

MEMORANDUM

December 9, 1998

RECEIVED - FPSC

98 DEC -9 PM 1:47

RECORDS AND REPORTING

TO : DIVISION OF RECORDS & REPORTING

FROM : DIANA W. CALDWELL, ^{DWC}ASSOCIATE GENERAL COUNSEL

RE : DOCKET NO. 970882-TI - PROPOSED RULE 25-24.845, F.A.C., CUSTOMER RELATIONS; RULES INCORPORATED; AND PROPOSED AMENDMENTS TO RULES 25-4.003, F.A.C., DEFINITIONS; 25-4.110, F.A.C., CUSTOMER BILLING; 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION; AND 25-24.490, F.A.C., CUSTOMER RELATIONS; RULES INCORPORATED

98-1661-FDF-TI

Attached please find a Notice of Adoption for distribution by your office.

Industry distribution is:

- Electric (EI)
- Electric (EM)
- Electric (EC)
- Gas (GU)
- Gas (GS)
- Gas Pipeline (GP)
- Telephone (TL)
- Telephone (TI)
- Telephone (TC)
- Telephone (TS)
- Telephone (TX)
- Telephone Alternate Access Vendors (TA)
- Water and Wastewater (WAW)

794 self markers

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1.11.98

This document has the following priority:

- Must be issued today.
- Must be issued within 48 hours.
- Must be issued within 5 working days.

This docket will be closed upon issuance of the Notice.

NOA4003.DWC

Attachment

cc: File
 Sandy Moses (w/o attach.)
 W. Terrell

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rule 25-24.845,
F.A.C., Customer Relations;
Rules Incorporated; and Proposed
Amendments to Rules 25-4.003,
F.A.C., Definitions; 25-4.110,
F.A.C., Customer Billing; 25-
4.118, F.A.C., Interexchange
Carrier Selection; and 25-
24.490, F.A.C., Customer
Relations; Rules Incorporated

DOCKET NO. 970882-TI
ORDER NO. PSC-98-1661-FOF-TI
ISSUED: December 9, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF ADOPTION OF RULES

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted Rule 25-24.845 and the amendments to Rules 25-4.003, 25-4.110, 25-4.118 and 25-24.490, Florida Administrative Code, relating to authorization requirement to change providers of telecommunications service, without changes.

The rules were filed with the Department of State on December 8, 1998 and will be effective on December 28, 1998. A copy of the rules as filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

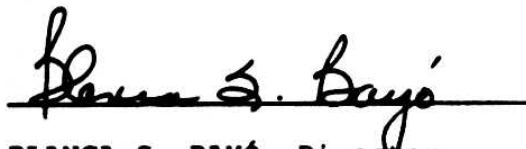
DOCUMENT NUMBER- DATE

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FPSC-RECORDS/REPORTING

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By ORDER of the Florida Public Service Commission, this 9th
day of December, 1998.

A handwritten signature in black ink, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records & Reporting

(S E A L)

DWC

25-4.003 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) "Inter-office Call." A telephone call originating in one central office but terminating in another central office, both of which are in the same designated exchange area.

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

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

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

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

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

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

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

(28) "Local Exchange Telecommunications Company (LEC)." Any telecommunications company, as defined in Section 304.02(6), Florida Statutes.

(29) "Local Provider (LP)." Any telecommunications company providing local telecommunications service, excluding pay telephone providers and call aggregators.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(46) "Station." A telephone instrument consisting of a transmitter, receiver, and associated apparatus so connected as to permit sending or receiving telephone messages.

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

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

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

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

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

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

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

(54) "Trouble Report." Any oral or written report from a subscriber or user of telephone service to the telephone company indicating improper function or defective conditions with respect to the operation of telephone facilities over which the telephone company has control.

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

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

Specific Authority: 350.127(2) F.S.

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

History: Revised 12-1-68, Amended 3-31-76, formerly 25-4.03, Amended 2-23-87, 3-4-92, 12-21-93, 3-10-96, 7-20-98, 12/28/98.

25-4.110 Customer Billing for Local Exchange Telecommunications Companies.

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

"Written itemization of local billing available upon request."

