

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: January 18, 2017

TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

FROM: Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel 

RE: Closed Docket No. 120208-TX

Please file the attached rule material in the closed docket file listed above.
Thank you.

COMMISSION
CLERK

2017 JAN 18 AM 11:03

RECEIVED-FPSC

Kathryn Cowdery

From: Feil, Matthew <MFeil@gunster.com>
Sent: Tuesday, July 31, 2012 11:26 AM
To: Kathryn Cowdery
Subject: RE: Petition for Rulemaking

I was aware of the requirement but didn't realize the scheduling bind by filing today. Sorry about that.

Yes, CompSouth waives as you have requested below.

Also, though the petition does not say this, as I had mentioned to you before, this request can be rolled in with the other CLEC rules you are changing if schedules so permit.

-----Original Message-----

From: Kathryn Cowdery [mailto:kcowdery@PSC.STATE.FL.US]
Sent: Tuesday, July 31, 2012 11:22 AM
To: Feil, Matthew
Subject: RE: Petition for Rulemaking

Matt: As you know, § 120.54(7) states that not later than 30 days following the date of filing of a petition to initiate rulemaking, the agency shall initiate rulemaking proceedings, otherwise comply with the requested action, or deny the petition. The only agenda conference within the next 30 days is on August 14, which would mean that a staff recommendation would be due this Thursday, August 2. The next agenda conference is scheduled for September 18. Please let me know at your earliest convenience whether Competitive Carriers of the South will agree to waive the 30 day time deadline until the September 18 agenda conference, to give us sufficient time to review the petition and prepare a staff recommendation. Thank you.

Kathryn
413-6216

-----Original Message-----

From: Feil, Matthew [mailto:MFeil@gunster.com]
Sent: Tuesday, July 31, 2012 10:56 AM
To: Kathryn Cowdery
Subject: Petition for Rulemaking

Katherine,

The attached will be filed with the Clerk's office sometime today. Let me know if you have any questions.

Matt

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein. Click the following hyperlink to view the complete Gunster IRS Disclosure & Confidentiality note.

<http://www.gunster.com/terms-of-use/>

Kathryn Cowdery

From: Keating, Beth <BKeating@gunster.com>
Sent: Wednesday, July 03, 2013 2:53 PM
To: Pamela H. Page; Kathryn Cowdery
Subject: Docket No. 120208
Attachments: 25-22 0365 Redline Alternative on Original Rule Alternative - July 3 (Redline of current proposal on.DOC; 25-22 0365 Redline Alternative on Original Rule Alternative - July 1.DOC; 25-22 0365 Redline Alternative on Original Rule Alternative - July 1 (Clean)2.DOC

Pam and Katherine,

Attached is an updated version of the CompSouth alternative Expedited Rule Proposal submitted back in February. CompSouth has endeavored to take into account various concerns identified in stakeholder comments and subsequent conversations, but does not hold this out to be a consensus version. CompSouth welcomes further discussion in this regard and looks forward to continuing the rule development process. By separate email, we have provided this version to the other parties as well. The attachments to this email include: a redline version that shows the February alternative in redline with the more recent changes in hard strikethrough and underline; a clean version with most recent changes to our February proposal shown hard strike through and underline; and a redline version showing only the current proposed changes to the original rule.

Have a great weekend.

Sincerely,

Beth



GUNSTER

FLORIDA'S LAW FIRM FOR BUSINESS

Beth Keating | Attorney
Governmental Affairs
215 S. Monroe Street, Suite 601
Tallahassee, FL 32301
P 850-521-1706 C 850-591-9228
gunster.com | [View my bio](#)

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein. Click the following hyperlink to view the complete Gunster IRS Disclosure & Confidentiality note.

<http://www.gunster.com/terms-of-use/>

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 informally. In the event that the parties are unable to resolve their dispute independently, a party intending to invoke the expedited dispute resolution process addressed herein shall, prior to filing a request under subparagraph (3), notify Commission staff of the dispute and request that Commission staff conduct an informal meeting. Such 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.

(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.

(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

(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.

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

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

(7) The respondent company may file a response to the request. The response must be filed within 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;

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;

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

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

(9) ~~Except as provided in paragraph (13) hereof or~~ 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 14 – deadline for filing a motion to dismiss, and a response to the request for expedited proceeding;

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

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

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

(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.

(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, except as otherwise provided in paragraph (13) hereof.

(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.

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

(a) Commission staff shall conduct an informal meeting with the companies, consistent with subsection (2), within seven (7) days of being notified of the dispute for purposes 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;

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

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

(d) Unless the Prehearing Officer otherwise determines in accordance with paragraph (8) hereof, a hearing will be scheduled as soon as the Commission calendar will accommodate, but no sooner than fourteen (14) days following the filing of a response, if any, or the date that such response would have been due to be filed pursuant to this Rule.

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

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

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

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

(134) 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.

(145) 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.

(156) 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.

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 informally. ~~In the event that the parties are unable to resolve their dispute independently, a party intending to invoke the expedited dispute resolution process addressed herein shall, prior to filing a request under subparagraph (3), notify Commission staff of the dispute and request that Commission staff conduct an informal meeting. Such 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. Any agreements resulting from such informal meeting with Commission staff shall be reduced to writing and, if deemed necessary by Commission staff, approved by the Commission.~~

Formatted: Strikethrough

(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.

(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

(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.

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

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

(7) The respondent company may file a response to the request. The response must be filed within 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;

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;

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

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

(9) ~~Except as provided in paragraph (13) hereof or~~ 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 14 – deadline for filing a motion to dismiss, and a response to the request for expedited proceeding;
- (c) Day 21 – deadline for filing a response to the motion to dismiss, if one is filed; and, deadline for filing petitions to intervene, and intervenor testimony and exhibits;
- (d) Day 42 – deadline for the Commission staff to file testimony;
- (e) Day 56 – deadline for the respondent to file rebuttal testimony.

