules.

2 (39) "Outside Plant." The telephone equipment and facilities  
3 installed on, along, or under streets, alleys, highways, or on  
4 private rights-of-way between the central office and subscribers'  
5 locations or between central offices of the same or different  
6 exchanges.

7 (40) "Pay Telephone Service Company." Any telecommunications  
8 company that provides pay telephone service as defined in Section  
9 364.3375, Florida Statutes.

10 (41) "PC-Freeze." (Preferred Carrier Freeze) A service offered  
11 that restricts the customer's carrier selection until further  
12 notice from the customer.

13 (42) "Provider." Any telecommunications company providing  
14 service, excluding pay telephone providers and call aggregators  
15 (i.e. local, local toll, and toll providers).

16 (43) "Service Objective." A quality of service which is  
17 desirable to be achieved under normal conditions.

18 (44) "Service Standard." A level of service which a  
19 telecommunications company, under normal conditions, is expected to  
20 meet in its certificated territory as representative of adequate  
21 services.

22 (45) "Small LEC." A LEC certificated by the Commission prior  
23 to July 1, 1995, which had fewer than 100,000 access lines in  
24 service on July 1, 1995.

25 (46) "Station." A telephone instrument consisting of a

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

1 transmitter, receiver, and associated apparatus so connected as to  
2 permit sending or receiving telephone messages.

3 (47) "Subscriber" or "Customer." These terms may be used  
4 interchangeably herein and shall mean any person, firm,  
5 partnership, corporation, municipality, cooperative organization,  
6 or governmental agency supplied with communication service by a  
7 telecommunications company.

8 (48) "Subscriber Line." See "Access Line."

9 (49) "Switching Center." Location at which telephone traffic,  
10 either local or toll, is switched or connected from one circuit or  
11 line to another. A local switching center may be comprised of  
12 several central office units.

13 (50) "Toll Connecting Trunk." A trunk which connects a local  
14 central office with its toll operating office.

15 (51) "Toll Message." A completed telephone call between  
16 stations in different exchanges for which message toll charges are  
17 applicable.

18 (52) "Toll Provider (TP)." Any telecommunications company  
19 providing interLATA long distance telecommunications service.

20 (53) "Traffic Study." The process of recording usage  
21 measurements which can be translated into required quantities of  
22 equipment.

23 (54) "Trouble Report." Any oral or written report from a  
24 subscriber or user of telephone service to the telephone company  
25 indicating improper function or defective conditions with respect

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

1 to the operation of telephone facilities over which the telephone  
2 company has control.

3 (55) "Trunk." A communication channel between central office  
4 units or entities, or private branch exchanges.

5 (56) "Valid Number." A number for a specific telephone  
6 terminal in an assigned area code and working central office which  
7 is equipped to ring and connect a calling party to such terminal  
8 number.

9 Specific Authority: 350.127(2) F.S.

10 Law Implemented: 364.01, 364.02, 364.32, 364.335, 364.337 F.S.

11 History: Revised 12-1-68, Amended 3-31-76, formerly 25-4.03,

12 Amended 2-23-87, 3-4-92, 12-21-93, 3-10-96, 7-20-98, 12/28/98.

13

14 25-4.110 Customer Billing for Local Exchange Telecommunications  
15 Companies.

16 (1) Each company shall issue bills monthly. Each bill shall  
17 show the delinquent date, set forth a clear listing of all charges  
18 due and payable, and contain the following statement:

19 "Written itemization of local billing available upon request."

20 (a) Each LEC shall provide an itemized bill for local  
21 service:

22 1. With the first bill rendered after local exchange service  
23 to a customer is initiated or changed; and

24 2. To every customer at least once each twelve months.

