

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 12, 2014
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Pam H. Page, Office of the General Counsel
RE: Docket No. 120208-TX

Please file the attached rule certification packet for Rule 120208-TX, F.A.C., in the docket file listed above.

Thank you.

Attachment

RECEIVED FPSC
14 JUN 12 PM 12:47
COMMISSION
CLERK

COMMISSIONERS:
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LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

June 12, 2014

Ms. Liz Cloud
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

Re: Rule Certification Packet for Rule 25-22.0365, F.A.C.

Dear Ms. Cloud:

Enclosed for filing is a complete rule certification packet for Rule 25-22.0365, consisting of:

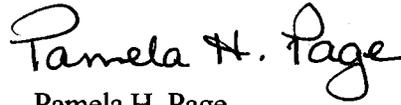
- (1) One compact disc containing the coded text of the rule;
- (2) One original and two copies of the signed rule certification form;
- (3) One original and two copies of the coded text of the rule, including the legal citations and history notes;
- (4) One original and two copies of the summary of the rule;
- (5) One original and two copies of the detailed written statement of the facts and circumstances justifying the rule; and
- (6) One original and two copies of the summary of the hearings held on the rule.

FILED
2014 JUN 12 AM 11:07
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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Please let me know if you have any questions. The contact name and information for this rule are Pamela H. Page, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6214, phpage@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads "Pamela H. Page". The signature is written in a cursive style with a large initial "P" and a distinct "H" and "Page".

Pamela H. Page
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-22.0365

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)

Carlotta S Stauffer
CARLOTTA S. STAUFFER

Commission Clerk
Title _____
Number of Pages Certified 3

25-22.0365 Expedited Dispute Resolution Process for Telecommunications Companies.

(1) The purpose of this rule is to establish an expedited process for resolution of disputes between telecommunications companies (“companies”).

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

(c) The relief requested;

(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. The number and complexity of the issues;
2. The policy implications that resolution of the dispute is expected to have, if any;
3. The topics on which the company plans to conduct discovery, including a description of the nature and quantity of

information expected to be exchanged;

4. The specific measures taken to resolve the dispute informally; and

5. Any other matter the company believes relevant to determining whether the dispute is one suited for an expedited proceeding.

~~(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) The response shall include the name, address, telephone number, facsimile number and e-mail address of the respondent and the respondent's representative to be served, if different from the respondent.

(b) The response to the request may include any information that the company believes will help the Prehearing Officer decide whether use of the expedited dispute resolution process is appropriate. Such information includes, but is not limited to:

~~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

~~1.3.~~ 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) Day 0 – request for expedited proceeding, direct testimony and exhibits are filed;

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

(c) Day 14 21 – 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) (d) 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 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

SUMMARY OF THE RULE

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.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rule 25-22.0365, F.A.C., is amended to establish a more expedited resolution of disputes between telecommunications carriers. The amendments include a mandatory meeting between staff and the parties prior to invoking the rule, and reduced timeframes.

Adoption of Rule 25-22.0365, F.A.C., will provide a more streamlined process for resolution of intercarrier disputes. There may be reduced litigation costs because of the required informal meeting between staff and the parties.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.