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: August 13, 2018

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

FROM: Samantha Cibula , Office of the General Counsel S.M.L.

RE: Docket No. 20040436-TP

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

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P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
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August 11, 2004

VIA HAND DELIVERY

Christina Moore
Appeals, Rules, Mediation Section
Division of Legal Services
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0852

Re: Docket No. 040436-TP; Response to Request for Information

Dear Ms. Moore:

The following is being submitted for the Florida Telecommunications Industry Association, Inc. ("FTIA") on behalf of the member companies in response to the July 27, 2004, request for information in the above-styled docket.

The FTIA, established in 1907, is a trade organization representing the interests of Florida's telecommunications companies. Member companies include incumbent and competitive local exchange telecommunications services providers, and long distance and wireless providers, some of whom are subject to the regulatory assessment fee ("RAF"). The FTIA currently has 18 members that are telecommunications service providers and more than 70 member companies who supply goods and services to the telecommunications industry. The Association benefits the industry by fostering communication and cooperation among its members and serves as a unified voice for its members on policy issues.

The FTIA commends the FPSC for initiating the dialogue in this process. In this spirit, the FTIA offers the following in response to the Commission's request for ideas.

General Comments:

The FTIA urges the Florida Public Service Commission ("Commission" or "FPSC") to continue to evaluate and internally review how specific staff functions relate to regulatory necessity and overall productivity. The Commission should be mindful of the downturn in the telecommunications industry and the impact it has had on companies, which have adjusted to the same or greater workloads with fewer resources. Given the changing telecommunications landscape now is the time for the FPSC to carefully review all of its functions and resources.

1. Please provide a list of changes to Commission rules that you believe will help reduce the Commission's cost of regulating the telecommunications industry. Please identify the rules and be as specific as possible about the changes you recommend.

A. Service Quality Evaluations

Staff should refrain from conducting routine yearly (biennially for small ILECs) service evaluations, and instead conduct biennial or triennial evaluations or evaluations on an ad hoc basis in response to specific material concerns that arise from routine monitoring activities. Additionally, not all measurements/rules should need to be audited in every service evaluation.

B. Rule 25-24 (fees charged for certification) – Increase application fees for certification.

The Commission should consider increasing application fees for certification. These increases should take into consideration the work involved with the overall administration of the subcategories of telecommunications providers. For example, currently Section 25-24.51(2) requires a $100 application fee for a payphone provider. If the FPSC Staff plans to continue to do extensive payphone evaluations and issue correspondence to obtain corrective action, pursue collection of delinquent RAFs, issue orders regarding violations by payphone providers, and other costly administrative follow-up activities that appear to be triggered by the payphone providers, then this fee should be increased significantly.

Similarly, other application fees associated with telecommunications could be increased.

C. RAF Rule

The FTIA recommends that the Commission consider increasing the minimum annual RAF amount.

2. Please provide a list of specific changes to Commission procedures or to the manner in which the Commission processes dockets that you believe will help reduce the Commission's cost of regulating the telecommunications industry.

A. Annual Competition Report

The FTIA recommends that the Commission evaluate the scope and scale of the annual report on competition to ensure that it does not include unnecessary information and that the resources dedicated to preparing the report are commensurate with its benefits.

B. E-filings

The PSC should allow all documents to be filed electronically, with the exception being filings that contain confidential information.

C. Limit use of resources for audits/investigations based on allegations.

This would include establishing guidelines with threshold or materiality criteria before initiating audits or investigations based on limited or anonymous allegations. There should be an upfront trigger mechanism, decision "tree" or some "criteria" that would be used to determine whether or not an audit should go forward and the extent/limitations of the project.

D. Other Activities

From time to time, there may be an appearance of a duplication of efforts by PSC staff. Examples include:

- 6 to 10 staffers in meetings on issues that are not that involved, i.e., Issue IDs, informal meetings with an ILEC about Lifeline, docket status calls.
- Opening an audit on the substance of the issues in an open docket while at the same time serving discovery in the same docket under the procedural order.
- Unnecessary reporting of safety variances by PSC field review Staff that were previously reported by the power company and handled.
- Reporting of safety variances by PSC field review Staff that are not telecom related (should be power or cable).
- Multiple staffers handling the same consumer and/or CLEC complaint.