25 (b) The annual itemized bill shall be accompanied by a bill

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

1 | stuffer which explains the itemization and advises the customer to  
2 | verify the items and charges on the itemized bill. This bill  
3 | stuffer shall be submitted to the Commission's Division of  
4 | Communications for prior approval. The itemized bill provided to  
5 | residential customers and to business customers with less than 10  
6 | access lines per service location shall be in easily understood  
7 | language. The itemized bill provided to business customers with 10  
8 | or more access lines per service location may be stated in service  
9 | order code, provided that it contains a statement that, upon  
10 | request, an easily understood translation is available in written  
11 | form without charge. An itemized bill shall include, but not be  
12 | limited to the following information, separately stated:

- 13 | 1. Number and types of access lines;
- 14 | 2. Charges for access to the system, by type of line;
- 15 | 3. Touch tone service charges;
- 16 | 4. Charges for custom calling features, separated by  
17 | feature;
- 18 | 5. Unlisted number charges;
- 19 | 6. Local directory assistance charges;
- 20 | 7. Other tariff charges; and
- 21 | 8. Other nontariffed, regulated charges contained in the  
22 | bill.

23 | (c) Each bill rendered by a local exchange company shall:

- 24 | 1. Separately state the following items:
  - 25 | a. Any discount or penalty, if applicable;

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

- 1        b.    Past due balance;  
2        c.    Unregulated charges, identified as unregulated;  
3        d.    Long-distance charges, if included in the bill;  
4        e.    Franchise fee, if applicable; and  
5        f.    Taxes, as applicable on purchases of local and long  
6 distance service; and

7            2.    Contain a statement that nonpayment of regulated charges  
8 may result in discontinuance of service and that the customer may  
9 contact the business office (at a stated number) to determine the  
10 amount of regulated charges in the bill.

11            (2) Each company shall make appropriate adjustments or  
12 refunds where the subscriber's service is interrupted by other than  
13 the subscriber's negligent or willful act, and remains out of order  
14 in excess of 24 hours after the subscriber notifies the company of  
15 the interruption. The refund to the subscriber shall be the pro  
16 rata part of the month's charge for the period of days and that  
17 portion of the service and facilities rendered useless or  
18 inoperative; except that the refund shall not be applicable for the  
19 time that the company stands ready to repair the service and the  
20 subscriber does not provide access to the company for such  
21 restoration work. The refund may be accomplished by a credit on a  
22 subsequent bill for telephone service.

23            (3) (a) Bills shall not be considered delinquent prior to  
24 the expiration of 15 days from the date of mailing or delivery by  
25 the company. However, the company may demand immediate payment

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

1 | under the following circumstances:

2 |       1.   Where service is terminated or abandoned;

3 |       2.   Where toll service is two times greater than the  
4 | subscriber's average usage as reflected on the monthly bills for  
5 | the three months prior to the current bill, or, in the case of a  
6 | new customer who has been receiving service for less than four  
7 | months, where the toll service is twice the estimated monthly toll  
8 | service; or

9 |       3.   Where the company has reason to believe that a business  
10 | subscriber is about to go out of business or that bankruptcy is  
11 | imminent for that subscriber.

12 |       (b) The demand for immediate payment shall be accompanied by  
13 | a bill which itemizes the charges for which payment is demanded,  
14 | or, if the demand is made orally, an itemized bill shall be mailed  
15 | or delivered to the customer within three days after the demand is  
16 | made.

17 |       (c) If the company cannot present an itemized bill, it may  
18 | present a summarized bill which includes the customer's name and  
19 | address and the total amount due. However, a customer may refuse  
20 | to make payment until an itemized bill is presented. The company  
21 | shall inform the customer that he may refuse payment until an  
22 | itemized bill is presented.

23 |       (4) Each telephone company shall include a bill insert  
24 | advising each subscriber of the directory closing date and of the  
25 | subscriber's opportunity to correct any error or make changes as

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

1 the subscriber deems necessary in advance of the closing date. It  
2 shall also state that at no additional charge and upon the request  
3 of any residential subscriber, the exchange company shall list an  
4 additional first name or initial under the same address, telephone  
5 number, and surname of the subscriber. The notice shall be  
6 included in the billing cycle closest to 60 days preceding the  
7 directory closing date.

