

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 10, 2007

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Farvey, Hallenstein)
Office of the General Counsel (Fudge)

RE: Docket No. 000121B-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (EMBARQ FLORIDA TRACK)

AGENDA: 01/23/07 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000121B.RCM.DOC

Case Background

By Order No. PSC-03-0067-PAA-TP, issued January 9, 2003, the Commission adopted wholesale permanent performance measures for the Embarq Track, Docket Number 000121B-TP. Embarq's Performance Measurement Plan is a monitoring device that measures the level of wholesale service performance that Embarq provides to CLECs. It also establishes a standard against which CLECs and this Commission can measure performance over time to detect and correct any degradation of service provided to CLECs.

Embarq's Florida Performance Measurement Plan includes the adoption of the August 2002 Embarq Nevada Performance Measurement Plan as well as administrative provisions and

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an associated compliance methodology. Embarq complied with the Order and implemented the Florida Performance Measurement Plan on February 1, 2003.

By Order No. PSC-03-1438-PAA-TP, issued December 22, 2003, the Commission approved revisions to Embarq's Florida Performance Measurement Plan to coincide with revisions to Embarq's Nevada Performance Measurement Plan. The revisions were effective beginning with February 2004 data.

This recommendation addresses whether the Commission should approve proposed revisions to Embarq's Florida Performance Measurement Plan that were approved by the Nevada Public Utilities Commission on August 2, 2006. By Order No. PSC-03-0067-PAA-TP, all changes to Embarq's Performance Measurement Plan that were approved in other states are to be brought before the Commission for review, approval, and implementation in Florida.

Jurisdiction

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.01(3) and (4)(g), Florida Statutes. Pursuant to Section 364.01 (3), Florida Statutes, the Florida legislature has found that regulatory oversight is necessary for the development of fair and effective competition in the telecommunications industry. To that end, Section 364.01 (4) (g), Florida Statutes, provides, in part, that the Commission shall exercise its exclusive jurisdiction in order to ensure that all providers of telecommunications service are treated fairly by preventing anticompetitive behavior. Furthermore, it is noted that the FCC has encouraged the states to implement performance metrics and oversight for purposes of evaluating the status of competition under the Telecommunications Act of 1996.

Discussion of Issues

Issue 1: Should the Commission approve Embarq's proposed revisions to its Florida wholesale Performance Measurement Plan presented in Attachment 1?

Recommendation: Yes. Staff recommends that the Commission approve Embarq's Florida revisions to the Performance Measurement Plan as summarized in Attachment 1 and detailed in Embarq's redline version filed in Docket No. 000121B-TP on October 6, 2006. Staff further recommends that implementation of the revisions to Embarq's Florida Performance Measurement Plan become effective beginning with the January 2007 data month to enable simultaneous implementation of changes with Embarq's Nevada Performance Measurement Plan. (HALLENSTEIN, HARVEY)

Staff Analysis: On October 6, 2006, Embarq Florida filed with the Commission a request to approve revisions to Embarq's wholesale Performance Measurement Plan. The revisions primarily fall into three general categories. Embarq is proposing to remove unbundled network elements platform (UNE-P), Line Sharing, and Dark Fiber from its Performance Measurement Plan. Per the Triennial Review Order (TRO) and Triennial Review Remand Order (TRRO), ILECs are no longer required to offer UNE-P, Line Sharing, and Dark Fiber as UNEs. Additionally, Embarq is proposing to clarify and update business rules within sections of its Performance Measurement Plan and to add standards to specific measures where there previously were none.

Embarq's October 6, 2006 filing in Docket No. 000121B-TP contains a revised edition of Embarq's Performance Measurement Plan, a summary of the redline changes, and a redline version of the revised Performance Measurement Plan.

The revisions are the same as those provided in Embarq's Performance Measurement Plan for the Nevada Public Utilities Commission and are the result of a stipulation entered into by parties to the Nevada docket. The Nevada docket was opened at Embarq's request to amend its performance measures and standards. Parties to the stipulation included Embarq, Xspedius Communication, US Telepacific Corp., Cox Nevada Telecom, Mpower Communications Corp., and BCP. The Nevada Commission concluded that it was in the public interest to accept the stipulation. The revisions were approved by the Nevada Public Utilities Commission on August 2, 2006, and scheduled to be implemented with the January, 2007 data.