E. Organization

The FTIA recommends that the Commission evaluate the manner in which the internal divisions are organized, how employees are assigned to specific dockets and whether the Commission's employee time reporting system is being used to effectively manage allocation of staff resources.

F. Continue to evaluate whether existing resources can be re-deployed and whether work functions can be re-aligned or eliminated before filling Staff vacancies.

G. Review the current Staff activities associated with Interexchange Carrier issues.

Since Chapter 364, Florida Statutes, excludes intrastate interexchange companies from the definition of a "Telecommunications Company," there could be an elimination of some processes. For instance, the evaluation of the timing of IXC calls for billing purposes takes manpower and extensive review and follow-up on billing, and should only be triggered if there is a spike in complaints.

As part of this effort, the Commission could closely review the amount of time that is spent on handling issues that are related to non-regulated services, such as wireless and directory/yellow pages.

H. Interconnection Issues

Even though the process involved with the approval of Interconnection agreements, amendments and adoptions has been streamlined over time, consideration should be given to accepting these filings without having to assign and track a docket by the Clerk's office. Since these are approved administratively, explore using a system much like the tariff filing system where "T" numbers are used for tracking. This would eliminate the involvement of the Clerk's office.

3. Please provide a list of specific steps that telecommunications companies can take in each of the following areas in order to reduce the Commission's cost of regulation:

A. Tariff filings

Companies should participate in e-filing of tariffs. Cleanup tariff filings should be combined with more substantive filings to eliminate the number of filings.

B. Interconnection agreements, arbitrations and adoptions

Filed agreements are already treated administratively and do not require Commissioner action (see suggested filing and tracking changes in response to item 2 G above). If time runs out in the negotiation of an agreement and an arbitration is filed, the companies should continue to make every effort to resolve as many issues as possible prior to going to hearing. Mediation should be encouraged where possible.

C. Customer complaint resolution

New rules for handling customer complaints were placed into effect in January 2004 that provide opportunities for companies to handle complaints with little or no PSC Staff involvement. Companies should avail themselves of these processes in order to reduce PSC Staff costs as well as provide good customer service.

4. Please provide specific recommendations for additional methods of recovering the costs of regulating telecommunications companies, including consideration of fees tying costs to the cost-causer.

The Commission should consider establishing new rules to implement a schedule of reasonable filing fees for certain types of initial filings.

Conclusion:

The FTIA commends the FPSC for its willingness to evaluate its operations and recognizes that the Commission has recently made changes designed to improve the efficiency and effectiveness of the regulatory process. Some of these changes include a revised complaint handling process (January 2004), e-filings of pleadings and tariffs and expedited dispute resolution processes. The FTIA hopes that the Commission will continue to evaluate the effectiveness of these changes and that the improved efficiencies are reflected in the Commission's future budgets.

Sincerely,

Jeff Wal

J. Jeffry Wahlen
Counsel for the FTIA

JJW/jh
cc: Ms. Susan Langston
FTIA Executive Director

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FLORIDA COMPETITIVE CARRIERS ASSOCIATION

VIA E-MAIL

August 12, 2004

Christiana Moore
Appeals, Rules & Mediation Section
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: DOCKET NO. 040436, PROPOSED AMENDMENT OF RULE NO. 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES and UNDOCKETED EVALUATION OF METHODS FOR REDUCING AND/OR RECOVERING COSTS OF REGULATING TELECOMMUNICATIONS COMPANIES

The Florida Competitive Carriers Association (FCCA) is opposed to any further increase of the Regulatory Assessment Fee in Florida for competitive carriers. In light of the recent events that have had a significant negative impact on the competitive services market, additional cost burdens on CLECs are not sustainable. Should the Commission decide to increase the regulatory assessment fee, it should do so by the smallest incremental amount feasible. Any such increases should continue to be assessed solely on the basis of revenues in a competitively neutral manner. Any other method of assessment (e.g. filing fees, application fees) places CLECs and other small players in the market at an even greater competitive disadvantage.

Specific answers to request for information:

1. Please provide a list of changes to Commission rules that you believe will help reduce the Commission's cost of regulating the telecommunications industry. Please identify the rules and be as specific as possible about the changes you recommend.