8 (5) Annually, each telephone company shall include a bill  
9 insert advising each residential subscriber of the option to have  
10 the subscriber's name placed on the "No Sales Solicitation" list  
11 maintained by the Department of Agriculture and Consumer Services,  
12 Division of Consumer Services, and the 800 number to contact to  
13 receive more information.

14 (6) Where any undercharge in billing of a customer is the  
15 result of a company mistake, the company may not backbill in excess  
16 of 12 months. Nor may the company recover in a ratemaking  
17 proceeding, any lost revenue which inures to the company's  
18 detriment on account of this provision.

19 (7) Franchise fees and municipal telecommunications taxes.

20 (a) When a municipality charges a company any franchise fee,  
21 or municipal telecommunications tax authorized by Section 166.231,  
22 Florida Statutes, the company may collect that fee only from its  
23 subscribers receiving service within that municipality. When a  
24 county charges a company any franchise fee, the company may collect  
25 that fee only from its subscribers receiving service within that

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

1 county.

2 (b) A company may not incorporate any franchise fee or  
3 municipal telecommunications tax into its other rates for service.

4 (c) This subsection shall not be construed as granting a  
5 municipality or county the authority to charge a franchise fee or  
6 municipal telecommunications tax. This subsection only specifies  
7 the method of collection of a franchise fee, if a municipality or  
8 county, having authority to do so, charges a franchise fee or  
9 municipal telecommunications tax.

10 (8) (a) When a company elects to add the Gross Receipts Tax  
11 onto the customer's bill as a separately stated component of that  
12 bill, the company must first remove from the tariffed rates any  
13 embedded provisions for the Gross Receipts Tax.

14 (b) If the tariffed rates in effect have a provision for  
15 gross receipts tax, the rates must be reduced by an amount equal to  
16 the gross receipts tax liability imposed by Chapter 203, Florida  
17 Statutes, thereby rendering the customer's bill unaffected by the  
18 election to add the Gross Receipts Tax as a separately stated tax.

19 (c) This subsection shall not be construed as a mandate to  
20 elect to separately state the Gross Receipts Tax. This subsection  
21 only specifies the method of applying such an election.

22 (d) All services sold to another telecommunications vendor,  
23 provided that the applicable rules of the Department of Revenue are  
24 satisfied, must be reduced by an amount equal to the gross receipts  
25 tax liability imposed by Chapter 203, Florida Statutes, unless

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

1 those services have been adjusted by some other Commission action.

2 (e) When a nonrate base regulated telecommunications company  
3 exercises the option of adding the gross receipts tax as a  
4 separately stated component on the customer's bill then that  
5 company must file a tariff indicating such.

6 (9) Each LEC shall apply partial payment of an end  
7 user/customer bill first towards satisfying any unpaid regulated  
8 charges. The remaining portion of the payment, if any, shall be  
9 applied to nonregulated charges.

10 (10) After January 1, 1999, or six months after the effective  
11 date of this rule, whichever is later, all bills produced shall  
12 clearly and conspicuously display the following information for  
13 each service billed in regard to each company claiming to be the  
14 customer's presubscribed provider for local, local toll, or toll  
15 service:

16 (a) The name of the certificated company;

17 (b) Type of service provided, i.e., local, local toll, or  
18 toll; and

19 (c) A toll-free customer service number.

20 (11) This section applies to LECs that provide transmission  
21 services or bill and collect on behalf of Pay Per Call providers.  
22 Pay Per Call services are defined as switched telecommunications  
23 services between locations within the State of Florida which permit  
24 communications between an end use customer and an information  
25 provider's program at a per call charge to the end user/customer.

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

1 Pay Per Call services include 976 services provided by the LECs and  
2 900 services provided by interexchange carriers.