(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.

(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, except as otherwise provided in paragraph (13) hereof.

(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.

(13) In any instance in which a dispute between telecommunications companies will result in loss of dial-tone for a commercial or enterprise retail customer account of either of the telecommunications companies engaged in the dispute, the inability of any such retail customer to receive or complete calls as a result of call-blocking, disruption of operations support systems, or provisioning failures; the inability of any such retail customer to be able to utilize, access the Internet or to bring up a data circuit high-capacity circuits, such as DSL, DS3, or OC-N capacity circuits; unbundled network elements, shared port adaptors and interface processors, or Ethernet local area networking service, or involves the failure to port numbers or transfer account customer account information to such from any retail customer's preferred carrier, the Commission shall proceed to resolve the matter in accordance with the following accelerated process:

(a) Commission staff shall conduct an informal meeting with the companies, consistent with subsection (2), within seven (7) days of being notified of the dispute for purposes 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;

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

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

(d) Unless the Prehearing Officer otherwise determines in accordance with paragraph (8) hereof, a hearing will be scheduled as soon as the Commission calendar will accommodate, but no sooner than fourteen (14) days following the filing of a response, if any, or the date that such response would have been due to be filed pursuant to this Rule.

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

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

(g) To the extent that the Commission's calendar can accommodate, a hearing consistent with the accelerated process contemplated by this section, the Commission shall endeavor to resolve a complaint arising under this subsection shall be resolved within 60 days of the date that a request under subparagraph (13)(b) is filed.

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

(i) For purposes of this subsection, an "enterprise customer" is any business customer or applicant for service that includes high capacity circuits, such as DSL, DS3, or OC-N capacity circuits, unbundled network elements, shared port adaptors and interface processors, or Ethernet service. For purposes of this subsection, a "commercial customer" shall mean any non-residential customer or applicant for service for any office, store, factory, or other such location where commercial transactions or operations are conducted.

- Formatted: Strikethrough
- Formatted: Underline
- Formatted: Strikethrough
- Formatted: Underline
- Formatted: Underline
- Formatted: Strikethrough
- Formatted: Underline
- Formatted: Strikethrough
- Formatted: Strikethrough
- Formatted: Strikethrough
- Formatted: Underline
- Formatted: Underline
- Formatted: Underline
- Formatted: Strikethrough

Formatted: Strikethrough

- Formatted: Strikethrough
- Formatted: Underline

Formatted: Strikethrough

(134) 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.

(145) 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.

(156) 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.

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 informally. In the event that the parties are unable to resolve their dispute independently, a party intending to invoke the expedited dispute resolution process addressed herein shall, prior to filing a request under subparagraph (3), notify Commission staff of the dispute and request that Commission staff conduct an informal meeting. Such 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. ~~Any agreements resulting from such informal meeting with Commission staff shall be reduced to writing and, if deemed necessary by Commission staff, approved by the Commission.~~

(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.

(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

(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.

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

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

(7) The respondent company may file a response to the request. The response must be filed within 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;

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;

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

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

(9) Except as provided in paragraph (13) hereof or 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 14 – deadline for filing a motion to dismiss, and a response to the request for expedited proceeding;
- (c) Day 21 – deadline for filing a response to the motion to dismiss, if one is filed; and, deadline for filing petitions to intervene, and intervenor testimony and exhibits;
- (d) Day 42 – deadline for the Commission staff to file testimony;
- (e) Day 56 – deadline for the respondent to file rebuttal testimony.

(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.

(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, except as otherwise provided in paragraph (13) hereof.

(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.

(13) In any instance in which a dispute between telecommunications companies will result in loss of dial-tone for a ~~commercial or enterprise-retail~~ customer ~~account of either of the telecommunications companies engaged in the dispute~~; the inability of any such retail customer to receive or complete calls as a result of call-blocking, disruption of operations support systems, or provisioning failures; the inability of any such retail customer to be able to utilize access the Internet or to bring up a data circuit high-capacity circuits, such as DS1, DS3, or OCN capacity circuits, unbundled network elements, shared port adaptors and interface processors, or Ethernet local area networking service; or involves the failure to port numbers or transfer account customer account information to such from any retail customer's preferred carrier; the Commission shall proceed to resolve the matter in accordance with the following accelerated process:

(a) Commission staff shall conduct an informal meeting with the companies, consistent with subsection (2), within seven (7) days of being notified of the dispute for purposes 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;

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

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

(d) Unless the Prehearing Officer otherwise determines in accordance with paragraph (8) hereof, A a hearing will be scheduled as soon as the Commission calendar will accommodate, but no sooner than fourteen (14) days following the filing of a response, if any, or the date that such response would have been due to be filed pursuant to this Rule.

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

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

(g) ~~To the extent that the Commission's calendar can accommodate, a hearing consistent with the accelerated process contemplated by this section, the Commission shall endeavor to resolve a complaint arising under this subsection shall be resolved~~ within 60 days of the date that a request under subparagraph (13)(b) is filed.

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

(i) ~~For purposes of this subsection, an "enterprise customer" is any business customer or applicant for service that includes high capacity circuits, such as DS1, DS3, or OCN capacity circuits, unbundled network elements, shared port adaptors and interface processors, or Ethernet service. For purposes of this subsection, a "commercial customer" shall mean any non-residential customer or applicant for service for any office, store, factory, or other such location where commercial transactions or operations are conducted.~~

(14) 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) 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) 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.