The FPSC should further reduce its regulation of all telecommunications carriers possessing less than one per cent of the market in Florida. For example, these carriers could be exempt from all regulatory requirements other than regulatory assessment fees and responding to consumer complaints.

2. Please provide a list of specific changes to Commission procedures or to the manner in which the Commission processes dockets that you believe will help reduce the Commission's cost of regulating the telecommunications industry.

The FPSC could *require* electronic filing as a *substitute* for paper filing of all submissions by companies, either in Word/Excel format or Adobe PDF. This could significantly reduce the amount of paper required to be maintained by the FPSC staff. There are several

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methods for providing electronic signatures to maintain the "original" nature of a signed piece of paper.

3. Please provide a list of specific steps that telecommunications companies can take in each of the following areas in order to reduce the Commission's cost of regulation:

- **a. Tariff filings;**
- **b. Interconnection agreements, arbitrations and adoptions;**
- **c. CLEC/ILEC dispute resolution;**
- **d. Customer complaint resolution; and**
- **e. Other**

a. The FPSC has already streamlined its tariff process and moved toward electronic tariff filings, which makes this process much more efficient. In that area, the FPSC is aggressively pursuing a streamlined tariff approach.

b. The FPSC should eliminate the docketing and review of interconnection agreement opt-in notices from CLECs. CLECs are entitled under Section 252(i) of the federal Act to opt in to an entire agreement and no state review is necessary.

c. The FPSC could expand its accelerated dispute resolution process to provide meaningful opportunities to quickly resolve complaints. As it stands now, the process is too restrictive to provide CLECs with a realistic alternative to the lengthy, time-and-resource-intensive formal process. Also, the FPSC could expand its use of DOAH to resolve disputes. Finally, the FPSC could explore mandatory mediation or binding arbitration of some disputes.

d. The customer complaint resolution process is already much more streamlined and efficient than it has ever been. The FPSC could explore a more efficient review board process to close unresolved complaints.

4. Please provide specific recommendations for additional methods of recovering the costs of regulating telecommunications companies, including consideration of fees tying costs to the cost-causer.

Imposing a fee to file a complaint or other matter would only serve to discourage individuals from voicing their complaints or pursuing their rights before the Commission. CLECs spend significant dollars before the Florida Commission defending their rights and fighting to remove anti-competitive barriers from the local exchange market. To impose an additional filing fee upon a CLEC will only further increase a CLEC's costs and will serve as an additional barrier to entry/competition, which is in conflict with the requirements of Chapter 364, Florida Statutes.

Chris Moore

From: Mark Long
Sent: Thursday, August 12, 2004 4:32 PM
To: Chris Moore
Subject: FCCA RAF Workshop Comments

Attached are the FCCA's comments regarding the upcoming workshop on regulatory assessment fees.

Mark Long
Executive Director
Florida Competitive Carriers Association
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(850) 509-6430 cell
longtelecom@comcast.net

STATE OF FLORIDA

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Public Service Commission

June 21, 2004

Ms. Susan C. Langston
Executive Director
Florida Telecommunications Industry
Association
233 Pinewood Drive
Tallahassee, FL 32303

Re: Docket No. 040436-TP - Regulatory Assessment Fee Rulemaking

Dear Ms. Langston:

Enclosed is the Commission's response to the list of questions your Association submitted to us on June 14, 2004, relating to the proposed regulatory assessment fee increase. In order to answer any further questions you may have about the information, we are scheduling a meeting for Monday, June 28, 2004. We hope to be able to informally resolve any concerns you have prior to consideration of the rule at agenda conference, which we have rescheduled for July 20, 2004.

Sincerely,

Christiana T. Moore

Christiana T. Moore
Associate General Counsel

cc: Ms. Mary Bane
Mr. Chuck Hill
Mr. Dale Mailhot

Response to Questions from
Florida Telecommunications Industry Association

1. Please provide the hours, separately for direct and indirect hours, for each sub-industry within an industry and activity group as broken out in Exhibit A of the Auditor General's Report No. 2004-031 for each year (fiscal or calendar) from FYE 1998 to the most recent year available.

