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Sent: Tuesday, January 21, 2014 2:21 PM
To: Filings@psc.state.fl.us
Cc: Masterton, Susan S
Subject: 120208-TX CenturyLink's Comments
Attachments: 120208 CenturyLink Comments 1-21-14.pdf

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Description: CenturyLink's Comments

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January 21, 2014

VIA ELECTRONIC FILING

Ms. Carlotta Stauffer
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 120208-TX
CenturyLink's Comments

Dear Ms. Stauffer:

This letter provides CenturyLink's comments in response to the revised draft of proposed Rule 25-22.0365, F.A.C., provided to the parties via e-mail on January 6, 2014.¹

In general, the changes set forth in the revised proposal appear to address many of the specific concerns CenturyLink has detailed in its previous comments.² CenturyLink supports the revision to subsection (2) setting forth a process for parties to meet with staff to attempt to resolve a dispute prior to filing a petition for expedited resolution. Further, CenturyLink supports the change to paragraph (4)(d) which clarifies that the expedited dispute resolution process is not intended to circumvent or supersede dispute resolution provisions contained in applicable interconnection agreements. CenturyLink also does not object to the changes in subsections (7) and (13) that delete unnecessary language, update a cross-reference and update the required service methods.

The remaining changes appear to shorten the time intervals for all expedited dispute resolution proceedings, rather than carve out a subset of disputes that would be subject to more compressed time frames. CenturyLink reiterates its concern that there has been insufficient evidence presented to support the need for shorter time frames than what are provided in the current rule. Notwithstanding this concern, to the extent the Commission decides to adopt these shorter time frames, CenturyLink notes that meeting these time frames may be challenging at times, particularly if a company's employees or subject matter experts who are critical to preparing a filing are unavailable for unavoidable reasons.

¹ For reference, a copy of the proposed rule revisions is attached.

² CenturyLink participated in previous rule workshops held on November 15, 2012 and August 20, 2013 and filed Post-Workshop Comments on February 5, 2013 and September 19, 2013.

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Therefore, CenturyLink suggests that the following language be added to the introductory language in subsection (7) and at the end of paragraphs (9)(b) and (c):

A party may request an extension of the deadline upon a demonstration of good cause justifying the extension.

Copies of these comments are being served on the interested persons in this docket pursuant to the attached certificate of service.

Sincerely,

/s/ Susan S. Masterton
Susan S. Masterton

Attachment

**CERTIFICATE OF SERVICE
DOCKET NO. 120208-TX**

I hereby certify that a true and correct copy of the foregoing has been served upon the following by electronic mail delivery on this 21st day of January, 2014.

Kathryn Cowdery Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-08050 kcowdery@psc.state.fl.us	Competitive Carriers of the South, Inc. Garry Sharp, Executive Director P.O. Box 058303 Nashville, TN 37215 glsharp@comcast.net
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/s/ Susan S. Masterton
Susan S. Masterton

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 must
5 have attempted to resolve their dispute informally. In the event that the parties are unable to
6 resolve their dispute independently, a party intending to invoke the expedited dispute
7 resolution process addressed herein shall, prior to filing a request under subparagraph (3),
8 notify Commission staff of the dispute and request that Commission staff conduct an informal
9 meeting. Such meeting shall be conducted within 7 days of the request for the purpose of
10 discussing the matters in dispute, the positions of the parties, possible resolution of the
11 dispute, any immediate effect on customers’ ability to receive service, anticipated discovery
12 needs, and case scheduling.

13 (3) To initiate the expedited dispute resolution process, the complainant company must file
14 with the Commission a request for expedited proceeding, direct testimony, and exhibits, and
15 must simultaneously serve the filing on the other company involved in the dispute. The
16 request for expedited proceeding is in lieu of the petition required by Rule 28-106.201, F.A.C.

