

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to Florida Statutes 364.025(6)(d) for two private subdivisions in Nocatee development, by BellSouth Telecommunications, Inc.

DOCKET NO. 060822-TL
ORDER NO. PSC-07-0596-PHO-TL
ISSUED: July 23, 2007

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on July 9, 2007, in Tallahassee, Florida, before Commissioner Matthew M. Carter II, as Prehearing Officer.

APPEARANCES:

JAMES MEZA III, ESQUIRE, TRACY W. HATCH, ESQUIRE and MANUEL A. GURDIAN, ESQUIRE c/o NANCY H. SIMS, ESQUIRE, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301; and E. EARL EDENFIELD, JR. ESQUIRE, 675 West Peachtree Street, Suite 4300, Atlanta, Georgia
On behalf of BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T).

FLOYD R. SELF, ESQUIRE, Messer, Caparello & Self, P.A., P.O. Box 15579, Tallahassee, Florida, 32317 and M. LYNN PAPPAS, ESQUIRE, Pappas Law Firm, 245 Riverside Avenue, Suite 400, Jacksonville, Florida 32202
On behalf of Nocatee Development Company, SONOC Company, LLC, Toll Jacksonville Limited Partnership, Pulte Home Corporation and Parc Group, Inc. (NOCATEE).

H F. RICK MANN, ESQUIRE and PATRICK K. WIGGINS, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (STAFF).

PREHEARING ORDER

I. **CASE BACKGROUND**

On December 22, 2006, BellSouth Telecommunications, Inc. (BellSouth) filed its Petition for Relief from Carrier-of-Last-Resort (COLR) Obligations Pursuant to Section 364.025(6)(d), Florida Statutes, to provide service at Coastal Oaks and Riverwood private subdivisions in the development known as Nocatee, located in Duval and St. Johns Counties. On January 16, 2007, Nocatee Development Company, for itself and SONOC Company, LLC, Toll Jacksonville Limited Partnership, Pulte Home Corporation, and Parc Group, Inc. (hereinafter

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collectively referred to as "Nocatee") filed its Response in Opposition to BellSouth's Petition for Relief from Carrier of Last Resort Obligations.

On April 6, 2007, this Commission issued Order No. PSC-07-0296-PAA-TL Notice of Proposed Agency Action Order Denying BellSouth's Petition for relief from its carrier-of-last-resort (COLR) obligations. On April 27, 2007, BellSouth filed its Petition Requesting Hearing Pursuant to Section 120.57, Florida Statutes, and Protest of Proposed Agency Action. Pursuant to BellSouth's Petition Requesting Hearing, this matter has been scheduled for an administrative hearing on July 24, 2007.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 364, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-4, 25-22, 25-24 and 28-106, Florida Administrative Code, as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 364.183, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 364.183, F.S.. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential

information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Division of the Commission Clerk and Administrative Services' confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Larry Bishop	AT&T	1
Elizabeth R.A. Shiroishi	AT&T	1

VII. BASIC POSITIONS

AT&T: During the 2006 legislative session, the Florida Legislature enacted legislation that, in certain instances, provides relief for a local exchange carrier (“LEC”) from Carrier-of-Last-Resort (“COLR”) obligations. The COLR statute provides two avenues for a LEC to obtain COLR relief. *See* Florida Statutes § 364.025(6).

The first avenue provides for automatic relief in four specific scenarios generally applicable when property owners or developers have entered into some type of arrangement with a communications services provider, as defined in § 364.025(6)(a)(3), Florida Statutes, other than the LEC. *See* Florida Statutes § 364.025(6)(b)(1)-(4). The second avenue applies when none of those four specific automatic relief scenarios are present. *See* Florida Statutes § 364.025(6)(d). In that situation, the LEC may petition the Commission for COLR relief, which shall be granted upon good cause shown:

A local exchange telecommunications company that is not automatically relieved of its carrier-of-last-resort obligation pursuant to subparagraphs (b)1-4 may seek a waiver of its carrier of last resort obligation from the commission for good cause shown based on the facts and circumstances of provision of service to the multitenant business or residential property. Upon petition for such relief, notice shall be given by the company at the same time to the relevant building owner or developer. The commission shall have 90 days to act on the petition.