   The TimeDIRECT and precursor time accounting system summaries by FY are attached for FYs 1997-98 through 2002-03. For FY 2003-04, the summary includes the first three quarters of the FY. [Attachment A]

2. Please provide the total number of FPSC employees for each of the years beginning with FYE 1998 to the most recent year available. Identify to the extent possible the number of employees by section, bureau and division associated with each industry. Identify which employees are dedicated to each industry and identify the number of employees not dedicated to an industry, but whose time is allocated indirectly.

   Attachment B contains a chart for each year from 1998 through 2004 identifying FTEs for the total agency, by division and by bureau within each division. It is not possible to identify employees by industry. Even in 1998 when the Commission had three industry divisions (Telecommunications, Water and Wastewater, and Electric and Gas), there were other technical divisions that worked in all four industries. The divisions in 1998 that did no technical work and whose time was all indirect were the Division of Administration and the Division of Records and Reporting. As is the case today, the Direct and Indirect allocations of time worked on the different industries have been derived from the time accounting system (See item 1 above), and have not been based on assignment of individual employees to the different industries. With the gradual move to a functional organization structure since 1998, the assignment of employees by industries has become more blurred.

3. Please provide all studies, budget information etc. showing the Commission's efforts to reduce costs that reflect the move to less regulation of the telecommunications industry.

   There are no specific studies that are responsive to this request. However, the following is a short list of some of the streamlining measures that have been implemented.

   1. **Eliminate filing requirements related to accounting, finance, and depreciation information.**
   2. **Allow tariffs to become effective administratively.**
   3. **Allow the e-filing of tariffs.**
   4. **Simplify the certification process by allowing affidavits.**

5. **Register rather than certificate IXCs.**
6. **Administratively dispose of voluntary payphone certificate cancellations.**
7. **Allow e-filings with the Commission clerk.**
8. **Simplify processing requirements for confidential documents.**
9. **Significantly reduce amount of auditing.**
10. **Administratively adopt certain Interconnection Agreements.**
11. **Administratively process a voluntary cancellation of an IXC registration.**
12. **Expedited Dispute Resolution rule.**

4. Please provide all analyses and studies that support the assignment of 70% of Consumer Affairs' costs to telecommunications.

During 2003, the Division of Consumer Affairs (CAF) changed the way its staff members logged time on their monthly timesheets. In early 2003, most time was logged as indirect time. Beginning in early 2003, at the direction of executive management, CAF staff began assigning more of its time to direct time categories rather than to the indirect category when possible to do so. This resulted in indirect time for CAF dropping from 79.60% in December, 2002, to 47.35% in February, 2003.

In September, 2003, CAF developed allocation factors for staff. Under the allocation system, employees were directed to continue to assign their time directly and, only when they could not assign their time directly based on their workload were they to allocate their work time based on the ratio of complaints and information requests received for each regulated industry. This resulted in indirect time dropping to 2.42% in March, 2004. This primarily affected complaint intake and complaint resolution staff who handled a significant number of complaints on a daily basis and who previously assigned their time as indirect.

The ratio used was the total of the complaints and information requests applicable to each industry. The percentage for each industry was as follows:

Electric	**22.36%**
Gas	**2.62%**
Water/Wastewater	**5.30%**
Telephone	**69.72%**
Total	**100%**

5. Please provide an explanation of what percent each bureau/department represents of the Commission's budgets for each of the last five years.

The Commission is a single budget entity and the major budget category is salary and benefits. One could approximate each division's percentage of the total budget by computing the percentage of FTEs for each division from Item 2 above and applying those percentages to the total costs for the applicable year.

6. Please provide all support for your beliefs that the figures shown in Exhibit B of the Auditor General's Report No. 2004-031 are incorrect. Please specifically address why you believe the Auditor General's FYE 6/30/02 cash balance for Local Exchange of $25,650,353 is incorrect. MB

The figures shown in Exhibit B of the Auditor General's Report No. 2004-031 are misleading, at best, and may be incorrect. It appears that there is a net positive cash balance of $25,650,353 for the Local Exchange Companies. The cash balance for the telecommunications industry at the time of the audit was $6,679,107. The RAF statute addresses telecommunications companies, and no telecommunications sub industries are defined for RAF purposes. The AG audit is based on a presumption that the statute requires the sub industries to cover their costs which is not the case.

