

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rules 25-4.300,
F.A.C., Scope and Definitions;
25-4.301, F.A.C., Applicability
of Fresh Look; and 25-4.302,
F.A.C., Termination of LEC
Contracts.

DOCKET NO. 980253-TX
ORDER NO. PSC-99-0539-NOR-TX
ISSUED: March 24, 1999

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to adopt Rules 25-4.300, 25-4.301 and 25-4.302, Florida Administrative Code, relating to "fresh look" or a one-time opportunity for customers of incumbent local exchange companies to opt out of certain existing contracts so as to avail themselves of competitive alternatives.

The attached Notice of Rulemaking will appear in the April 2, 1999 edition of the Florida Administrative Weekly.

A hearing will be held at the following time and place:

9:30 a.m., Wednesday, May 12, 1999
Betty Easley Conference Center
4075 Esplanade Way, Room 152
Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rules must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, no later than April 23, 1999.

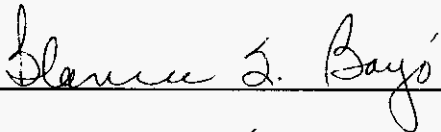
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FPSC-RECORDS/REPORTING

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By ORDER of the Florida Public Service Commission, this 24th
day of March, 1999.



BLANCA S. BAYÓ, Director
Division of Records & Reporting

(S E A L)

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NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 980253-TX

RULE TITLE:	RULE NO.:
Scope and Definitions	25-4.300
Applicability of Fresh Look	25-4.301
Termination of LEC Contracts	25-4.302

PURPOSE AND EFFECT: To enable ALECs to compete for existing ILEC customer contracts covering local telecommunications services offered over the public switched network, which were entered into prior to switch-based substitutes for local exchange telecommunications services.

SUMMARY: The rules describe those limited circumstances under which a customer may terminate an ILEC contract service arrangement or tariffed term plan (collectively, contracts), subject to a termination liability less than that specified in the contract. Those limited circumstances are for customer contracts covering local telecommunications services offered over the public switched network, which were entered into over the public switched network, which were entered into prior to the effective date of this rule, and that are still in effect and will remain in effect for at least six months after the effective date of this rule. In these limited circumstances, a customer may terminate said contract, during the

"fresh look window", by paying only any unrecovered non-recurring cost which the ILEC has incurred. The "fresh look window" will begin 60 days following the effective date of this rule and end two years later.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: If the proposed Fresh Look rule becomes effective, a LEC will lose the revenues it would have earned from a customer who terminates early, except for the portion of those revenues associated with nonrecurring costs. A LEC would only experience a financial loss if its unrecovered, contract specific nonrecurring costs exceeded the termination liability specified in the controlling contract or tariff. LECs were generally unable to estimate the amount of costs, if any, they would not be able to recover since it is unknown which contracts might be terminated. The addition of the phrase "and have not elected price cap regulations" in section 25-24.300(1) includes all companies that may have competition in the area. Small LECs will be impacted to the extent that they have these types of contracts.

LECs would incur relatively minor administrative and labor costs to provide the Statement of Termination Liability to customers. Transactional costs for ALECs should be limited to the administrative cost of setting up new customer accounts. End-user customers should benefit from the proposed rules by having the

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opportunity to obtain services at lower rates with limited liability for contract termination charges.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), FS

LAW IMPLEMENTED: 364.19, FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE FOLLOWING TIME AND PLACE:

TIME: 9:30 A.M., WEDNESDAY, MAY 12, 1999

PLACE: BETTY EASLEY CONFERENCE CENTER, 4075 ESPLANADE WAY, ROOM 152, TALLAHASSEE, FL

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS:
Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THESE PROPOSED RULES IS:

PART XII - FRESH LOOK

25-4.300 Scope and Definitions

25-4.301 Applicability of Fresh Look

25-4.302 Termination of LEC Contracts

25-4.300 Scope and Definitions.