Florida Statutes § 364.025(6)(d). It is this second avenue that serves as the basis for AT&T Florida’s Petition and Protest for relief of its carrier-of-last-resort obligations.

The overriding policy question that the Commission must determine in this case is whether developers can manipulate Florida's COLR statute to force traditional phone companies to make uneconomic investment where consumers have access to voice services from other providers while also stifling consumer choice for the suite of communications and entertainment services that residents expect. AT&T Florida supports the idea that consumers should be free to choose any company they want for video, data, and voice service. To this end, AT&T Florida wants to serve all customers in its service territory by offering the broadest, most comprehensive and value-added set of products and services. In fact, AT&T Florida has invested, and will continue to invest, hundreds of millions of dollars in Florida to be able to offer consumers meaningful video, data, and voice competition. And that is exactly why AT&T Florida takes issue with the current situation at Nocatee. AT&T Florida wants to use its investment dollars wisely to bring Florida residents all of our advanced services instead of using those dollars to bring a single, unnecessarily duplicative service.

AT&T Florida submits that this is a case of first impression for AT&T Florida's service territory and that the Commission should take whatever action is within its power to discourage this type of developer conduct. Although the Commission does not have regulatory authority over developers, or over broadband data and video services, the Commission is in a position to influence the outcome of this situation. By granting COLR relief under this particular set of facts and circumstances, the Commission sends a message to developers that using the COLR obligation to force redundant, uneconomic decisions is not in the best interest of the public. Further, by requiring AT&T Florida to invest substantial amounts of money in a duplicative network limited to providing voice service, the Commission will effectively shift those investment dollars away from other consumers in the state who would stand to receive the full suite of advanced services from AT&T Florida.

AT&T Florida believes that it should be relieved of its COLR obligation for the provision of basic local telecommunications service to the Riverwood and Coastal Oaks subdivisions for two primary reasons: (1) the residents of Nocatee can obtain voice service from other alternative providers, including but not limited to Comcast; and (2) because the developer has restricted residents' choice by granting Comcast the exclusive right to provide service or market its services in the development, serving Nocatee with voice service only results in an uneconomic investment for AT&T Florida and effectively denies advanced services to even more Florida consumers.

NOCATEE: BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T") AT&T and Nocatee negotiated for nearly a year a comprehensive agreement whereby AT&T would provide video, data, and voice telecommunications services throughout the entire Nocatee development. When AT&T was unable to deliver on its promises, Nocatee negotiated a video and data marketing agreement with Comcast for the

private communities within Nocatee. Consequently, within the private subdivisions of Nocatee AT&T may install any facilities but AT&T may offer only voice telecommunications and voice-related telephone services. As for the public developments within Nocatee, there are no limitations on AT&T's ability to install facilities or provide services, and AT&T is proceeding on that basis within the public communities.

AT&T has not shown good cause to be relieved of its COLR obligations within Nocatee. Nocatee is not required under Florida law to pay any compensation to AT&T to build out its network within any part of the Nocatee development.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1: **Under Section 364.025(6)(d), Florida Statutes, has AT&T Florida shown good cause to be relieved of its Carrier-of-Last-Resort obligation to provide service at the Coastal Oaks and Riverwood subdivisions in the Nocatee development located in Duval and St. Johns Counties?**

POSITIONS

AT&T: Yes.