3 (a) Charges for Pay Per Call service (900 or 976) shall be  
4 segregated from charges for regular long distance or local charges  
5 by appearing separately under a heading that reads as follows:  
6 "Pay Per Call (900 or 976) nonregulated charges." The following  
7 information shall be clearly and conspicuously disclosed on each  
8 section of the bill containing Pay Per Call service (900 or 976)  
9 charges:

10 1. Nonpayment of Pay Per Call service (900 or 976) charges  
11 will not result in disconnection of local service;

12 2. End users/customers can obtain free blocking of Pay Per  
13 Call service (900 or 976) from the LEC;

14 3. The local or toll-free number the end user/customer can  
15 call to dispute charges;

16 4. The name of the IXC providing 900 service; and

17 5. The Pay Per Call service (900 or 976) program name.

18 (b) Pay Per Call Service (900 and 976) Billing. LECs and  
19 IXCs who have a tariff or contractual relationship with a Pay Per  
20 Call (900 or 976) provider shall not provide Pay Per Call  
21 transmission service or billing services, unless the provider does  
22 each of the following:

23 1. Provides a preamble to the program which states the per  
24 minute and total minimum charges for the Pay Per Call service (900  
25 and 976); child's parental notification requirement is announced on

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

1 preambles for all programs where there is a potential for minors to  
2 be attracted to the program; child's parental notification  
3 requirement in any preamble to a program targeted to children must  
4 be in language easily understandable to children; and programs that  
5 do not exceed \$3.00 in total charges may omit the preamble, except  
6 as provided in Section (11)(b)3.;

7       2. Provides an 18-second billing grace period in which the  
8 end user/customer can disconnect the call without incurring a  
9 charge; from the time the call is answered at the Pay Per Call  
10 provider's premises, the preamble message must be no longer than 15  
11 seconds. The program may allow an end user/customer to  
12 affirmatively bypass a preamble;

13       3. Provides on each program promotion targeted at children  
14 (defined as younger than 18 years of age) clear and conspicuous  
15 notification, in language understandable to children, of the  
16 requirement to obtain parental permission before placing or  
17 continuing with the call. The parental consent notification shall  
18 appear prominently in all advertising and promotional materials,  
19 and in the program preamble. Children's programs shall not have  
20 rates in excess of \$5.00 per call and shall not include the  
21 enticement of a gift or premium;

22       4. Promotes its services without the use of an autodialer or  
23 broadcasting of tones that dial a Pay Per Call (900 and 976)  
24 number;

25       5. Prominently discloses the additional cost per minute or

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

1 | per call for any other telephone number that an end user/customer  
2 | is referred to either directly or indirectly;

3 |         6. In all advertising and promotional materials, displays  
4 | charges immediately above, below, or next to the Pay Per Call  
5 | number, in type size that can be seen as clearly and conspicuously  
6 | at a glance as the Pay Per Call number. Broadcast television  
7 | advertising charges, in Arabic numerals, must be shown on the  
8 | screen for the same duration as the Pay Per Call number is shown,  
9 | each time the Pay Per Call number is shown. Oral representations  
10 | shall be equally as clear;

11 |         7. Provides on Pay Per Call services that involve sales of  
12 | products or merchandise clear preamble notification of the price  
13 | that will be incurred if the end user/customer stays on the line,  
14 | and a local or toll free number for consumer complaints; and

15 |         8. Meets internal standards established by the LEC or IXC as  
16 | defined in the applicable tariffs or contractual agreement between  
17 | the LEC and the IXC; or between the LEC/IXC and the Pay Per Call  
18 | (900 or 976) provider which when violated, would result in the  
19 | termination of a transmission or billing arrangement.

20 |         (c) Pay Per Call (900 and 976) Blocking Each LEC shall  
21 | provide blocking where technically feasible of Pay Per Call service  
22 | (900 and 976), at the request of the end user/customer at no  
23 | charge. Each LEC or IXC must implement a bill adjustment tracking  
24 | system to aid its efforts in adjusting and sustaining Pay Per Call  
25 | charges. The LEC or IXC will adjust the first bill containing Pay

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

1 Per Call charges upon the end user's/ customer's stated lack of  
2 knowledge that Pay Per Call service (900 and 976) has a charge. A  
3 second adjustment will be made if necessary to reflect calls billed  
4 in the following month which were placed prior to the Pay Per Call  
5 service inquiry. At the time the charge is removed, the end  
6 user/customer may agree to free blocking of Pay Per Call service  
7 (900 and 976).