By Order No. PSC-03-0067-PAA-TP, any changes to Embarq's performance measurements approved by other states are to be brought before the Commission to allow staff and CLECs an opportunity to review and comment on such revisions before being implemented in Florida. On November 3, 2006, staff solicited comments from the CLECs for review of Embarq's Florida Performance Measurement revisions. Requested comments were to be filed in Docket No. 000121B-TP by December 18, 2006. No comments were filed.

Staff reviewed Embarq's redline version of the revised Performance Measurement Plan and agrees that the changes are in the public interest. Additionally, staff verified that Attachment 1 adequately reflects the changes contained in Embarq's redline version of the Performance

Measurement Plan. Staff believes the changes to Embarq's Performance Measurement Plan should be adopted in Florida.

Conclusion

Staff recommends that the Commission approve Embarq's Florida revisions to the Performance Measurement Plan as summarized in Attachment 1 and detailed in Embarq's redline version filed in Docket No. 000121B-TP on October 6, 2006. Staff further recommends that implementation of the revisions to Embarq's Florida Performance Measurement Plan become effective beginning with the January 2007 data month to enable simultaneous implementation of changes with Embarq's Nevada Performance Measurement Plan.

Issue2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. Any protest of the Commission's decision in this matter should identify with specificity the item or measure being protested, and any such protest should not prevent the remainder of the Order from becoming final and effective. Thereafter, this docket should remain open for the Commission to conduct periodic reviews of Embarq's Performance Measurement Plan and to complete any initial third-party audit outlined in Order No. PSC-03-0067-PAA-TP. **(FUDGE)**

Staff Analysis: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final upon the issuance of a Consummating Order. Any protest of the Commission's decision in this matter should identify with specificity the item or measure being protested, and any such protest should not prevent the remainder of the Order from becoming final and effective. Thereafter, this docket should remain open for the Commission to conduct periodic reviews of Embarq's Performance Measurement Plan and to complete the initial third-party audit outlined in Order No. PSC-03-0067-PAA-TP.

ATTACHMENT 1

**2006 Embarq Performance Measurement Plan (PMP)
and Change Appendix**

PERFORMANCE MEASUREMENT PLAN

A. General Changes to the Measures

1. Eliminate UNE-P

Pursuant to the Triennial Review Remand Order (TRRO) Incumbent Local Exchange Carriers ("ILECs") are no longer required to offer UNE-P as a UNE as of March 11, 2005. Existing UNE-P access lines were grandfathered for 12-months and those access lines must be converted to new products by March 11, 2006. Until March 11, 2006, Embarq will continue to provide service results for UNE-P in the maintenance and billing measures. For March 11, 2006 reporting and beyond, Embarq recommends eliminating UNE-P from the plan in all measures (Measures: 2, 4, 5, 6, 7, 8, 11, 12, 13, 14, 17a, 19, 20, 21, 23).

2. Eliminate Line Sharing

Pursuant the Triennial Review Order (TRO), ILECs are no longer required to offer Line Sharing as a UNE as of October 2003. Therefore, Embarq proposes eliminating Line Sharing from the ordering and provisioning measures in the PMP. Since line sharing access lines already in service are grandfathered, Embarq will continue to report service results for Line Sharing in the maintenance measures (Measures: 2, 4, 5, 6, 7, 9, 11, 12, 13, 14, 17a).

3. Eliminate Dark Fiber

Per the TRRO, ILECs are no longer required to offer Dark Fiber loops as a UNE. Embarq has not sold any UNE Dark Fiber services in Nevada and eliminating Dark Fiber from the PMP in all applicable measures. (Measures: 2, 4, 5, 6, 7, 8, 11, 12, 13, 14, 17a, 19, 20, 21, 23). *(Staff would note that Embarq has not sold any UNE Dark Fiber services in Florida)*

B. Changes within Sections of PMP

1. Reporting Process - Eliminate "with the exception of Measure 2" from the third paragraph.

Embarq proposes this change to ensure they are consistently applying exclusions from both the numerator and denominator of the service results for the measure Average FOC Notice Interval (Measure 2) (Section: Reporting Process paragraph 3).

2. General Exclusions – New rule for Commercial Agreements

Embarq proposes adding the general exclusion language which will apply to all measures, "Service results for products and services outside of interconnection and resale agreements between Embarq and CLECS." This exclusion addresses non-regulated products that CLECs may order under Commercial Agreements outside of the Interconnection & Resale Agreements (Section: General Exclusions paragraph 1).

