

FLORIDA PUBLIC SERVICE COMMISSION
NOTICE OF STAFF RULE DEVELOPMENT WORKSHOP

TO

ALL INTERESTED PERSONS

DOCKET NO.120208-TX

IN RE: Petition to initiate rulemaking to revise and amend Rule 25-22.0365, F.A.C., by
Competitive Carriers of the South, Inc.

ISSUED:

NOTICE is hereby given that a staff rule development workshop will be held at the following time and place:

July 23, 2013 at 1:30 p.m.
Room 140, Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, FL 32399-0862.

A copy of the draft rules and the agenda for the workshop are attached.

One or more Commissioners may be in attendance and participate in the workshop. The person to be contacted regarding this rule development is Pamela H. Page, Office of the General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, phpage@psc.state.fl.us, (850) 413-6214.

If you wish to comment but cannot attend the workshop, please submit your comments by August 7, 2013, to: Pamela H. Page, Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0852 (850) 413-6214.

In accordance with the Americans with Disabilities Act, persons requiring a special accommodation to participate at this workshop should contact the Office of Commission Clerk no later than five days prior to the workshop at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, via 1-800-955-8770 (Voice) or 1-800-955-8771 (TDD), Florida Relay Service.

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By DIRECTION of the Florida Public Service Commission this 8th day of July, 2013.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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FLORIDA PUBLIC SERVICE COMMISSION

AGENDA

STAFF WORKSHOP

IN RE: Petition to initiate rulemaking to amend Rule 25-22.0365, F.A.C., by Competitive Carriers of the South, Inc.

Docket No. 120208-TX

July 23, 2013, 1:30 p.m.
Betty Easley Conference Center, Room 140
4075 Esplanade Way
Tallahassee, Florida 32399-0850

1. Competitive Carriers of the South, Inc., overview of suggested changes to Rule 25-22.0365, Florida Administrative Code
2. Discussion
3. Schedule for next steps
4. Adjournment

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 must
5 have attempted to resolve their dispute informally. In the event that the parties are unable to
6 resolve their dispute independently, a party intending to invoke the expedited dispute
7 resolution process addressed herein shall, prior to filing a request under subparagraph (3),
8 notify Commission staff of the dispute and request that Commission staff conduct an informal
9 meeting. Such meeting shall be conducted within 7 days of the request for the purpose of
10 discussing the matters in dispute, the positions of the parties, possible resolution of the
11 dispute, any immediate effect on customers’ ability to receive service, anticipated discovery
12 needs, and case scheduling.

13 (3) To initiate the expedited dispute resolution process, the complainant company must file
14 with the Commission a request for expedited proceeding, direct testimony, and exhibits, and
15 must simultaneously serve the filing on the other company involved in the dispute. The
16 request for expedited proceeding is in lieu of the petition required by Rule 28-106.201, F.A.C.

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

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

20 (b) A statement of the specific issue or issues to be litigated and the complainant company’s
21 position on the issue or issues;

22 (c) The relief requested;

23 (d) A statement attesting to the fact that the complainant company attempted to resolve the
24 dispute informally; and

25 (e) An explanation of why the use of this expedited process is appropriate. The explanation of

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- 1 why use of the expedited process is appropriate shall include a discussion of the following:
- 2 1. The number and complexity of the issues;
 - 3 2. The policy implications that resolution of the dispute is expected to have, if any;
 - 4 3. The topics on which the company plans to conduct discovery, including a description of the
 - 5 nature and quantity of information expected to be exchanged;
 - 6 4. The specific measures taken to resolve the dispute informally; and
 - 7 5. Any other matter the company believes relevant to determining whether the dispute is one
 - 8 suited for an expedited proceeding.
- 9 (5) Any petition for intervention shall provide the information required by paragraphs (4)(a)-
- 10 (c) and (e) as it applies to the intervenor.
- 11 (6) The request for expedited proceeding shall be dismissed if it does not substantially comply
- 12 with the requirements of subsections (2), (3) and (4), above. The first dismissal shall be
- 13 without prejudice.
- 14 (7) The respondent company may file a response to the request. The response must be filed
- 15 within 14 days of the filing of the request for expedited proceeding.
- 16 (a) The response shall include the name, address, telephone number, facsimile number and e-
- 17 mail address of the respondent and the respondent's representative to be served, if different
- 18 from the respondent.
- 19 (b) The response to the request may include any information that the company believes will
- 20 help the Prehearing Officer decide whether use of the expedited dispute resolution process is
- 21 appropriate. Such information includes, but is not limited to:
- 22 1. The respondent's willingness to participate in this process;
 - 23 2. Statement of the specific issue or issues to be litigated from the respondent's perspective,
 - 24 and the respondent's position on the issue or issues;
 - 25 3. A discussion of the topics listed in subparagraphs (4)(b)-(e)1.-5. above.

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1 (8) No sooner than 14 days after the filing of the request for expedited proceeding under either
2 paragraph (9) or (13) hereof, but promptly thereafter, the Prehearing Officer will decide
3 whether use of the expedited proceeding is appropriate. The decision will be based on the
4 provisions of Section 364.16, F.S., the materials initially filed by the complainant company
5 ~~the factors provided in Section 364.058(3), F.S., the materials initially filed by the~~
6 ~~complainant company~~ and, if a response is filed, the materials included in the response.

