

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Section  
364.164, Florida Statutes.

DOCKET NO. 030846-TL  
ORDER NO. PSC-03-1056-PCO-TL  
ISSUED: September 23, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER ON IMPLEMENTATION OF SECTION 364.164, FLORIDA STATUTES

BY THE COMMISSION:

During the 2003 Regular Session, the Florida Legislature enacted the Tele-Competition Innovation and Infrastructure Act (Tele-Competition Act or Act). The Act became effective on May 23, 2003. The Legislature created a process for an intrastate switched network access rate reduction and rebalancing.

Pursuant to Section 364.164, Florida Statutes, the Legislature created a process by which each local exchange telecommunications carrier (ILEC) may petition us to reduce its intrastate switched network access rate in a revenue-neutral manner. We are required to issue our final order granting or denying any such petition within 90 days of the filing of a petition. In reaching our decision, Section 364.164 sets forth the criteria we shall consider in determining whether to grant the petition. Those criteria are outlined below:

- (a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers;

DOCUMENT NUMBER-DATE

09098 SEP 23 03

FPSC-COMMISSION CLERK

- (b) Induce enhanced market entry;
- (c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years; and
- (d) Be revenue neutral.

Due to the short time frame in which we must act to approve or deny an ILEC's petition, this docket was opened to facilitate our review of the intrastate switched network access rate reduction and rebalancing petitions. We believe it is appropriate for us to address some preliminary matters given the time frame. Thus, this Order addresses the scheduling and procedure for petitions filed pursuant to Section 364.164, Florida Statutes.

As stated previously, Section 364.164, Florida Statutes, permits ILECs to file rate reduction and rebalancing petitions. Since this is a case of first impression, we allowed parties to present oral argument on the preliminary matters regarding (1) scheduling, (2) procedure, (3) scope of discovery, and (4) scope of review at the September 2, 2003, Agenda Conference.

Section 364.164, Florida Statutes, requires us to issue our final order granting or denying any intrastate switched network access rate reduction and rebalancing petition within 90 days. In order to meet the 90 day statutory requirement, we find it appropriate to govern the key activities. Further, the specific dates below shall be subsequently identified in the Order Establishing Procedure, and correspond to the schedule as closely as possible as outlined below.

Day 1	Petition filed including Direct Testimony and Exhibits, if any
Day 7	Order Establishing Procedure
Day 36	Staff and Intervener Direct Testimony and Exhibits, if any
Day 51 (October 17, 2003)	Rebuttal Testimony and Exhibits, if any

Day 51 (October 17, 2003)	Prehearing Statements
Between Day 56 - Day 67	Prehearing Conference
Between Day 64- Day 74	Hearing (Option of Bench decision or oral recommendation at subsequent Special Agenda)
Between Day 77- Day 81	Hearing (Bench decision only, with an oral recommendation)
Between Day 77- Day 81	Special Agenda (if Hearing held between Day 64- Day 74)
Day 90	Order
Day 120	Close Docket or Revise CASR

If we choose to hold a Special Agenda, the Special Agenda shall be scheduled one week after the conclusion of the hearings. At the Special Agenda, our staff shall present an oral recommendation, and we will render our bench decision. To facilitate our discussion of the issues and decision making, our staff shall prepare a written outline of the oral recommendation to be handed out at the beginning of the Special Agenda. We note that in lieu of post-hearing briefs, the parties shall be given the opportunity to present closing arguments at the hearing. Participation at the Special Agenda, however, shall be limited to Commissioners and staff.

In addition to the other procedural scheduling issues addressed above, we shall also adopt a compressed time schedule for discovery. Moreover, discovery shall be expedited because of the 90-day schedule. Discovery shall proceed as follows:

Discovery:

- a. All discovery requests shall be served by e-mail or fax, as well as by overnight mail;
- b. Discovery responses shall be served within 15 calendar days of receipt of the discovery request by either e-mail or fax, as well as by overnight delivery;

- c. No extra time shall be allowed for mailing;
- d. All discovery requests and responses shall be served on staff;
- e. Any objection to or requests for clarification of discovery requests shall be made within five business days<sup>1</sup> of service of the discovery request; and
- f. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by one week before the hearing.

As outlined above, the procedural schedule set forth shall govern the proceedings for the petitions filed pursuant to Section 364.164, Florida Statutes.

Although, we believe that the scope of discovery and scope of these proceedings are relevant preliminary matters for implementation of Section 364.164, Florida Statutes, we believe that a ruling on these preliminary matters is not necessary at this time.

The provisions of this Order shall be considered applicable to each petition filed pursuant to Section 364.164, Florida Statutes, and shall be so recognized in each corresponding Docket.

It is therefore,

ORDERED by the Florida Public Service Commission that the specific findings as set forth herein are hereby approved and shall govern the proceedings for the petitions filed pursuant to Section 364.164, Florida Statutes. It is further

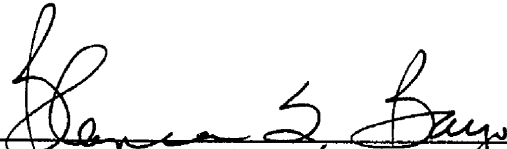
ORDERED that this docket shall be closed.

---

<sup>1</sup>See Rule 28-106.103, F.A.C.

ORDER NO. PSC-03-1056-PCO-TL  
DOCKET NO. 030846-TL  
PAGE 5

By ORDER of the Florida Public Service Commission this 23rd  
Day of September, 2003.

  
\_\_\_\_\_  
BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

FRB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-03-1056-PCO-TL

DOCKET NO. 030846-TL

PAGE 6

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.