8 (d) Dispute resolution for Pay Per Call service (900 and  
9 976). Charges for Pay Per Call service (900 and 976) shall be  
10 automatically adjusted upon complaint that:

11 1. The end user/customer did not receive a price  
12 advertisement, the price of the call was misrepresented to the  
13 consumer, or the price advertisement received by the consumer was  
14 false, misleading, or deceptive;

15 2. The end user/customer was misled, deceived, or confused  
16 by the Pay Per Call (900 or 976) advertisement;

17 3. The Pay Per Call (900 or 976) program was incomplete,  
18 garbled, or of such quality as to render it inaudible or  
19 unintelligible, or the end user/customer was disconnected or cut  
20 off from the service;

21 4. The Pay Per Call (900 and/or 976) service provided  
22 out-of-date information; or

23 5. The end user/customer terminated the call during the  
24 preamble described in 25-4.110(11)(b)2., but was charged for the  
25 Pay Per Call service (900 or 976).

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

1 (e) If the end user/customer refuses to pay a disputed Pay  
2 Per Call service (900 or 976) charge which is subsequently  
3 determined by the LEC to be valid, the LEC or IXC may implement Pay  
4 Per Call (900 and 976) blocking on that line.

5 (f) Credit and Collection. LECs and IXCs billing Pay Per  
6 Call (900 and 976) charges to an end user/customer in Florida shall  
7 not:

8 1. Collect or attempt to collect Pay Per Call service (900  
9 or 976) charges which are being disputed or which have been removed  
10 from an end user's/customer's bill; or

11 2. Report the end user/customer to a credit bureau or  
12 collection agency solely for non-payment of Pay Per Call (900 or  
13 976) charges.

14 (g) LECs and IXCs billing Pay Per Call service (900 and 976)  
15 charges to end users/customers in Florida shall implement  
16 safeguards to prevent the disconnection of phone service for  
17 non-payment of Pay Per Call (900 or 976) charges.

18 (12) The customer must be notified via letter or on the  
19 customer's first bill and annually thereafter that a PC Freeze is  
20 available. Existing customers must be notified by January 1, 1999,  
21 or six months after the effective date of this rule, whichever is  
22 later, and annually thereafter that a PC Freeze is available.

23 (13) By January 1, 1999, or six months after the effective  
24 date of this rule, whichever is later, the customer must be given  
25 notice on the first or second page of the customer's next bill in

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

1 conspicuous bold face type when the customer's provider of local,  
2 local toll, or toll service has changed.

3 Specific Authority: 350.127 F.S.

4 Law Implemented: 364.17, 350.113, 364.03, 364.04, 364.05, 364.19,  
5 F.S.

6 History: New 12-1-68, Amended 3-31-76, 12-31-78, 1-17-79,  
7 7-28-81, 9-8-81, 5-3-82, 11-21-82, 4-13-86, 10-30-86, 11-28-89,  
8 3-31-91, 11-11-91, 3-10-96, 7-20-97, 12/28/98.

9  
10 25-4.118 Local, Local Toll, or Toll Provider Selection.

11 (1) The provider of a customer shall not be changed without  
12 the customer's authorization. The customer or other authorized  
13 person may change the residential service. For the purposes of  
14 this section, the term "other authorized person" shall mean a  
15 person 18 years of age or older within the same household. The  
16 person designated as the contact for the local telecommunications  
17 company, an officer of the company, or the owner of the company is  
18 the person authorized to change business service. A LEC shall  
19 accept a provider change request by telephone call or letter  
20 directly from its customers; or

21  
22 (2) A LEC shall accept a change request from a certificated  
23 LP or IXC acting on behalf of the customer. A certificated LP or  
24 IXC shall submit a change request only if it has first certified to  
25 the LEC that at least one of the following actions has occurred:

