

Eric Fryson

From: Scobie, Teresa A (TERRY) [terry.scobie@verizon.com]
Sent: Tuesday, February 05, 2013 11:31 AM
To: Filings@psc.state.fl.us
Cc: O'Roark, Dulaney L; Carolyn Ridley; David Konuch; Garry Sharp; Kathryn Cowdery; Ken Plante; Matthew Feil; Pamela H. Page; Suzanne Montgomery
Subject: Docket No. 120208-TX - Verizon Florida LLC's Post-Workshop Comments
Attachments: 120208 VZ FL Post-Workshop Comments 2-5-13.pdf

The attached is submitted for filing on behalf of Verizon Florida LLC by

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The attached document consists of a total of seven pages - cover letter (1 page), Post-Workshop Comments (4 pages) and Certificate of Service (2 pages).

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February 5, 2013 – **VIA ELECTRONIC MAIL**

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 120208-TX
Petition to initiate rulemaking to revise and amend Rule 25-22.0365, F.A.C., by
Competitive Carriers of the South, Inc.

Dear Ms. Cole:

Enclosed are Verizon Florida LLC's Post-Workshop Comments for filing in the above matter. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please call me at 678-339-5081.

Sincerely,

s/ Dulaney L. O'Roark III

Dulaney L. O'Roark III

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Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to initiate rulemaking to revise) Docket No. 120208-TX
and amend Rule 25-22.0365, F.A.C., by) Filed: February 5, 2013
Competitive Carriers of the South, Inc.)
_____)

POST-WORKSHOP COMMENTS OF VERIZON FLORIDA LLC

Verizon Florida LLC (Verizon) files these comments in compliance with Staff's direction at the workshop held in this docket on November 15, 2012. For the reasons discussed below, the Commission should not adopt the revisions to Rule 25-22.0365, Expedited Dispute Resolution Process for Telecommunications Companies (Proposed Rule), that have been proposed by Competitive Carriers of the South, Inc. (CompSouth).

Under the Proposed Rule, different expedited procedures would apply in situations where there is an "immediate and negative effect on a customer," which "includes, but is not necessarily limited to, any out-of-service or any impeded service condition which significantly hinders the customer's ability to utilize the service within design parameters." (Proposed Rule 25-22.0365(1).) Parties would be "encouraged" to follow the dispute resolution terms in their agreements. (*Id.* 25-22.0365(2).) Seven days before filing a request for expedited resolution, the parties would be required to engage in informal dispute resolution with Staff. (*Id.* 25-22.0365(3).) After the request was filed, disputes with an immediate and negative effect on a customer would have to be scheduled for hearing and disposition as early as the Commission's schedule permits. (*Id.* 25-22.0365(9).) The Proposed Rule does not require that the responding party be given an opportunity to prefile testimony, nor does it provide for issue identification, discovery or other prehearing procedures.

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The Commission should not adopt the Proposed Rule because in practice carriers work out customer-affecting service issues; CompSouth's concerns can be addressed under the existing rule; the Proposed Rule would not solve the alleged problem; and the Proposed Rule would be subject to abuse.

A. CompSouth Does Not Point to Any Practical Problem that Needs to Be Fixed

CompSouth has not shown that a problem exists that the Proposed Rule would solve. At the workshop, it failed to point to a single instance where a customer was out of service or was experiencing a significant service issue that carriers were not able to fix without a Commission order. The lack of such a showing is strong evidence that in practice carriers work out such problems and that changes to the current expedited dispute resolution procedures are not necessary. Dispute resolution provisions in parties' interconnection agreements typically require parties to negotiate when disputes arise, which provides a framework for resolving them quickly. The proposed revision stating that carriers should be "encouraged" to follow such dispute resolution processes incorrectly suggests that they are not binding on the parties. Such negotiated processes should not be circumvented because they can be used effectively to address operational problems that can affect customer service.

B. CompSouth's Concerns Can Be Addressed Under the Current Rule

The current rule permits the Commission to address customer-affecting situations in a way that already addresses CompSouth's concerns. For example, if a CompSouth member wants Commission assistance to address a problem with a customer's service, it is free to call Staff and request a conference call or meeting with another carrier, which Staff can arrange if it believes one would be constructive. No rule

change is required to establish such an informal process. Likewise, Rule 25-22.0365(9) provides that the prehearing officer may adopt a procedural order that adopts an expedited schedule that varies from the standard timeline "based on the unique circumstances of the case." That provision allows the prehearing officer to deal with emergency situations and other circumstances where a customer's service is in jeopardy. The Proposed Rule would take away the prehearing officer's flexibility in deciding how best to handle those situations.

C. The Proposed Rule Would Not Solve the Alleged Problem

Even with the accelerated proceedings that CompSouth envisions under the Proposed Rule, it would take several weeks before the Commission could hear and resolve disputes, because informal discussions with Staff would have to take place, the prehearing officer would have to review and rule on the request for accelerated proceedings, the hearing would have to be noticed and scheduled, and the Commission would have to issue its order. In response to Staff's questioning, CompSouth's spokesperson, Mr. Darnell, stated that carriers as a practical matter must resolve customer-affecting problems within two days to two weeks. (Workshop transcript at 23-24.) The accelerated schedule proposed by CompSouth would not resolve disputed matters within that timeframe.

D. The Proposed Rule Would be Subject to Abuse

The Proposed Rule would be subject to abuse because carriers would have an incentive to invoke the new process in the hope that the Commission would give their dispute a high priority. The Proposed Rule defines "immediate and negative effect on a customer" broadly and with no limitation, so a disputing party always could claim that its

dispute merits accelerated treatment. Parties could be expected to seek leverage by requiring their adversaries to address disputes on an emergency basis, perhaps without the opportunity to prefile responsive testimony, take discovery or have issues clearly identified. Thus, while the Proposed Rule would provide no benefit, it would impose considerable harm and inconvenience on parties, Staff and the Commission.

Respectfully submitted on February 5, 2013.

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Attorney for Verizon Florida LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent via electronic mail
on February 5, 2013 to:

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s/ Dulaney L. O'Roark III