

VOTE SHEET

SEPTEMBER 2, 2003

RE: Docket No. 030846-TL - Implementation of Section 364.164, Florida Statutes.

ISSUE 1: Should the Commission hear oral argument from the ILECs and other interested persons?

RECOMMENDATION: Yes. Staff recommends that the Commission hear oral argument from the ILECs and other interested persons.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures in the majority column]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

08153 SEP-28

FPSC-COMMISSION CLERK

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ISSUE 2: What overall procedural schedule should be adopted in order to meet the statutory requirement of the issuance of a final order within 90 days?

RECOMMENDATION: Staff recommends that the Commission follow the procedural time frame outlined in the analysis portion of staff's memorandum dated August 21, 2003.

MODIFIED *The procedural schedule was modified to reflect that staff and intervenor testimony and exhibits are due on Day 36, rebuttal testimony and exhibits on 10/17/03, and prehearing statements on 10/20/03. Additionally, staff was directed to file a recommendation for the 9/16/03 Commission conference on OPC's motion to hold public hearings.*

ISSUE 3: How should the discovery limitation set forth in subsection 364.164(3), Florida Statutes, be construed?

PRIMARY RECOMMENDATION: The discovery should be limited to the plain meaning of subsection 364.164(3), Florida Statutes, which provides that any discovery on the petitions filed pursuant to Section 364.164, Florida Statutes, shall be limited to verification of the pricing units.

NO VOTE

ALTERNATIVE RECOMMENDATION: The limiting provision contained in subsection 364.164(3), Florida Statutes, should be construed in its narrowest sense to limit discovery only to the extent that said discovery pertains to the pricing units referenced in subsection 364.164(3).

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ISSUE 4: What is the pertinent scope of this proceeding, and what analyses should be included within the proper standard of review?

RECOMMENDATION: Staff makes the following recommendations:

A. Staff recommends that the Commission define the scope of its review of large ILECs' petitions under the criteria set forth in subsection 364.164(1)(a), Florida Statutes, as including a review of whether support exists. For the small ILECs, staff recommends that support be assumed.

NO VOTE

B. Staff recommends that the cost standard for quantifying the current amount of support for large ILECs should be Total Service Long Run Incremental Cost (TSLRIC). Regarding the appropriate geographic level for calculating the current amount of support for large ILECs, staff recommends that analyses be performed at two levels, exchange and total company. Staff recommends that the Commission, to the extent possible, express preliminary guidance regarding its preferred cost standard and geographic level for calculating current support, but refrain from precluding the use of other options. To the extent a party is able to adequately support and justify use of a different approach, it should be allowed to do so.

C. Staff recommends that the Commission define the scope of its review under the criteria set forth in subsection 364.164(1)(b), Florida Statutes, to include a review of profitability in terms of both stand-alone basic service and a basic/nonbasic service bundle, as well as the potential effects on various market entry strategies.

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- D. Staff does not believe that the criteria set forth in subsections (c) and (d) of 364.164(1), Florida Statutes, need interpretation beyond the plain language of the statute.
- E. Staff also recommends that large ILECs be required to submit their "interstate switched network access rate" calculated on the same basis prescribed for their "intrastate switched network access rate," although they should have the opportunity to present evidence whether or not this is the appropriate definition. They should also provide the supporting calculations for the derivation of the "intrastate switched network access rate" and the "interstate switched network access rate." Small LECs should provide the supporting calculations for the derivation of the "intrastate switched network access rate."
- F. All petitioning LECs should be required to provide a price-out for each planned annual filing for the revenue category, showing pricing units, old rates, new rates, and revenue effect. In addition, staff recommends that the petitioning LEC provide a price-out summary, demonstrating that each annual filing will be revenue neutral within the revenue category, pursuant to subsections 364.164(2) and (7), Florida Statutes. While a petitioning LEC should not be precluded from presenting evidence that other methods are more appropriate for making the actual determination on revenue neutrality, staff recommends that the price-outs and summary be required.

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ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. This Docket should remain open pending receipt of the first LEC petition filed pursuant to Section 364.164, Florida Statutes, and establishment of a Docket to address that petition. Thereafter, this Docket should be closed administratively. The provisions of the Order resulting from this recommendation should, however, be considered applicable to each petition filed pursuant to Section 364.164, Florida Statutes, and should be so recognized in each corresponding Docket.

APPROVED

Additionally, the Commission concluded that a ruling on OPC's motion to hold a case management conference was not necessary.