3. Service Group Types – Delete UNE Platform and Dark Fiber

Since these products have been eliminated from the measurements, they are no longer necessary in the list of service types (Section: Service Group Types).

4. Jeopardy Reason Codes – Add, Delete and Update Codes

These lists have been updated to add new codes that have been created, to eliminate old codes that are no longer used by Embarq, and to update the descriptions of codes that have new uses (Section: Missed Appointment Reason Codes).

C. Changes To Specific Measures

1. Measure 1- Establishment of New Benchmark for Service Appointment Scheduling

The submeasure for Service Appointment Scheduling was previously to be determined (TBD) due to lack of service data. Since service data now exists for 10 of the last 12 months, Embarq is proposing a benchmark in place of TBD for this submeasure. Embarq recommends a benchmark of 3 seconds for this submeasure based on the following: (1) historical data, (2) system data, and (3) using the methodology established for setting other benchmarks in Embarq's plan.

2. Measure 1- Establishment of New Submeasure for Electronic Loop Prequalification

The plan currently only has a submeasure for manual Loop Prequalification. Embarq now performs Loop Prequalification electronically and proposes to add a submeasure to report the electronic service results.

3. Measures 2, 7, 8- Service Group Types - Eliminate Duplicate Definition of Projects

Delete the projects definition from the Notes section and move it to Section III.

4. Measure 6 - Average Jeopardy Notice

• Add Projects Submeasure

Embarq recommends that Projects be reported in a separate submeasure and as diagnostic, because projects are managed outside of normal processes under terms and conditions which are agreed to by both Embarq and CLEC customers. Projects are already reported separately in all of the measures that disaggregate by product, and this change is consistent with what was previously approved in other measures.

• Business Rule Change

Embarq recommends a business rule change from "Excludes delays for customer reasons" to "Excludes customer requested due dates beyond interval offered, and orders delayed for customer reasons" because in many situations customers will request a due date beyond the standard interval, particularly where new construction is performed. In these instances, orders are jeopardized due to lack of facilities which results in a long jeopardy notice intervals.

Embarq's CLEC and retail service results do not contain a proportionate number of orders with requested due dates longer than the intervals offered, so Embarq proposes the business rule change to allow for more accurate comparisons.

- **Clarification of Measurement Calculation**

Embarq recommends changes to the calculation for this measure for clarification purposes. Additional mathematical notations are proposed (adding the word sum and corrections to parentheses) to clarify the current calculation. There are no impacts due to this change.

5. Measure 17a and Maintenance Measures- UNE Loops and Sub Loops Voice Comparison Change

The proposed change to Measure 17a and the Maintenance Measures will change the comparison for UNE Loops and Sub Loops to Residential and Business POTS. Currently, UNE Loops and Sub Loops Voice are compared to Business POTS Dispatched. Embarq's proposal provides for a more accurate comparison since customers purchase UNE Loops for both residential and business services.

6. Measure 18 – Clarification of Completion Notice Interval Measurement Calculation

Embarq proposes changes to the calculation for this measure for clarification purposes. The current service results are being calculated per the intent of the measure. However, the description of the calculation in the PMP does not reflect the intent of the measure. The recommended change describes a method to achieve a result that is a percentage within 24 hours. There are no impacts to the service results due to this change.

7. Measure 37 – Eliminate Database Update Timeliness Measure

Embarq proposes eliminating this measure because Embarq's database update process is the same for CLEC and retail updates, and is therefore parity by design. Specifically, CLEC and retail database updates are sent to the database in the same file and are processed identically.

8. Measure 38 – Eliminate Directory Assistance/Listings Submeasure

Embarq proposes eliminating the Directory Assistance/Listings submeasure. Embarq implemented a new interface in 2003 that allows CLECs to enter their own directory information. Since CLECs enter their information directly, Embarq does not perform database update functions and should no longer measure database updates for directory assistance/listings.

9. Measure 44 – Ordering Center Submeasure – Benchmark Change

Embarq proposes a change to the benchmark for the Center Responsiveness Measure (Measure 44) to make it consistent with Embarq's retail benchmark for the same service. The CLEC service benchmark should be set at 80% within 20 second to match the Embarq retail benchmark established for Nevada.