A. Good Cause Analysis

AT&T Florida has shown "good cause" under Section 364.025(6)(d), Florida Statutes, for the Commission to relieve AT&T Florida of its COLR obligations for the provision of basic local telecommunications service to the Riverwood and Coastal Oaks subdivisions based upon the following facts and circumstances:

- The two private subdivisions in Nocatee that are the subject of AT&T Florida's Petition consist of 1,919 single family homes (891 at Coastal Oaks and 1,028 at Riverwood).
- The developer of Nocatee has entered into an exclusive service arrangement with Comcast – a non-Commission regulated competitor of AT&T Florida – for data and video service. This arrangement permits Comcast to be the only provider of landline data or video service in these private subdivisions. In return for this exclusive right, Comcast has likely provided the developer with economic consideration.

- The developer has also entered into an exclusive marketing agreement with Comcast for its voice services in Riverwood and Coastal Oaks. Again, in return for this exclusive marketing right, Comcast has likely provided the developer with economic consideration.
- Through a proposed voice-only easement, the developer is contractually prohibiting AT&T Florida from providing anything other than voice services to the residents of Riverwood and Coastal Oaks in perpetuity.
- As a result of this voice-only easement, AT&T Florida will not be able to offer the residents of Riverwood and Coastal Oaks AT&T Florida's full panoply of services that exist today and that will exist in the future, including data and video services. Conversely, Comcast will be able to offer its "triple-play" of voice, data, and video to every-single resident of Nocatee.
- AT&T Florida estimates that it will cost at least \$1.8 million to deploy facilities to provide voice service to the residents of all of the phases of Riverwood and Coastal Oaks.
- Based on AT&T Florida's recent experience in another single-family development where AT&T Florida can only provide voice service, AT&T Florida believes that its "take rate" for its voice only services in Riverwood and Coastal Oaks will be 20% or less.
- AT&T Florida has requested that Nocatee pay construction charges less AT&T Florida's five times annual anticipated revenue pursuant to Rule 25-4.067, F.A.C. and AT&T Florida's Tariff, § A5, for the first phases of Riverwood and Coastal Oaks. The estimated build-out costs for the first phase of both subdivisions totals \$611,601. Five times annual anticipated revenue for both subdivisions amounts to \$167,666. The remaining \$443,935 is the responsibility of the customer, which in this case is the developer.
- Every resident of the Riverwood and Coastal Oaks subdivisions will have the option of voice service even if AT&T Florida is relieved of its COLR obligation.
- To date, the developer has refused to pay any amounts to offset AT&T Florida's costs to deploy unnecessary and duplicative facilities.

Accordingly, based upon the foregoing facts and circumstances, AT&T Florida has shown "good cause" under Section 364.025(6)(d), Florida Statutes, and AT&T Florida should be relieved of its COLR obligation to provide basic local telecommunications service to the Riverwood and Coastal Oaks subdivisions.

B. Special Construction Analysis

In the event that the Commission determines that AT&T Florida is not relieved of its COLR obligation, the Commission must then determine whether AT&T Florida is not required to install facilities until the developer pays AT&T Florida charges pursuant to AT&T Florida's Tariff, § A5. This analysis and decision is entirely independent of the good cause analysis under Section 364.025, Florida Statutes, but equally important because it has wide-ranging ramifications on the historical and ongoing business operations of the industry.

AT&T Florida is entitled to charge the developer per Rule 25-4.067(1), F.A.C. and AT&T Florida's § A5 for the cost to construct line extension facilities to the extent the cost exceeds the estimated five year exchange revenue. Per AT&T Florida's Tariff, payment of special construction "is due upon presentation of a bill for the specially constructed facilities." §A5.2.2.2(B). Should the requesting party fail to pay in advance, then AT&T Florida has no obligation to deploy facilities. The Commission should find that, in this situation, AT&T Florida's Tariff governs and that AT&T Florida has no obligation to proceed with installing facilities irrespective of any COLR obligation, should the developer refuse to pay the requested construction charges. There is no justification for treating developers any differently than every other customer that is required to pay special construction for facilities. Such customers should all be treated in a non-discriminatory manner pursuant to AT&T Florida's Tariff.