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

1 (a) The provider has a letter of agency (LOA), as described  
2 n (3), from the customer requesting the change;

3 (b) The provider has received a customer-initiated call, and  
4 beginning six months after the effective date of this rule has  
5 obtained the following:

6 1. ~~The customer's consent to record the requested change and~~  
7 ~~An audio recording of information set forth in (3)(a)1.~~  
8 through 5.; and

9 2. Verification data including at least one of the  
10 following:

11 a. The customer's date of birth;

12 b. The last four digits of the customer's social security  
13 number; or

14 c. The customer's mother's maiden name.

15 (c) A firm that is independent and unaffiliated with the  
16 provider claiming the subscriber has verified the customer's  
17 requested change by obtaining the following:

18 1. The customer's consent to record the requested change or  
19 the customer has been notified that the call will be recorded; and

20 2. Beginning six months after the effective date of this  
21 rule an audio recording of the information stated in subsection  
22 (3)(a)1. through 5.; or

23 (d) 1. The provider has received a customer's change request,  
24 and has responded by mailing an informational package that shall  
25 include the following:

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

1 a. A notice that the information is being sent to confirm  
2 that ~~a telemarketer obtained~~ a customer's request to change the  
3 customer's telecommunications provider was obtained;

4 b. A description of any terms, conditions, or charges that  
5 will be incurred;

6 c. The name, address, and telephone number of both the  
7 customer and the soliciting company;

8 d. A postcard which the customer can use to confirm a change  
9 request;

10 e. A clear statement that the customer's local, local toll,  
11 or toll provider will be changed to the soliciting company only if  
12 the customer signs and returns the postcard confirming the change;  
13 and

14 f. A notice that the customer may contact by writing the  
15 Commission's Division of Consumer Affairs, 2540 Shumard Oak  
16 Boulevard, Tallahassee, Florida 32399-0850, or by calling, toll-  
17 free (TDD & Voice) 1-800-342-3552, for consumer complaints.

18 2. The soliciting company shall submit the change request to  
19 the LP only if it has first received the postcard that must be  
20 signed by the customer.

21 (3)(a) The LOA submitted to the company requesting a  
22 provider change shall include the following information (each shall  
23 be separately stated):

24 1. Customer's billing name, address, and each telephone  
25 number to be changed;

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

1           2.    Statement clearly identifying the certificated name of  
2 the provider and the service to which the customer wishes to  
3 subscribe, whether or not it uses the facilities of another  
4 company;

5           3.    Statement that the person requesting the change is  
6 authorized to request the change;

7           4.    Statement that the customer's change request will apply  
8 only to the number on the request and there must only be one  
9 presubscribed local, one presubscribed local toll, and one  
10 presubscribed toll provider for each number;

11          5.    Statement that the LEC may charge a fee for each provider  
12 change;

13          6.    Customer's signature and a statement that the customer's  
14 signature or endorsement on the document will result in a change of  
15 the customer's provider.

16          (b)   The soliciting company's provider change fee statement,  
17 as described in (a)5. above, shall be legible, printed in boldface  
18 at least as large as any other text on the page, and located  
19 directly above the signature line.

20          (c)   The soliciting company's provider change statement, as  
21 described in (a)6. above, shall be legible, printed in boldface at  
22 least as large as any other text on the page, and located directly  
23 below the signature line.

24          (4)   The LOA shall not be combined with inducements of any  
25 kind on the same document. The document as a whole must not be