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

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

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

(b) The annual itemized bill shall be accompanied by a bill stuffer which explains the itemization and advises the customer to verify the items and charges on the itemized bill. This bill stuffer shall be submitted to the Commission's Division of

Communications for prior approval. The itemized bill provided to residential customers and to business customers with less than 10 access lines per service location shall be in easily understood language. The itemized bill provided to business customers with 10 or more access lines per service location may be stated in service order code, provided that it contains a statement that, upon request, an easily understood translation is available in written form without charge. An itemized bill shall include, but not be limited to the following information, separately stated:

1. Number and types of access lines;
2. Charges for access to the system, by type of line;
3. Touch tone service charges;
4. Charges for custom calling features, separated by feature;
5. Unlisted number charges;
6. Local directory assistance charges;
7. Other tariff charges; and
8. Other nontariffed, regulated charges contained in the bill.

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

1. Separately state the following items:
 - a. Any discount or penalty, if applicable;
 - b. Past due balance;

- c. Unregulated charges, identified as unregulated;
- d. Long-distance charges, if included in the bill;
- e. Franchise fee, if applicable; and
- f. Taxes, as applicable on purchases of local and long distance service; and

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

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

(3)(a) Bills shall not be considered delinquent prior to the expiration of 15 days from the date of mailing or delivery by

the company. However, the company may demand immediate payment under the following circumstances:

1. Where service is terminated or abandoned;
2. Where toll service is two times greater than the subscriber's average usage as reflected on the monthly bills for the three months prior to the current bill, or, in the case of a new customer who has been receiving service for less than four months, where the toll service is twice the estimated monthly toll service; or
3. Where the company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is imminent for that subscriber.

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

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

(4) Each telephone company shall include a bill insert advising each subscriber of the directory closing date and of the subscriber's opportunity to correct any error or make changes as the subscriber deems necessary in advance of the closing date. It shall also state that at no additional charge and upon the request of any residential subscriber, the exchange company shall list an additional first name or initial under the same address, telephone number, and surname of the subscriber. The notice shall be included in the billing cycle closest to 60 days preceding the directory closing date.

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

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

(7) Franchise fees and municipal telecommunications taxes.

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

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

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

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

(b) If the tariffed rates in effect have a provision for gross receipts tax, the rates must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida

Statutes, thereby rendering the customer's bill unaffected by the election to add the Gross Receipts Tax as a separately stated tax.

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

(d) All services sold to another telecommunications vendor, provided that the applicable rules of the Department of Revenue are satisfied, must be reduced by an amount equal to the gross receipts tax liability imposed by Chapter 203, Florida Statutes, unless those services have been adjusted by some other Commission action.

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

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

(10) After January 1, 1999, or six months after the effective date of this rule, whichever is later, all bills produced shall clearly and conspicuously display the following information for each service billed in regard to each company claiming to be the

customer's presubscribed provider for local, local toll, or toll service:

(a) The name of the certificated company;

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

(c) A toll-free customer service number.

(11) This section applies to LECs that provide transmission services or bill and collect on behalf of Pay Per Call providers. Pay Per Call services are defined as switched telecommunications services between locations within the State of Florida which permit communications between an end use customer and an information provider's program at a per call charge to the end user/customer. Pay Per Call services include 976 services provided by the LECs and 900 services provided by interexchange carriers.

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

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

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

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

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

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

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

1. Provides a preamble to the program which states the per minute and total minimum charges for the Pay Per Call service (900 and 976); child's parental notification requirement is announced on preambles for all programs where there is a potential for minors to be attracted to the program; child's parental notification requirement in any preamble to a program targeted to children must be in language easily understandable to children; and programs that do not exceed \$3.00 in total charges may omit the preamble, except as provided in Section (11)(b)3.;

2. Provides an 18-second billing grace period in which the end user/customer can disconnect the call without incurring a charge; from the time the call is answered at the Pay Per Call

provider's premises, the preamble message must be no longer than 15 seconds. The program may allow an end user/customer to affirmatively bypass a preamble;

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

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

5. Prominently discloses the additional cost per minute or per call for any other telephone number that an end user/customer is referred to either directly or indirectly;