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

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

20 (b) A statement of the specific issue or issues to be litigated and the complainant company’s
21 position on the issue or issues;

22 (c) The relief requested;

23 (d) A statement attesting to the fact that the complainant company attempted to resolve the
24 dispute informally and the dispute is not otherwise governed by dispute resolution provisions

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1 contained in the parties' relevant interconnection agreement; and

2 (e) An explanation of why the use of this expedited process is appropriate. The explanation of

3 why use of the expedited process is appropriate shall include a discussion of the following:

4 1. The number and complexity of the issues;

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

6 3. The topics on which the company plans to conduct discovery, including a description of the

7 nature and quantity of information expected to be exchanged;

8 4. The specific measures taken to resolve the dispute informally; and

9 5. Any other matter the company believes relevant to determining whether the dispute is one

10 suited for an expedited proceeding.

11 (5) Any petition for intervention shall provide the information required by paragraphs (4)(a)-

12 (c) and (e) as it applies to the intervenor.

13 (6) The request for expedited proceeding shall be dismissed if it does not substantially comply

14 with the requirements of subsections (2), (3) and (4), above. The first dismissal shall be

15 without prejudice.

16 (7) The respondent company may file a response to the request. The response must be filed

17 within 7 ~~14~~ days of the filing of the request for expedited proceeding.

18 (a) The response shall include the name, address, telephone number, facsimile number and e-

19 mail address of the respondent and the respondent's representative to be served, if different

20 from the respondent.

21 (b) The response to the request may include any information that the company believes will

22 help the Prehearing Officer decide whether use of the expedited dispute resolution process is

23 appropriate. Such information includes, but is not limited to:

24 ~~1. The respondent's willingness to participate in this process;~~

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- 1 1.2. Statement of the specific issue or issues to be litigated from the respondent's perspective,
2 and the respondent's position on the issue or issues;
- 3 2.3. A discussion of the topics listed in subparagraphs (4)(b)-(e)1.-5. above.
- 4 (8) No sooner than 14 days after the filing of the request for expedited proceeding, but
5 promptly thereafter, the Prehearing Officer will decide whether use of the expedited
6 proceeding is appropriate. The decision will be based on the factors provided in Section
7 364.16(6) ~~364.058(3)~~, F.S., the materials initially filed by the complainant company and, if a
8 response is filed, the materials included in the response.
- 9 (9) Unless otherwise provided by order of the Prehearing Officer, based on the unique
10 circumstances of the case, the schedule for each expedited case will be as follows:
- 11 (a) Day 0 – request for expedited proceeding, direct testimony and exhibits are filed;
- 12 (b) Day 7 ~~14~~ – deadline for filing a motion to dismiss, and a response to the request for
13 expedited proceeding;
- 14 (c) Day 14 ~~21~~ – deadline for filing a response to the motion to dismiss, if one is filed; and,
15 deadline for filing petitions to intervene, and intervenor testimony and exhibits;
- 16 (d) Day 42 – deadline for the Commission staff to file testimony;
- 17 (e) Day 56 – deadline for the respondent to file rebuttal testimony.
- 18 (10) The Prehearing Officer shall decide whether post-hearing briefs will be filed or if
19 closing arguments will be made in lieu of post-hearing briefs. In making this decision the
20 Prehearing Officer will consider such things as the number of parties, number of issues,
21 complexity of issues, preferences of the parties, and the amount of testimony stipulated into
22 the record.
- 23 (11) The Commission shall make a decision on the dispute within 120 days of the complainant
24 company's filing of the request for expedited proceeding, direct testimony and exhibits.

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1 (12) Responses to discovery requests shall be made within 15 days of service of the discovery
2 requests, unless the Prehearing Officer decides otherwise based on the unique circumstances
3 of the case.

4 (13) Service of all documents on the parties shall be by e-mail, ~~faesimile~~ or hand delivery. ~~An~~
5 ~~additional copy shall be furnished by hand delivery, overnight mail or U.S. mail if the initial~~
6 ~~service was by e-mail or faesimile.~~ Filing of all documents with the Commission shall be by
7 hand delivery, overnight mail or any method of electronic filing authorized by the
8 Commission.

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

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

16 *Rulemaking Authority 350.127(2), 364.16(6) FS. Law Implemented 364.16(6) FS. History—*
17 *New 8-19-04, Amended _____.*

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