Accordingly, based upon the language of Rule 25-4.067(1), F.A.C. and AT&T Florida's Tariff § A5, the Commission should find that AT&T Florida is not required to install facilities to the Riverwood and Coastal Oaks subdivisions until the developer pays AT&T Florida's charges pursuant to AT&T Florida's Tariff.

NOCATEE: AT&T has not shown good cause to be relieved of its COLR obligations within any part of Nocatee. If the waiver is granted, over 3,000 Nocatee homes, representing more than 3,000 individuals, will be denied voice telephone services, and the precedent here could serve to deny service to 5,000 to 7,000 homes that are to be built in the various private subdivisions. Regardless of whether AT&T has a COLR obligation within any or all of the private communities within Nocatee, Nocatee is not required under Florida law to pay any compensation to AT&T to build out its network within Nocatee.

In addressing this issue, there are two separate aspects that must be considered.

First, AT&T has not shown good cause to be relieved of its COLR obligation. AT&T's argument for a COLR waiver is based upon an incorrect understanding of the facts and an economic analysis that is flawed in several respects. AT&T ignores the fact that this is a network within a network – the private subdivisions are located within the larger Nocatee development, thus surrounded by the AT&T

network. Moreover, the network being proposed is excessive and unnecessary for the efficient provision of voice telephone services unless it is considered a part of the overall, single AT&T local network. Likewise, the penetration analysis significantly understates the marketplace choices residents are likely to make. Further, any economic analysis predicated on the inability to provide data and/or video services cannot be considered by the Commission in a COLR analysis since this Commission is without jurisdiction over video and data services. If non-jurisdictional services, or non-jurisdictional economic costs, can be used to determine whether jurisdictional services are to be provided then customers will not receive voice telephone service because of AT&T's non-regulated business decisions that have nothing to do with voice telephony.

Second, there is no basis to require any compensation from Nocatee or its residents for the AT&T infrastructure to be built in the private communities. Whether there is a COLR obligation or not, the service being requested is the construction of a regulated, local voice telephone service network for an entire subdivision that is a part of the local, regulated telephone network being built within the overall Nocatee development. This is not a situation of a single customer who is located miles from the nearest phone line requesting service or a customer requesting some non-standard service. The fundamental question is whether AT&T has the obligation to build a residential local telephone network as it has done everywhere else within its service territory for the last 100 years. There is no "special construction" within the meaning of the Commission's rules or AT&T's tariff. The construction at issue is for the basic network itself. The request for service is not via a particular technology or in a special way. If this is special construction, then any local network that hereafter is to be constructed would be "special construction." If AT&T has no obligation to build this network at its own cost subject only to the usual new service connections charges that apply to every other customer, then the universal service goals of Florida law are meaningless. Without universal service, the ubiquitous public switched network will come to an end, to the detriment of customers not just within the private communities of Nocatee but to all customers everywhere.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Bishop	AT&T	<hr/>	Drawing of Nocatee Development
		(LB - 1)	

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Bishop	AT&T	<u>(LB - 2)</u>	September 25, 2006 correspondence from Developer to AT&T Florida
Bishop	AT&T	<u>(LB - 3)</u>	September 25, 2006 correspondence from Developer's counsel to AT&T Florida
Bishop	AT&T	<u>(LB - 4)</u>	September 26, 2006 correspondence from Developer's counsel to AT&T Florida
Bishop	AT&T	<u>(LB - 5)</u>	September 28, 2006 correspondence from Developer's counsel to AT&T Florida
Bishop	AT&T	<u>(LB - 6)</u>	December 13, 2006 correspondence and proposed easement from Developer to AT&T Florida
Bishop	AT&T	<u>(LB - 7)</u>	January 3, 2007 correspondence from AT&T Florida to Developer
Bishop	AT&T	<u>(LB - 8)</u>	January 23, 2007 correspondence from Developer's counsel to AT&T Florida
Bishop	AT&T	<u>(LB - 9)</u>	Diagram of fiber-to-the-curb architecture
Bishop	AT&T	<u>(LB - 10)</u>	Projected costs for each phase of Riverwood and Coastal Oaks
Bishop	AT&T	<u>(LB - 11)</u>	Diagrams of planned build-out of Riverwood and Coastal Oaks
Bishop	AT&T	<u>(LB - 12)</u>	Estimated build-out costs for Riverwood (areas 1-4) and Coastal Oaks (1 & 2a)
Bishop	AT&T	<u>(LB - 13)</u>	May 8, 2007 correspondence from AT&T Florida to Developer
Bishop	AT&T	<u>(LB - 14)</u>	AT&T Florida's five year annual exchange revenue calculations

