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NOTICE OF PROPOSED RULE DEVELOPMENT

FLORIDA PUBLIC SERVICE COMMISSION

RULE TITLE: Expedited Dispute Resolution

RULE NO.: 25-22.0365, Florida Administrative Code

PURPOSE AND EFFECT: To facilitate the quick resolution of disputes between telecommunications companies.

SUBJECT AREA TO BE ADDRESSED: Dispute resolution

SPECIFIC AUTHORITY: 350.127(2), Florida Statutes

LAW IMPLEMENTED: 364.058, Florida Statutes

IF REQUESTED IN WRITING, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: March 29, 2004, at 9:30 a.m.

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT IS: Marlene K. Stern, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, 850-413-6230.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-22.0365 Expedited Dispute Resolution Process for Telecommunications Companies.

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(1) The purpose of this rule is to establish an expedited process for resolution of disputes between telecommunications companies ("companies").

(2) To be considered for the expedited process:

(a) the dispute must involve only two parties; and,

(b) the companies involved in the dispute must have attempted to resolve the issue or issues informally.

(3) To initiate the expedited dispute resolution process, the complainant company must file with the Commission a request for expedited proceeding, direct testimony, and exhibits, and must simultaneously serve the filing on the other company involved in the dispute. The request for expedited proceeding is in lieu of the petition required by rule 28-106.201, Florida Administrative Code.

(4) The request for expedited proceeding must include:

(a) the name, address, telephone number, fax number and e-mail address of the complainant company and its representative to be served, if different from the company;

(b) a statement of the specific issue or issues to be litigated and the complainant company's position on the issue or issues;

(c) the relief requested;

(d) a statement attesting to the fact that the complainant company attempted to resolve the dispute informally; and,

(e) an explanation of why the use of this expedited process is appropriate. The explanation of why use of the expedited process is appropriate shall include a discussion of the following:

1. the complexity of the issues;

2. the policy implications that resolution of the dispute is expected to have, if any;

3. the topics on which the company plans to conduct discovery, including a description of the nature and quantity of information expected to be exchanged;

4. the specific measures taken to resolve the dispute informally; and,

5. any other matter the company believes relevant to determining whether the dispute is one suited for expedited resolution.

(5) The request for expedited proceeding shall be dismissed if it does not substantially comply with the requirements of paragraphs (2), (3) and (4), above. The first dismissal shall be without prejudice.

(6) The respondent company may file a response to the request. The response must be filed within 14 days of the filing of the request for expedited proceeding.

(a) The response shall include the name, address, telephone number, fax number and e-mail address of the respondent and the respondent's representative to be served, if different from the respondent.

(b) The response to the request may include any information that the company believes will help the Prehearing Officer decide whether use of the expedited dispute resolution process is appropriate. Such information may include, but is not limited to:

1. the respondent's willingness to participate in this process;

2. a statement of the specific issue or issues to be litigated from the respondent's perspective, and the respondent's position on the issue or issues;

3. a discussion of the topics listed in (4)(b)-(e)1.-5. above.

(7) If a response to the request for expedited proceeding is not filed within 14 days of the request for expedited ruling, the Prehearing Officer will decide whether use of the expedited proceeding is appropriate based on the factors provided in Section 364.058(3), Florida Statutes, and the materials initially filed by the complainant company.

(8) Unless otherwise provided by order of the Prehearing Officer based on the unique circumstances of the case, the schedule for each expedited case will be as follows:

(a) Day 0 - request for expedited proceeding, direct testimony and exhibits are filed;

(b) Day 14 - deadline for filing a motion to dismiss, and a response to the request for

expedited proceeding;

(c) Day 21 - deadline for filing a response to the motion to dismiss, if one is filed;

(d) Day 42 - deadline for the Commission staff to file testimony;

(e) Day 56 - deadline for the respondent to file rebuttal testimony.

(9) Closing arguments shall be made in lieu of post-hearing briefs.

(10) The Commission shall make a decision on the dispute within 120 days of receiving the complainant company's request for expedited proceeding, direct testimony and exhibits.

(11) Responses to discovery requests shall be made within 15 days of service of the discovery requests;

(12) Service of all documents on the parties shall be by e-mail or facsimile. An additional copy shall be furnished by hand delivery, overnight mail or U.S. mail. Filing of all documents with the Commission shall be by hand delivery, overnight mail or any method of electronic filing available under the Commission rules.

(13) If, in the course of an expedited proceeding, a motion to intervene is granted, then the proceeding will no longer be considered an expedited proceeding under this rule.

(14) Nothing in this rule shall prevent the Commission from initiating an expedited proceeding on its own motion. Once the Commission has determined that use of an expedited proceeding is appropriate, nothing in this rule shall prevent the Commission from making a later determination that the case is no longer appropriate for an expedited proceeding.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.058, F.S.

History: New _____.