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Public Service Commission

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DATE: February 9, 2007
TO: Bureau of Records (Lockard, Cole)
FROM: Division of Regulatory Compliance and Consumer Affairs (Vandiver, Freeman)
RE: Docket No. 060644-TL – Recommended disposition of confidential audit documents

There are seven different audit related documents associated with this case: Documents 10630-06; 10730-06; 10731-06; 10732-06; 00078-07; 00118-07, Exhibit 6; and 00118-07, Exhibit 14.

The recommended disposition of the documents is affected by Rule 25-22.006(5), Florida Administrative Code (FAC), which provides, in part:

“(5) Claim of confidential treatment pursuant to section 364.183(1), Florida Statutes (F.S.)
(a) Telecommunications companies or other persons claiming confidential treatment for materials pursuant to section 364.183(1), F.S., shall file with the Division of Records and Reporting one copy of all such materials and include a cover letter stating that confidentiality is being claimed. The telecommunications company or other person also shall file one copy of the material on which the specific information claimed as confidential shall be highlighted. Along with the highlighted copy, the telecommunications company or other person shall file two edited copies which will be made available for public inspection. In the edited copies, the specific information claimed to be confidential shall be blocked out by the use of an opaque marker or other masking device.

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Cole

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Confidential Audit Documents
February 9, 2007

In this docket, we have 7 documents attributed to the staff audit titled "EMBARQ Florida, Inc., 2005 Storm Recovery as of December 31, 2005, Audit Control No. 06-277-4-1." Below is a description of the confidential status of each of these 7 documents and recommended actions to be taken.

Items 1 & 2

At the audit exit conference, EMBARQ Florida, Inc., requested that portions of staff's audit report and working papers be held in a confidential status pursuant to Section 25-22.006(3)(a)2., Florida Statutes.

Filed November 22, 2006, and held in a confidential status by the Bureau of Records, Documents 10730-06 and 10731-06 consist of the original copies of the PSC auditor's working papers and notes identified as sensitive at the audit exit conference. These documents are currently held as "claimed confidential." The utility has filed document 11270-06 which was styled as a request for confidentiality pursuant to Rule 25-22.006(4), FAC. Staff recommends the material be treated as "claimed confidential" pursuant to Rule 25-22.006(5), FAC, to the benefit of the company. These documents will be held as confidential for 5 years after the case closes. After that period lapses, these two documents will be destroyed.

We recommend that these two documents (Nos. 10730-06 and 10731-06) be held in a claimed confidential status until 5 years after Docket No. 060664-TL closes.

Item 3

Filed November 22, 2007, and held in a confidential status by the Bureau of Records, Document 10732-06 consists of the 2 sensitive audit report pages prepared during this docket. This material was identified as sensitive at the audit exit conference. Currently, the sensitive audit report pages are held in a "claimed confidential" status awaiting staff's notice to the company that the material was used in a hearing to allow the company to file a response within 10 days as to why the material should remain exempt.

We recommend the company be notified that this sensitive material (Document No. 10732-06) was used in a commission hearing and pursuant to the provisions of Rule 25-22.006(5)2., FAC, the utility must demonstrate within 10 days why should this material should remain confidential.

Confidential Audit Documents
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Item 4

Filed November 20, 2007, and held in a confidential status by the Bureau of Records, Document 10630-06 is the testimony and exhibits of Iliana Piedra. The confidential portion of this filing is an exact copy of the two sensitive audit report pages also presented in document 10732-06. Currently, this document is held in a "claimed confidential" status awaiting staff's notice to the company that the material was used in a hearing to allow the company to file a response as to why the material should remain exempt.

We recommend the company be notified that like Document 10732-06, this identical sensitive material (Document 10630-06) was used in a commission hearing and pursuant to the provisions of Rule 25-22.006(5)2., FAC, the utility must demonstrate within 10 days why this material should remain confidential. Further, the processing and tracking of Document 10630-06 should be assigned to the Division of Regulatory Compliance and Consumer Affairs.

Item 5

Filed January 3, 2007, and held in a confidential status by the Bureau of Records, Document 00078-07, is identified by the utility as EMBARQ's response to audit request No. 17.1. The utility has entered a claim of confidentiality for this material when it was filed and entered a request for confidentiality on January 26, 2007.

Audit staff returned sensitive material to the utility during the course of the audit and has chosen not to retain this source material in the audit files. The audit working papers report the tests performed using the sensitive material.

Inasmuch as Document 00078-07 was offered by EMBARQ in support of its case, this document is not a staff audit document. Consequently, the disposition and tracking of document 00078-07 should be performed by the Commission's Division of Competitive Markets and Enforcement.

Item 6 & 7

The hearing transcript, Document 00118-07, at Exhibit 6, contains Document 00078-07 and at Exhibit 14, in part, contains a copy of the 2 sensitive audit report pages which are also found in Documents 10732-06 and 10630-06.

Once the request for Document 10732-06 is filed and processed, and the request of document 00078-07 is processed, the confidential status of the hearing exhibits can be determined.

CC: Office of General Counsel (Fudge)
Division of Competitive Markets and Enforcement (Wright, Fordham)