6. In all advertising and promotional materials, displays charges immediately above, below, or next to the Pay Per Call number, in type size that can be seen as clearly and conspicuously at a glance as the Pay Per Call number. Broadcast television advertising charges, in Arabic numerals, must be shown on the

screen for the same duration as the Pay Per Call number is shown, each time the Pay Per Call number is shown. Oral representations shall be equally as clear;

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

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

(c) Pay Per Call (900 and 976) Blocking. Each LEC shall provide blocking where technically feasible of Pay Per Call service (900 and 976), at the request of the end user/customer at no charge. Each LEC or IXC must implement a bill adjustment tracking system to aid its efforts in adjusting and sustaining Pay Per Call charges. The LEC or IXC will adjust the first bill containing Pay Per Call charges upon the end user's/ customer's stated lack of knowledge that Pay Per Call service (900 and 976) has a charge. A second adjustment will be made if necessary to reflect calls billed in the following month which were placed prior to the Pay Per Call service inquiry. At the time the charge is removed, the end

user/customer may agree to free blocking of Pay Per Call service (900 and 976).

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

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

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

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

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

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

(e) If the end user/customer refuses to pay a disputed Pay Per Call service (900 or 976) charge which is subsequently

determined by the LEC to be valid, the LEC or IXC may implement Pay Per Call (900 and 976) blocking on that line.

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

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

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

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

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

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

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

Specific Authority: 350.127 F.S.

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

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

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

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

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

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

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

~~1. The customer's consent to record the requested change and~~
~~2. An audio recording of information set forth in (3)(a)1. through 5.; and~~

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

a. The customer's date of birth;
b. The last four digits of the customer's social security number; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The LOA shall not be combined with inducements of any kind on the same document. The document as a whole must not be misleading or deceptive. For purposes of this rule, the terms "misleading or deceptive" mean that, because of the style, format or content of the document or oral statements, it would not be readily apparent to the person signing the document or providing oral authorization that the purpose of the signature or the oral authorization was to authorize a provider change, or it would be unclear to the customer who the new provider would be; that the customer's selection would apply only to the number listed and there could only be one provider for that number; or that the customer's LP might charge a fee to switch service providers. If any part of the LOA is written in a language other than English, then it must contain all relevant information in each language. Notwithstanding the above, the LOA may be combined with checks that contain only the required LOA language as prescribed in subsection (3) of this section and the information necessary to make the check a negotiable instrument. The LOA check shall not contain any promotional language or material. The LOA check shall contain in easily readable, bold-face type on the front of the check, a notice

that the consumer is authorizing a primary carrier change by signing the check. The LOA language shall be placed near the signature line on the back of the check.

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

(6) Information obtained under (2)(a) through (d) LOAs and audio recordings shall be maintained by the provider for a period of one year.

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

(8) Charges for unauthorized provider changes and all 1+ charges billed on behalf of the unauthorized provider for the first 30 days or first billing cycle, whichever is longer, shall be credited to the customer by the company responsible for the error within 45 days of notification to the company by the customer, unless the claim is false. After the first 30 days up to 12 months, all 1+ charges over the rates of the preferred company will be credited to the customer by the company responsible for the error within 45 days of notification to the company by the customer, unless the claim is false. Upon notice from the customer of an unauthorized provider change, the LEC shall change the customer back, or to another company of the customer's choice. The change must be made within 24 hours excepting Saturday, Sunday, and holidays, in which case the change shall be made by the end of the

next business day. The provisions of this subsection apply whether or not the change is deemed to be an unauthorized carrier change infraction under subsection (13).