(1) Scope. For the purposes of this Part, all contracts that include local telecommunications services offered over the public switched network, between LECs and end users, which were entered into prior to the effective date of this rule, that are in effect as of the effective date of this rule, and are scheduled to remain in effect for at least six months after the effective date of this rule will be contracts eligible for Fresh Look. Local telecommunications services offered over the public switched network are defined as those services which include provision of dial tone and flat-rated or message-rated usage. If an end user exercises an option to renew or a provision for automatic renewal, this constitutes a new contract for purposes of this Part, unless penalties apply if the end user elects not to exercise such option or provision. This Part does not apply to LECs which had fewer than 100,000 access lines as of July 1, 1995, and have not elected price-cap regulation. Eligible contracts include Contract Service Arrangements (CSAs) and tariffed term plans in which the rate varies according to the end user's term commitment.

(2) For the purposes of this Part, the definitions to the following terms apply:

(a) "Fresh Look Window"- The period of time during which LEC end users may terminate eligible contracts under the limited liability provision specified in Rule 25-4.302(3).

(b) "Notice of Intent to Terminate"- The written notice by an end user of the end user's intent to terminate an eligible contract pursuant to this rule.

(c) "Notice of Termination"- The written notice by an end user to terminate an eligible contract pursuant to this rule.

(d) "Statement of Termination Liability"- The written statement by a LEC detailing the liability pursuant to 25-4.302(3), if any, for an end user to terminate an eligible contract.

Specific Authority: 350.127(2), FS.

Law Implemented: 364.19, FS.

History: New XX-XX-XX.

25-4.301 Applicability of Fresh Look.

(1) The Fresh Look Window shall apply to all eligible contracts.

(2) The Fresh Look Window shall begin 60 days after the effective date of this rule.

(3) The Fresh Look Window shall remain open for two years from the starting date of the Fresh Look Window.

(4) An end user may only issue one Notice of Intent to Terminate during the Fresh Look Window for each eligible contract.

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Specific Authority: 350.127(2), FS.

Law Implemented: 364.19, FS.

History: New XX-XX-XX.

25-4.302 Termination of LEC Contracts.

(1) Each LEC shall respond to all Fresh Look inquiries and shall designate a contact within its company to which all Fresh Look inquiries and requests should be directed.

(2) An end user may provide a written Notice of Intent to Terminate an eligible contract to the LEC during the Fresh Look Window.

(3) Within ten business days of receiving the Notice of Intent to Terminate, the LEC shall provide a written Statement of Termination Liability. The termination liability shall be limited to any unrecovered, contract specific nonrecurring costs, in an amount not to exceed the termination liability specified in the terms of the contract. The termination liability shall be calculated from the information contained in the contract or the workpapers supporting the contract. If a discrepancy arises between the contract and the workpapers, the contract shall be controlling. In the Statement of Termination Liability, the LEC shall specify if and how the termination liability will vary depending on the date services are disconnected pursuant to subsections (4) and (6) and on the payment method selected in subsection (5).

(4) From the date the end user receives the Statement of Termination Liability from the LEC, the end user shall have 30 days to provide a Notice of Termination. If the end user does not provide a Notice of Termination within 30 days, the eligible contract shall remain in effect.

(5) If the end user provides the Notice of Termination, the end user will choose and pay any termination liability according to one of the following payment options:

(a) One-time payment of the unrecovered nonrecurring cost, as calculated from the contract or the work papers supporting the contract, at the time of service termination; or

(b) Monthly payments, over the remainder of the term specified in the now terminated contract, equal to that portion of the recurring rate which recovers the nonrecurring cost, as calculated from the contract or the work papers supporting the contract.

(6) The LEC shall have 30 days to terminate the subject services from the date the LEC receives the Notice of Termination.

Specific Authority: 350.127(2), FS.

Law Implemented: 364.19, FS.

History: New XX-XX-XX.

NAME OF PERSON ORIGINATING PROPOSED RULES: SALLY SIMMONS

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

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DATE PROPOSED RULES APPROVED: March 16, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume
24, Number 11, March 13, 1998

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).