

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120208-TX
ORDER NO. PSC-14-0226-NOR-TX
ISSUED: May 13, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the amendment of Rule 25-22.0365, Florida Administrative Code, relating to an expedited dispute resolution process for telecommunications companies.

The attached Notice of Proposed Rule appeared in the May 13, 2014 edition of the Florida Administrative Register. If timely requested, a hearing will be held at a time and place to be announced in a future notice. Written requests for hearing and written comments on the rule must be received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than June 3, 2014.

By ORDER of the Florida Public Service Commission this 13th day of May, 2014.



CARLOTTA S. STAUFFER
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.

PHP

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

[25-22.0365](#) Expedited Dispute Resolution Process for Telecommunications Companies

PURPOSE AND EFFECT: To amend the rule to make the expedited dispute resolution process for telecommunications companies more usable by the companies to resolve disputes.

Docket No. 120208-TX

SUMMARY: The rule and Section 364.16(6), F.S., require the Commission to make a decision on the dispute within 120 days. The amendments to the rule provide that, absent resolving the dispute themselves, a party is required to request an informal meeting with staff to be conducted within 7 days of the request for this meeting and before filing the petition for expedited process. The amendments shorten time frames in the expedited process, but the 120 day resolution date is the same.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 120.541(2)(c), F.S., and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: [350.127\(2\)](#), [364.16\(6\) FS.](#)

LAW IMPLEMENTED: [364.16\(6\) FS.](#)

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Page, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6412, phpage@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.0365 Expedited Dispute Resolution Process for Telecommunications Companies.

(1) No change.

(2) To be considered for an expedited proceeding, the companies involved in the dispute must have attempted to resolve their dispute themselves ~~informally~~.

(3) If the companies are unable to resolve their dispute themselves, the complainant company must, prior to filing a request under subsection (5), notify Commission staff of the dispute and request that Commission staff conduct an informal meeting. The informal meeting shall be conducted within 7 days of the request for the purpose

of discussing the matters in dispute, the positions of the parties, possible resolution of the dispute, any immediate effect on customers' ability to receive service, anticipated discovery needs, and case scheduling.

~~(4)(3)~~ To initiate the expedited dispute resolution process, the complainant company must file with the Commission a request for expedited proceeding, direct testimony, and exhibits, and must simultaneously serve the filing on the other company involved in the dispute. The request for expedited proceeding is in lieu of the petition required by Rule 28-106.201, F.A.C.

~~(5)(4)~~ The request for expedited proceeding must include:

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

(b) through (c) No change.

(d) A statement ~~attesting to the fact~~ that the complainant company attempted to resolve the dispute informally and the dispute is not otherwise governed by dispute resolution provisions contained in the parties' relevant interconnection agreement; and

(e) An explanation of why the use of this expedited process is appropriate. The explanation of why use of the expedited process is appropriate shall include a discussion of the following:

1. through 5. No change.

~~(6)(5)~~ Any petition for intervention shall provide the information required by paragraphs ~~(5)(4)~~(a)-(c) and (e) as it applies to the intervenor.

~~(7)(6)~~ The request for expedited proceeding shall be dismissed if it does not substantially comply with the requirements of subsections (2), (3), ~~and (4), and (5),~~ above. The first dismissal shall be without prejudice.

~~(8)(7)~~ The respondent company may file a response to the request. The response must be filed within 7 ~~14~~ days of the filing of the request for expedited proceeding.

(a) through (b) No change.

~~1. The respondent's willingness to participate in this process;~~

1.2. Statement of the specific issue or issues to be litigated from the respondent's perspective, and the respondent's position on the issue or issues; and

~~2.3.~~ A discussion of the topics listed in subparagraphs ~~(5)(4)~~(b)-(e)1.-5. above.

~~(9)(8)~~ No sooner than 7 ~~14~~ days after the filing of the request for expedited proceeding, but promptly thereafter, the Prehearing Officer will decide whether use of the expedited proceeding is appropriate. The decision will be based on the factors provided in Section 364.16(6) ~~364.058(3)~~, F.S., the materials initially filed by the complainant company and, if a response is filed, the materials included in the response.

~~(10)(9)~~ Unless otherwise provided by order of the Prehearing Officer, based on the unique circumstances of the case, the schedule for each expedited case will be as follows:

(a) No change.

(b) Day 7 ~~14~~ – deadline for filing a motion to dismiss, and a response to the request for expedited proceeding;

(c) Day 14 ~~24~~ – deadline for filing a response to the motion to dismiss, if one is filed; ~~and,~~

~~(d)~~ Day 21 – deadline for filing petitions to intervene, and intervenor testimony and exhibits;

~~(e)(4)~~ Day 42 – deadline for the Commission staff to file testimony; and

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

~~(11)(10)~~ The Prehearing Officer shall decide whether post-hearing briefs will be filed or if closing arguments will be made in lieu of post-hearing briefs. In making this decision the Prehearing Officer will consider such things as the number of parties, number of issues, complexity of issues, preferences of the parties, and the amount of testimony stipulated into the record.

~~(12)(11)~~ The Commission shall make a decision on the dispute within 120 days of the complainant company's filing of the request for expedited proceeding, direct testimony and exhibits.

~~(13)(12)~~ Responses to discovery requests shall be made within 15 days of service of the discovery requests, unless the Prehearing Officer decides otherwise based on the unique circumstances of the case.

~~(14)(13)~~ Service of all documents on the parties shall be by e-mail, ~~facsimile~~ or hand delivery. ~~An additional copy shall be furnished by hand delivery, overnight mail or U.S. mail if the initial service was by e-mail or~~

ORDER NO. PSC-14-0226-NOR-TX

DOCKET NO. 120208-TX

PAGE 4

~~facsimile~~. Filing of all documents with the Commission shall be by hand delivery, overnight mail or any method of electronic filing authorized by the Commission.

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

~~(16)~~(15) Once the Prehearing Officer has determined that use of an expedited proceeding is appropriate, nothing in this rule shall prevent the Prehearing Officer from making a later determination that the case is no longer appropriate for an expedited proceeding based on the number of parties, number of issues or the complexity of the issues. Nothing in this rule shall prevent the Commission from initiating an expedited proceeding on its own motion. *Rulemaking Authority 350.127(2), 364.16(6) FS. Law Implemented 364.16(6) FS. History--New 8-19-04, Amended*

NAME OF PERSON ORIGINATING PROPOSED RULE: Competitive Carriers of the South, Inc.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 9, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 40, Number 61, March 28, 2014