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

(a) Identification of the company;

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

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

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

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

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

(12) Each provider company shall maintain a toll-free number for accepting complaints regarding unauthorized provider changes, which may be separate from its other customer service numbers, and must be answered 24 hours a day, seven days a week. If the number is a separate toll-free number, beginning six months after the effective date of this rule new customers must be notified of the number in the information package provided to new customers or on

~~their first bill. The number shall provide a live operator to answer incoming calls 24 hours a day, 7 days a week, or shall record end user complaints or shall record end user complaints made to the customer service number to answer incoming calls.~~ A combination of live operators and recorders may be used. If a recorder is used, the company shall attempt to contact each complainant no later than the next business day following the date of recording and for three each subsequent days unless the customer is reached. If the customer is not reached, the company shall send a letter to the customer's billing address informing the customer as to the best time the customer should call or provide an address to which correspondence should be sent to the company. Beginning six months after the effective date of this rule, a minimum of 95 percent of all call attempts shall be transferred by the system to a live attendant or recording device prepared to give immediate assistance within 60 seconds after the last digit of the telephone number listed as the customer service number for unauthorized provider change complaints was dialed; provided that if the call is completed within 15 seconds to an interactive, menu-driven, voice response unit, the 60-second answer time shall be measured from the point at which the customer selects a menu option to be connected to a live attendant. Station busies will not be counted as completed calls. The term "answer" as used in this subsection means more than an acknowledgment that the customer is waiting on

the line. It shall mean the provider is ready to render assistance or accept the information necessary to process the call.

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

1. Followed the procedures required under subsection (2) with respect to the person requesting the change;

2. Followed these procedures in good faith; and

3. Complied with the credit procedures of subsection (8).

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

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

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

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

4. Reported to the Commission any unusual circumstances that might have adversely affected customers such as system errors or

inappropriate marketing practices that resulted in unauthorized changes and the remedial action taken;

5. Reported any unauthorized provider changes concurrently affecting a large number of customers; or

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

Specific Authority 350.127(2) F.S.

Law Implemented 364.01, 364.19, 364.285 F.S.

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

25-24.490 Customer Relations; Rules Incorporated.

(1) The following rules are incorporated herein by reference and apply to IXCs.

| Section | Title | Portions Applicable |
|----------|--|---|
| 25-4.110 | Customer Billing | Subsections (10), (11), (12), and (13) |
| 25-4.111 | Customer Complaint and Service Requests | All except Subsection (2) |
| 25-4.112 | Termination of Service by Customer | All |
| 25-4.113 | Refusal or Discontinuance of Service by Company | All |
| 25-4.114 | Refunds | All |
| 25-4.117 | 800 Service | All |

25-4.118 Local, Local Toll, or All
 Toll Provider
 Selection

(2) An IXC may require a deposit as a condition of service and may collect advance payments for more than one month of service if it maintains on file with the Commission a bond covering its current balance of deposits and advance payments (for more than one month's service). A company may apply to the Commission for a waiver of the bond requirement by demonstrating that it possesses the financial resources and income to provide assurance of continued operation under its certificate over the long term.

(3) Upon request, each company shall provide verbally or in writing to any person inquiring about the company's service:

- (a) any nonrecurring charge,
- (b) any monthly service charge or minimum usage charge,
- (c) company deposit practices,
- (d) any charges applicable to call attempts not answered,
- (e) a statement of when charging for a call begins and ends,

and

(f) a statement of billing adjustment practices for wrong numbers or incorrect bills.

In addition, the above information shall be included in the first bill, or in a separate mailing no later than the first bill, to all new customers and to all customers presubscribing on or after the

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effective date of this rule, and in any information sheet or brochure distributed by the company for the purpose of providing information about the company's services. The above information shall be clearly expressed in simple words, sentences and paragraphs. It must avoid unnecessarily long, complicated or obscure phrases or acronyms.

Specific Authority 350.127(2) F.S.

Law Implemented 364.03, 364.14, 364.15, 364.19, 364.337 F.S.

History: New 2-23-87, Amended 10-31-89, 3-5-90, 3-4-92, 3-13-96, 7-20-98, 12/28/98.

25-24.845 Customer Relations; Rules Incorporated.

The following rules are incorporated herein by reference and apply to ALECs. In the following rules, the acronym 'LEC' should be omitted or interpreted as 'ALEC'.

| Section | Title | Portions Applicable |
|----------|---|--|
| 25-4.110 | Customer Billing | Subsections (10), (11), (12), and (13) |
| 24-4.118 | Local, Local Toll, or Toll Provider Selection | All |

Specific Authority: 350.127(2) and 364.337(2), F.S.

Law Implemented: 364.337(2).

History: New 7-20-98, 12/28/98.