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

1 misleading or deceptive. For purposes of this rule, the terms  
2 misleading or deceptive" mean that, because of the style, format  
3 or content of the document or oral statements, it would not be  
4 readily apparent to the person signing the document or providing  
5 oral authorization that the purpose of the signature or the oral  
6 authorization was to authorize a provider change, or it would be  
7 unclear to the customer who the new provider would be; that the  
8 customer's selection would apply only to the number listed and  
9 there could only be one provider for that number; or that the  
10 customer's LP might charge a fee to switch service providers. If  
11 any part of the LOA is written in a language other than English,  
12 then it must contain all relevant information in each language.  
13 Notwithstanding the above, the LOA may be combined with checks that  
14 contain only the required LOA language as prescribed in subsection  
15 (3) of this section and the information necessary to make the check  
16 a negotiable instrument. The LOA check shall not contain any  
17 promotional language or material. The LOA check shall contain in  
18 easily readable, bold-face type on the front of the check, a notice  
19 that the consumer is authorizing a primary carrier change by  
20 signing the check. The LOA language shall be placed near the  
21 signature line on the back of the check.

22 (5) A prospective provider must have received the signed LOA  
23 before initiating the change.

24 (6) Information obtained under (2)(a) through (d) LOAs and  
25 ~~audio recordings~~ shall be maintained by the provider for a period

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

1 of one year.

2 (7) Customer requests for other services, such as travel card  
3 service, do not constitute a provider change.

4 (8) Charges for unauthorized provider changes and all 1+  
5 charges billed on behalf of the unauthorized provider for the first  
6 30 days or first billing cycle, whichever is longer, shall be  
7 credited to the customer by the company responsible for the error  
8 within 45 days of notification to the company by the customer,  
9 unless the claim is false. After the first 30 days up to 12  
10 months, all 1+ charges over the rates of the preferred company will  
11 be credited to the customer by the company responsible for the  
12 error within 45 days of notification to the company by the  
13 customer, unless the claim is false. Upon notice from the customer  
14 of an unauthorized provider change, the LEC shall change the  
15 customer back, or to another company of the customer's choice. The  
16 change must be made within 24 hours excepting Saturday, Sunday, and  
17 holidays, in which case the change shall be made by the end of the  
18 next business day. The provisions of this subsection apply whether  
19 or not the change is deemed to be an unauthorized carrier change  
20 infraction under subsection (13).

21 (9) The company shall provide the following disclosures when  
22 soliciting a change in service from a customer:

23 (a) Identification of the company;

24 (b) That the purpose of the visit or call is to solicit a  
25 change of the provider of the customer;

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

1 (c) That the provider shall not be changed unless the  
2 customer authorizes the change; and

3 (d) All information as referenced in Rule 25-24.490(3).

4 (10) During telemarketing and verification, no misleading or  
5 deceptive references shall be made while soliciting for  
6 subscribers.

7 (11) A provider must provide the customer a copy of the  
8 authorization it relies upon in submitting the change request  
9 within 15 calendar days of request.

10 (12) Each provider company shall maintain a toll-free number  
11 for accepting complaints regarding unauthorized provider changes,  
12 which may be separate from its other customer service numbers, and  
13 must be answered 24 hours a day, seven days a week. If the number  
14 is a separate toll-free number, beginning six months after the  
15 effective date of this rule new customers must be notified of the  
16 number in the information package provided to new customers or on  
17 their first bill. The number shall provide a live operator to  
18 answer incoming calls 24 hours a day, 7 days a week, or shall  
19 record end user complaints or shall record end user complaints made  
20 to the customer service number to answer incoming calls. A  
21 combination of live operators and recorders may be used. If a  
22 recorder is used, the company shall attempt to contact each  
23 complainant no later than the next business day following the date  
24 of recording and for three each subsequent days unless the customer  
25 is reached. If the customer is not reached, the company shall send

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

1 a letter to the customer's billing address informing the customer  
2 as to the best time the customer should call or provide an address  
3 to which correspondence should be sent to the company. Beginning  
4 six months after the effective date of this rule, a minimum of 95  
5 percent of all call attempts shall be transferred by the system to  
6 a live attendant or recording device prepared to give immediate  
7 assistance within 60 seconds after the last digit of the telephone  
8 number listed as the customer service number for unauthorized  
9 provider change complaints was dialed; provided that if the call is  
10 completed within 15 seconds to an interactive, menu-driven, voice  
11 response unit, the 60-second answer time shall be measured from the  
12 point at which the customer selects a menu option to be connected  
13 to a live attendant. Station busies will not be counted as  
14 completed calls. The term "answer" as used in this subsection  
15 means more than an acknowledgment that the customer is waiting on  
16 the line. It shall mean the provider is ready to render assistance  
17 or accept the information necessary to process the call.