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Shiroishi	AT&T	<u> </u> (ERAS - 1)	Comcast Website Page
Shiroishi	AT&T	<u> </u> (ERAS - 2)	AT&T Florida's A5 Tariff - Charges Applicable Under Special Conditions
	AT&T	<u> </u> (-)	Any exhibits attached to AT&T Florida's rebuttal testimony to be filed on July 6, 2007.
	AT&T	<u> </u> (-)	AT&T Florida's Responses to all Data Requests issued by Staff, including but not limited to AT&T Florida's Responses to Data Requests Nos. 1 to 10.
	AT&T	<u> </u> (-)	AT&T Florida's Responses to all Interrogatories and Requests for Production issued by Staff and Nocatee, including but not limited to Nocatee's First Request for Production of Documents, Staff's First Set of Interrogatories and First Request for Production of Documents and Staff's Second Set of Interrogatories and Second Request for Production of Documents.
	AT&T	<u> </u> (-)	Nocatee's Responses to any discovery issued by Staff or AT&T Florida.
	AT&T	<u> </u> (-)	Staff's Responses to any discovery issued by AT&T Florida or Nocatee.
	AT&T	<u> </u> (-)	All transcripts of any depositions that may take place prior to the discovery cut-off date.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

AT&T: AT&T Florida is unaware of any stipulations at this time.

NOCATEE: None at this time.

STAFF: None at this time.

XI. PENDING MOTIONS

AT&T: AT&T Florida is not aware of any pending motions in this proceeding.

NOCATEE: Nocatee does not have any pending motions.

STAFF: None at this time.

XII. PENDING CONFIDENTIALITY MATTERS

AT&T: AT&T Florida was requested to provide and has provided confidential information to Commission Staff and to the Parties in response to data requests and discovery requests by Staff and the Parties, and may provide additional confidential information in response to future discovery or in connection with its Rebuttal Testimony. AT&T Florida has requested or intends to request confidentiality for the following:

1. AT&T Florida's Response to Staff's Data Request, Item Nos. 1, 5 and 7;
2. Direct Testimony of Beth Shiroishi – p.13, footnote 2;
3. Direct Testimony of Larry Bishop – Exhibits LB-10, LB-12, LB-13 and LB-14;
4. AT&T Florida's Response to Staff's First Request for Production of Documents Nos. 3, 4, 5, 6, 7, 13, 14, 16, and 17 and attachment to First Set of Interrogatories No. 18;
5. AT&T Florida's Response to Nocatee's First Request for Production of Documents.

AT&T Florida reserves the right to use any such information at hearing, subject to appropriate measures to protect its confidentiality.

NOCATEE: Nocatee has two pending claims for confidentiality. One claim was filed on February 14, 2007 with the response to Staff's Data Request NOC-1 and another claim was filed on February 28, 2007 with a revised response to Staff Data Request NOC-1.

STAFF: None at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.


XIV. RULINGS

Opening statements, if any, shall not exceed ten minutes per party.

It is therefore,

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 23rd day of July, 2007.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

HFM

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 Office of Commission Clerk, 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.