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Public Service Commission

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July 22, 2004

HAND DELIVER

Mr. Scott Boyd, Executive Director
Joint Administrative Procedures Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 040269-TP – Proposed adoption of Rule No. 25-22.0365, F.A.C;
Expedited Hearing

Dear Mr. Boyd:

The Commission has approved the adoption of Rule 25-22.0365 without changes.

We plan to file the rule for adoption on July 30, 2004.

Sincerely,

Marlene K. Stern

Marlene K. Stern
Associate General Counsel

- CMP _____ Rule 25-22.0365Webb2.mks.doc
- COM _____ Enclosure
- CTR _____ cc: Division of the Commission Clerk and Administrative Services
- ECR _____
- GCL _____
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1 25-22.0365 Expedited Dispute Resolution Process for Telecommunications Companies.

2 (1) The purpose of this rule is to establish an expedited process for resolution of disputes
3 between telecommunications companies ("companies").

4 (2) To be considered for an expedited proceeding, the companies involved in the dispute
5 must have attempted to resolve their dispute informally.

6 (3) To initiate the expedited dispute resolution process, the complainant company must
7 file with the Commission a request for expedited proceeding, direct testimony, and exhibits,
8 and must simultaneously serve the filing on the other company involved in the dispute. The
9 request for expedited proceeding is in lieu of the petition required by Rule 28-106.201, Florida
10 Administrative Code.

11 (4) The request for expedited proceeding must include:

12 (a) the name, address, telephone number, facsimile number and e-mail address of the
13 complainant company and its representative to be served, if different from the company;

14 (b) a statement of the specific issue or issues to be litigated and the complainant
15 company's position on the issue or issues;

16 (c) the relief requested;

17 (d) a statement attesting to the fact that the complainant company attempted to resolve the
18 dispute informally; and,

19 (e) an explanation of why the use of this expedited process is appropriate. The
20 explanation of why use of the expedited process is appropriate shall include a discussion of the
21 following:

22 1. the number and complexity of the issues;

23 2. the policy implications that resolution of the dispute is expected to have, if any;

24 3. the topics on which the company plans to conduct discovery, including a description of
25 the nature and quantity of information expected to be exchanged;

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1 4. the specific measures taken to resolve the dispute informally; and,
2 5. any other matter the company believes relevant to determining whether the dispute is
3 one suited for an expedited proceeding.
4 (5) Any petition for intervention shall provide the information required by paragraphs
5 (4)(a)-(c) and (e) as it applies to the intervenor.
6 (6) The request for expedited proceeding shall be dismissed if it does not substantially
7 comply with the requirements of paragraphs (2), (3) and (4), above. The first dismissal shall
8 be without prejudice.
9 (7) The respondent company may file a response to the request. The response must be
10 filed within 14 days of the filing of the request for expedited proceeding.
11 (a) The response shall include the name, address, telephone number, facsimile number and
12 e-mail address of the respondent and the respondent's representative to be served, if different
13 from the respondent.
14 (b) The response to the request may include any information that the company believes
15 will help the Prehearing Officer decide whether use of the expedited dispute resolution process
16 is appropriate. Such information includes, but is not limited to:
17 1. the respondent's willingness to participate in this process;
18 2. statement of the specific issue or issues to be litigated from the respondent's
19 perspective, and the respondent's position on the issue or issues;
20 3. a discussion of the topics listed in (4)(b)-(e)1.-5. above.
21 (8) No sooner than 14 days after the filing of the request for expedited proceeding, but
22 promptly thereafter, the Prehearing Officer will decide whether use of the expedited
23 proceeding is appropriate. The decision will be based on the factors provided in Section
24 364.058(3), Florida Statutes, the materials initially filed by the complainant company and, if a
25 response is filed, the materials included in the response.

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- 1 (9) Unless otherwise provided by order of the Prehearing Officer, based on the unique
2 circumstances of the case, the schedule for each expedited case will be as follows;
- 3 (a) Day 0 - request for expedited proceeding, direct testimony and exhibits are filed;
4 (b) Day 14 - deadline for filing a motion to dismiss, and a response to the request for
5 expedited proceeding;
6 (c) Day 21 - deadline for filing a response to the motion to dismiss, if one is filed; and,
7 deadline for filing petitions to intervene, and intervenor testimony and exhibits.
8 (d) Day 42 - deadline for the Commission staff to file testimony;
9 (e) Day 56 - deadline for the respondent to file rebuttal testimony.
- 10 (10) The Prehearing Officer shall decide whether post-hearing briefs will be filed or if
11 closing arguments will be made in lieu of post-hearing briefs. In making this decision the
12 Prehearing Officer will consider such things as the number of parties, number of issues,
13 complexity of issues, preferences of the parties, and the amount of testimony stipulated into
14 the record.
- 15 (11) The Commission shall make a decision on the dispute within 120 days of the
16 complainant company's filing of the request for expedited proceeding, direct testimony and
17 exhibits.
- 18 (12) Responses to discovery requests shall be made within 15 days of service of the
19 discovery requests, unless the Prehearing Officer decides otherwise based on the unique
20 circumstances of the case.
- 21 (13) Service of all documents on the parties shall be by e-mail, facsimile or hand delivery.
22 An additional copy shall be furnished by hand delivery, overnight mail or U.S. mail if the
23 initial service was by e-mail or facsimile. Filing of all documents with the Commission shall
24 be by hand delivery, overnight mail or any method of electronic filing authorized by the
25 Commission.

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1 (14) The applicability of this rule to the proceeding will be reassessed as factors affecting
2 the complexity of the case, number of issues, or number of parties change during the
3 proceeding.

4 (15) Once the Prehearing Officer has determined that use of an expedited proceeding is
5 appropriate, nothing in this rule shall prevent the Prehearing Officer from making a later
6 determination that the case is no longer appropriate for an expedited proceeding based on the
7 number of parties, number of issues or the complexity of the issues. Nothing in this rule shall
8 prevent the Commission from initiating an expedited proceeding on its own motion.

9 Specific Authority: 350.127(2), 364.058(3), F.S.,

10 Law Implemented: 364.058, F.S.

11 History: New _____.

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