

DOCKET NO. 040269-TP

CERTIFICATION OF  
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES  
FILED WITH THE  
DEPARTMENT OF STATE

2004 JUL 30 AM 11:06  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA  
FILED

I do hereby certify:

/x/ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

/x/ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

/x/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

/x/ (a) Are filed not more than 90 days after the notice; or

// (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

// (c) Are filed more than 90 days after the notice, but not less than 21 days nor

CMP      more than 45 days from the date of publication of the notice of change; or

COM      // (d) Are filed more than 90 days after the notice, but not less than 14 nor more  
CTR       
ECR      than 45 days after the adjournment of the final public hearing on the rule; or

GCL      // (e) Are filed more than 90 days after the notice, but within 21 days after the  
OPC      date of receipt of all material authorized to be submitted at the hearing; or

MMS     

RCA     

SCR     

SEC   1  

OTH     

DOCUMENT NUMBER - DATE  
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// (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

// (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

// (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

// (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

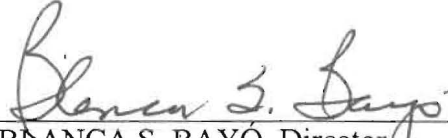
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-22.0365

Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)



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



MKS

\_\_\_\_\_  
Number of Pages Certified

1 25-22.0365 Expedited Dispute Resolution Process for Telecommunications Companies.

2 (1) The purpose of this rule is to establish an expedited process for resolution of disputes

3 between telecommunications companies ("companies").

4 (2) To be considered for an expedited proceeding, the companies involved in the dispute

5 must have attempted to resolve their dispute informally.

6 (3) To initiate the expedited dispute resolution process, the complainant company must

7 file with the Commission a request for expedited proceeding, direct testimony, and exhibits,

8 and must simultaneously serve the filing on the other company involved in the dispute. The

9 request for expedited proceeding is in lieu of the petition required by Rule 28-106.201, Florida

10 Administrative Code.

11 (4) The request for expedited proceeding must include:

12 (a) the name, address, telephone number, facsimile number and e-mail address of the

13 complainant company and its representative to be served, if different from the company;

14 (b) a statement of the specific issue or issues to be litigated and the complainant

15 company's position on the issue or issues;

16 (c) the relief requested;

17 (d) a statement attesting to the fact that the complainant company attempted to resolve the

18 dispute informally; and,

19 (e) an explanation of why the use of this expedited process is appropriate. The

20 explanation of why use of the expedited process is appropriate shall include a discussion of the

21 following:

22 1. the number and complexity of the issues;

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

24 3. the topics on which the company plans to conduct discovery, including a description of

25 the nature and quantity of information expected to be exchanged;

CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from existing law.

1 4. the specific measures taken to resolve the dispute informally; and,  
2 5. any other matter the company believes relevant to determining whether the dispute is  
3 one suited for an expedited proceeding.  
4 (5) Any petition for intervention shall provide the information required by paragraphs  
5 (4)(a)-(c) and (e) as it applies to the intervenor.  
6 (6) The request for expedited proceeding shall be dismissed if it does not substantially  
7 comply with the requirements of paragraphs (2), (3) and (4), above. The first dismissal shall  
8 be without prejudice.  
9 (7) The respondent company may file a response to the request. The response must be  
10 filed within 14 days of the filing of the request for expedited proceeding.  
11 (a) The response shall include the name, address, telephone number, facsimile number and  
12 e-mail address of the respondent and the respondent's representative to be served, if different  
13 from the respondent.  
14 (b) The response to the request may include any information that the company believes  
15 will help the Prehearing Officer decide whether use of the expedited dispute resolution process  
16 is appropriate. Such information includes, but is not limited to:  
17 1. the respondent's willingness to participate in this process;  
18 2. statement of the specific issue or issues to be litigated from the respondent's  
19 perspective, and the respondent's position on the issue or issues;  
20 3. a discussion of the topics listed in (4)(b)-(e)1.-5. above.  
21 (8) No sooner than 14 days after the filing of the request for expedited proceeding, but  
22 promptly thereafter, the Prehearing Officer will decide whether use of the expedited  
23 proceeding is appropriate. The decision will be based on the factors provided in Section  
24 364.058(3), Florida Statutes, the materials initially filed by the complainant company and, if a  
25 response is filed, the materials included in the response.

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- 1 (9) Unless otherwise provided by order of the Prehearing Officer, based on the unique  
2 circumstances of the case, the schedule for each expedited case will be as follows;
- 3 (a) Day 0 - request for expedited proceeding, direct testimony and exhibits are filed;  
4 (b) Day 14 - deadline for filing a motion to dismiss, and a response to the request for  
5 expedited proceeding;
- 6 (c) Day 21 - deadline for filing a response to the motion to dismiss, if one is filed; and,  
7 deadline for filing petitions to intervene, and intervenor testimony and exhibits.
- 8 (d) Day 42 - deadline for the Commission staff to file testimony;  
9 (e) Day 56 - deadline for the respondent to file rebuttal testimony.
- 10 (10) The Prehearing Officer shall decide whether post-hearing briefs will be filed or if  
11 closing arguments will be made in lieu of post-hearing briefs. In making this decision the  
12 Prehearing Officer will consider such things as the number of parties, number of issues,  
13 complexity of issues, preferences of the parties, and the amount of testimony stipulated into  
14 the record.
- 15 (11) The Commission shall make a decision on the dispute within 120 days of the  
16 complainant company's filing of the request for expedited proceeding, direct testimony and  
17 exhibits.
- 18 (12) Responses to discovery requests shall be made within 15 days of service of the  
19 discovery requests, unless the Prehearing Officer decides otherwise based on the unique  
20 circumstances of the case.
- 21 (13) Service of all documents on the parties shall be by e-mail, facsimile or hand delivery.  
22 An additional copy shall be furnished by hand delivery, overnight mail or U.S. mail if the  
23 initial service was by e-mail or facsimile. Filing of all documents with the Commission shall  
24 be by hand delivery, overnight mail or any method of electronic filing authorized by the  
25 Commission.

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1 (14) The applicability of this rule to the proceeding will be reassessed as factors affecting  
2 the complexity of the case, number of issues, or number of parties change during the  
3 proceeding.

4 (15) Once the Prehearing Officer has determined that use of an expedited proceeding is  
5 appropriate, nothing in this rule shall prevent the Prehearing Officer from making a later  
6 determination that the case is no longer appropriate for an expedited proceeding based on the  
7 number of parties, number of issues or the complexity of the issues. Nothing in this rule shall  
8 prevent the Commission from initiating an expedited proceeding on its own motion.

9 Specific Authority: 350.127(2), 364.058(3), F.S.,

10 Law Implemented: 364.058, F.S.

11 History: New \_\_\_\_\_.

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### SUMMARY OF RULE

The rule provides for an expedited process to facilitate the quick resolution of disputes between telecommunications companies. For any proceeding conducted pursuant to the expedited process, the Commission shall make its determination within 120 days after a petition is filed or a motion is made.

### SUMMARY OF HEARINGS ON THE RULE

No hearing was requested and none was held.

### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Section 364.058(3), Florida Statutes, was adopted during the 2003 legislative session and states that the commission would adopt rules to implement this subsection. Rule 25-22.0365, Florida Administrative Code, is proposed to satisfy the requirements of Section 364.058(3), Florida Statutes.

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