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Reply to: Tallahassee Office

November 29, 2001

Ms. Blanca Bayo, Clerk
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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COMMISSION
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Re: Docket No. 010488-TI - Investigation and Determination of Method to Credit
Flow-Through Reduction by eMeritus Communications, Inc. as Required by
Section 364.163, F.S.

Supplement with Respect to Settlement Proposal

Dear Ms. Bayo:

In my letter of September 17, 2001, I wrote to address two basic concerns staff had with
respect to a settlement proposal the Company had made in this docket. My letter
focused on the background to the settlement, and not how the settlement amounts
would be disbursed.

Background of Settlement Offer

In a nutshell, this investigation docket is the result of a staff audit opinion questioning
whether the Company's Flow Through Tariff did not return the benefits of access charge
reductions to its customers as contemplated under Section 364.163, Florida Statutes.
Although the Company cannot acquiesce in the proposition that these benefits were not
returned as required by the statute, the Company makes this offer of settlement to
spare all concerned unnecessary regulatory process. Nothing in this letter or earlier
communications concerning settlement may be construed as an admission against
interest. More specifically, this settlement proposal may not be viewed as an admission
that the Company's Flow Through Tariff was not correct or that the benefits of the
access charge reductions were not returned to its customers or both.

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Ms. Blanca Bayo
November 29, 2001
Page 2

Specifics of Proposed Settlement

The Company proposes to settle this docket by making a payment to the state's General Revenue Fund in the amount of \$32,343. The payment would be made no later than 30 days after the order approving this proposal is final.

This proposal is contingent, upon the Commission accepting it entirely, which acceptance shall include the Commission's explicit recognition that its order approving this proposal resolves all matters that were or might have been addressed in this docket

This proposal resolves all matters in this docket, which will be closed effective on the date the Commission order approving this proposal is final.

Proposed Settlement In Public Interest

The proposed settlement is in the public interest. The amount of the settlement and the method of its disbursement are both reasonable and consistent with public policy and substantive law. As previously addressed, the \$32,343 represents a reasonable estimate of alleged over-collections. It is reasonable because it was designed to address concerns raised by the audit that the Company may have retained benefits of the access charge reduction.

No estimate of the alleged over-collections could be computed for the purposes of making legitimate specific customer refunds without incurring costs exceeding ten times the amount of the potential refunds. Again, the Company used maximum aggregated customer counts and maximum rates to compute a high estimate of total alleged over-collections from the *aggregate*. Consequently, payment of the \$32,343 to the state's General Revenue Fund is appropriate because the payment should be made to the most appropriate surrogate for this aggregate. In this case, the most appropriate surrogate is the General Revenue Fund.

Payment to the General Revenue Fund also comports with Commission policy. Commission Rule 25-4.114 establishes the general parameters for making refunds. However, the rule is silent with respect to computing and making of refunds where specific rate changes cannot be made on a per customer basis. Thus, in such cases it is incumbent upon the Company to suggest a disposition of the funds involved.¹

¹ This view is inferentially supported by the text of Rule 25-4.114(8), which requires the Company to suggest a method of disposing of unclaimed refunds where specific refunds are computed and attempted.

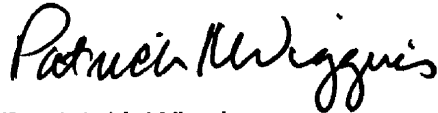
Ms. Blanca Bayo
November 29, 2001
Page 3

The Commission routinely approves settlements involving payments to the General Revenue Fund. Indeed, the Commission practice of approving such settlements is so well established that this mechanism should be viewed as both favored and presumptively in the public interest. Within the context of this docket, the payment of \$32,343 serves the public interest by assuring that the Company does not retain benefits of the access charge reduction and by dedicating the funds to public use.

Conclusion

For the reasons stated above, the Company respectfully requests that the Commission approve this proposal as being in the public interest.

Sincerely,

A handwritten signature in black ink that reads "Patrick K. Wiggins". The signature is written in a cursive style with a large initial "P".

Patrick K. Wiggins

PKW:plk

cc: Ms. Melinda Watts
Ms. Robbin Johnson