

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising from Federal Communications Commission's triennial UNE review: Location-Specific Review for DS1, DS3 and Dark Fiber Loops, and Route-Specific Review for DS1, DS3 and Dark Fiber Transport.

DOCKET NO. 030852-TP  
ORDER NO. PSC-04-0252-PCO-TP  
ISSUED: March 8, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER HOLDING DOCKET IN ABEYANCE

BY THE COMMISSION:

In response to the Federal Communications Commission's (FCC) August 21, 2003, Triennial Review Order (TRO), this Commission opened two dockets to ascertain whether a requesting carrier is impaired by lack of access to certain incumbent local exchange companies' network elements.

On March 2, 2004, the D.C. Circuit Court of Appeals released its decision<sup>1</sup> which vacated several aspects of the FCC's Triennial Review Order. On March 3, 2004, we convened our previously scheduled hearing in this proceeding.

Upon commencement of the hearing, our staff informed us that all parties had participated in a conference call to discuss how this docket should proceed in light of the D.C. Circuit Court of Appeals decision. Our staff informed us that at the conclusion of the conference call, all parties had agreed to the following procedures:

1. All pre-filed testimony and testimony exhibits shall be moved into the record without objection. However, all parties reserve the right to conduct cross-examination of witnesses if further proceedings are convened in this docket.

<sup>1</sup> See United States Telecom Association v. Federal Communications Commission, LEXIS 3960 (U.S. App 2004)

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2. All hearing exhibits identified in staff's hearing exhibit list shall be moved into the record without objection.
3. Upon the conclusion of moving the aforementioned items into the record, this hearing will be held in abeyance indefinitely.
4. In thirty (30) days the parties have agreed to participate in an informal status conference.

Upon consideration, the above agreement reached by all parties of record in this proceeding was approved. It is therefore ordered that this docket shall be held in abeyance indefinitely until further action is deemed appropriate.

It is therefore,

ORDERED by the Florida Public Service Commission that this docket shall be held in abeyance indefinitely until further action is deemed appropriate and the parties in this proceeding shall conduct themselves in accordance with the stipulation approved herein.

By ORDER of the Florida Public Service Commission this 8th day of March, 2004.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

(SEAL)

AJT

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#### 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.

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.