7 (9) Except as provided in paragraph (13) hereof or uUnless otherwise provided by order of the
8 Prehearing Officer, based on the unique circumstances of the case, the schedule for each
9 expedited case will be as follows:

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

11 (b) Day 14 – deadline for filing a motion to dismiss, and a response to the request for
12 expedited proceeding;

13 (c) Day 21 – deadline for filing a response to the motion to dismiss, if one is filed; and,
14 deadline for filing petitions to intervene, and intervenor testimony and exhibits;

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

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

17 (10) The Prehearing Officer shall decide whether post-hearing briefs will be filed or if closing
18 arguments will be made in lieu of post-hearing briefs. In making this decision the Prehearing
19 Officer will consider such things as the number of parties, number of issues, complexity of
20 issues, preferences of the parties, and the amount of testimony stipulated into the record.

21 (11) The Commission shall make a decision on the dispute within 120 days of the complainant
22 company's filing of the request for expedited proceeding, direct testimony and exhibits, except
23 as otherwise provided in paragraph (13) hereof.

24 (12) Responses to discovery requests shall be made within 15 days of service of the discovery
25 requests, unless the Prehearing Officer decides otherwise based on the unique circumstances

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1 of the case.

2 (13) In any instance in which a dispute between telecommunications companies will result in
3 loss of dial-tone for a retail customer of either of the telecommunications companies engaged
4 in the dispute; the inability of any such retail customer to receive or complete calls as a result
5 of call-blocking, disruption of operations support systems, or provisioning failures; the
6 inability of any such retail customer to utilize high-capacity circuits, unbundled network
7 elements, shared port adaptors and interface processors, or local area networking service; or
8 involves the failure to port numbers or transfer account customer account information to any
9 retail customer's preferred carrier; the Commission shall proceed to resolve the matter in
10 accordance with the following accelerated process:

11 (a) Commission staff shall conduct an informal meeting with the companies, consistent with
12 subsection (2), within seven (7) days of being notified of the dispute for purposes of
13 discussing the matters in dispute, the positions of the parties, possible resolution of the
14 dispute, any immediate effect on customers' ability to receive service, anticipated discovery
15 needs, and case scheduling;

16 (b) In the event the informal meeting does not result in a resolution to the dispute, the
17 complaining party shall file a request for expedited proceeding consistent with subparagraph
18 (4) of this Rule with additional information regarding the basis for invoking the provisions of
19 paragraph (13) hereof, along with any testimony and related exhibits that the complaining
20 party intends to offer in the proceeding.

21 (c) A response, if any, to the request shall be filed within ten (10) days of the request for
22 expedited proceeding and shall otherwise be consistent with subparagraph (7) of this Rule.

23 (d) Unless the Prehearing Officer otherwise determines in accordance with paragraph (8)
24 hereof, a hearing will be scheduled as soon as the Commission calendar will accommodate,
25 but no sooner than fourteen (14) days following the filing of a response, if any, or the date that

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1 such response would have been due to be filed pursuant to this Rule.

2 (e) The Prehearing Officer will make a determination, based upon the scheduled date of the
3 hearing, as to whether rebuttal testimony shall be prefiled.

4 (f) For purposes of proceedings arising under this subsection, the Prehearing Officer may
5 determine that responses to discovery requests shall be made in less than the 15 days, but shall
6 in no instance require responses to be made in less than five (5) days.

7 (g) To the extent that the Commission's calendar can accommodate, a complaint arising under
8 this subsection shall be resolved within 60 days of the date that a request under subparagraph
9 (13)(b) is filed.

10 (h) Consistent with paragraphs (15) and (16) of this rule, the applicability of this accelerated
11 process will be reassessed as factors affecting the complexity of the case, number of issues,
12 number of parties, or customer impact change during the proceeding.

13 (14)(13) Service of all documents on the parties shall be by e-mail, facsimile or hand delivery.
14 An additional copy shall be furnished by hand delivery, overnight mail or U.S. mail if the
15 initial service was by e-mail or facsimile. Filing of all documents with the Commission shall
16 be by hand delivery, overnight mail or any method of electronic filing authorized by the
17 Commission.

18 (15)(14) The applicability of this rule to the proceeding will be reassessed as factors affecting
19 the complexity of the case, number of issues, or number of parties change during the
20 proceeding.

21 (16)(15) Once the Prehearing Officer has determined that use of an expedited proceeding is
22 appropriate, nothing in this rule shall prevent the Prehearing Officer from making a later
23 determination that the case is no longer appropriate for an expedited proceeding based on the
24 number of parties, number of issues or the complexity of the issues. Nothing in this rule shall
25 prevent the Commission from initiating an expedited proceeding on its own motion.

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1 *Rulemaking Authority 350.127(2), 364.16(6) FS. Law Implemented 364.16(6) FS. History-*
2 *New 8-19-04, Amended _____.*
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