18 (13)(a) A company shall not be deemed to have committed an  
19 unauthorized carrier change infraction if the company, including  
20 its agents and contractors, did the following:

- 21 1. Followed the procedures required under subsection (2)  
22 with respect to the person requesting the change;
  - 23 2. Followed these procedures in good faith; and
  - 24 3. Complied with the credit procedures of subsection (8).
- 25

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

1        (b) In determining whether fines or other remedies are  
2 appropriate for an unauthorized carrier change infraction, the  
3 Commission shall consider the actions taken by the company to  
4 mitigate or undo the effects of the unauthorized change. These  
5 actions include but are not limited to whether the company,  
6 including its agents and contractors:

7            1. Followed the procedures required under subsection (2)  
8 with respect to the person requesting the change in good faith;  
9

10           2. Complied with the credit procedures of subsection (8);

11           3. Took prompt action in response to the unauthorized  
12 change;

13           4. Reported to the Commission any unusual circumstances that  
14 might have adversely affected customers such as system errors or  
15 inappropriate marketing practices that resulted in unauthorized  
16 changes and the remedial action taken;

17           5. Reported any unauthorized provider change, concurrently  
18 affecting a large number of customers; or

19           6. Took other corrective action to remedy the unauthorized  
20 change appropriate under the circumstances.

21 Specific Authority 350.127(2) F.S.

22 Law Implemented 364.01, 364.19, 364.285 F.S.

23 History: New 3-4-92, Amended 5-31-95, 7-20-98, 12/28/98.

24  
25  
  
CODING: Words underlined are additions; words in  
~~struck-through~~ type are deletions from existing law.

#### **SUMMARY OF RULE**

The proposed rule amendments and the new rule place new requirements on the local exchange companies, the alternative local exchange companies, and the interexchange companies regarding the circumstances under which changes may be made. The proposed rule amendments and new rule apply to local, local toll or "intraLATA", and toll service providers, each of who must be certificated by the Commission.

The customer must authorize the change. Changes to the preferred provider may only be made if at least one of the following four actions has occurred:

1) The company has a signed letter of agency (LOA) that contains sufficient information to verify that the consumer is authorizing the change. The LOA must contain certain information.

2) The company has received a consumer-initiated call and has obtained specific information from the customer.

3) An independent, unaffiliated firm has verified the consumer's request and obtained information by audio recording.

4) The company has received a consumer's change request and responds by mailing an information package.

A company may not combine the LOA with any inducement on the same document. Inducements in writing or by telephone may not be

misleading or deceptive.

If a person is slammed, charges for the change and all charges billed on behalf of the unauthorized provider for the first 30 days must be credited to the consumer. After 30 days up to 12 months any changes will be rerated. Upon notification by the consumer, the company must have the consumer switched back to this original provider or the provider of his choice.

Providers and billing companies are required to give notice to the customer in the bill and by letter that his provider of a particular service has switched and that a PIC freeze is available.

#### **SUMMARY OF HEARINGS ON THE RULE**

An evidentiary hearing before the full Commission was held on February 6 and 16, 1998. Evidence and sworn testimony was taken. The Commission adopted the proposed rules with changes t a hearing on May 19, 1998. The rules were challenged. Finally on November 3, 1998, the Commission adopted further changes consistent with a settlement agreement with the parties.

#### **FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE**

Notwithstanding existing rules, beginning in 1995, the Commission saw a significant increase in complaints regarding the unauthorized switching of a customer's long distance carrier chosen by the customer (slamming). In addition, competition has

50 DEC -8 PM 2:32  
FILED

been allowed for local and local toll service creating more opportunities for slamming to occur. The current rules do not address local or local toll service providers.