The data by telecommunications sub industry (which provided the basis for the AG's chart) was originally developed to provide PSC management with a rough idea of workload created by the different emerging sub industries. There was never any intention by management to assign budget allocations to sub industries for RAF purposes. Why the budget staff in the early 90s starting tracking cash balances by sub industry is not clear. Nor is it clear how the workload hours were allocated to provide a basis for budget allocations and the associated cash balances. Therefore, the validity of the cash balances by sub industry is questionable at best. This was explained to the AG staff during the audit and you will note that the AG report does not make specific recommendations for action with regard to the telecommunications industry.

7. Please provide any and all support, study, analyses, etc. that demonstrate that .0023% (sic) is the appropriate rate for Regulatory Assessment Fees for telecommunications. Provide any and all support, study, analyses, etc. that reviewed an increase for telecommunications to any rate other than .0023% (sic) or to any other non-telecommunications industry segment. D

Beginning in FY 2002-2003, the RAFs from telecommunications companies were insufficient to cover the cost of regulating the industry. The deficit is projected to increase to $3.9 million in 2004-2005. Without an increase in the RAF rate, the deficit will continue. The calculation of the .23 % is provided in Attachment C.

8. Please provide copies of all FPSC budget(s) for the last 5 fiscal years and include any time study or time related studies that were done to determine each industry's portion of the annual budget. Please provide the projected budget for the next fiscal year. Please explain the basis for the projection.

MS

The General Appropriations Acts (GAA) for FYs 1997-98 through 2003-04 are attached. For FY 2004-05, the Conference Committee Report (CCR) on HB 1835 is attached, as the Chapter Law is not yet available; however, there were no line-item vetoes that impacted the PSC budget as shown in CCR on HB 1835 so it reflects the

Commission's approved budget for next FY. The three specially appropriated transfers to the State's Working Capital Fund and two specially appropriated transfers to the Department of Law Enforcement are included with the respective years' GAAs (FYs 2001-02, 2002-03, and 2003-04).

The actual time allocated to the industries for the most recently completed FY is used to project each industry's costs for the budget year in question at the time the Legislative Budget Request for that year is prepared. FY 2002-03 was the last completed FY when the FY 2004-05 Legislative Budget Request was submitted in September 2003. [Attachment D]

The time allocations that are used to determine each industry's portion of the Commission's costs are provided in response to Item 1 above.

9. Is there an anticipated budget shortfall for telecommunications for the next fiscal year? If yes, please provide a detailed explanation of the expected shortfall.

Yes. There is an expected shortfall in the budget for telecommunications for the next fiscal year 2004-2005. The expected amount of the shortfall is $3,878,696. Without an increase in the telecommunications RAF rate, revenues are expected to be $9,000,000. The applicable general revenue service charge is $657,000. Expenses attributable to telecommunications are projected to be $12,221,696 based on the approved 2004-2005 budget. A calculation of the shortfall amount is included in the attached response to Question 7.

10. Please identify the number of staff positions that have been eliminated in each of the past 5 years. What is the FPSC's targeted headcount going forward? Will this result in a decrease in the Regulatory Assessment Fee (RAF) for the telecommunications industry?

FY 2004-05: -18
FY 2003-04: - 6.5
FY 2002-03: - 0
FY 2001-02: -13
FY 2000-02: - 2
FY 1999-00: + 4

The Commission does not have a targeted headcount beyond FY 2004-2005. Staffing needs will be dependent on workload. The Commission will adjust the RAF rates as needed to insure that the telecommunications industry does not subsidize the regulatory costs of other industries.

11. It was stated in the June 8, 2004 workshop that the FPSC is currently under collecting from the Water/Waste Water (sic) industry even though they are at the maximum allowable rate per the statute. Please explain in detail any plans to correct this issue. Is the requested increase to the telecommunications RAF due to the under collection from the Water/Waste Water (sic) industry?

The anticipated shortfall in the water and wastewater (WAW) industry has resulted from a decline in the number of WAW companies being regulated by the Commission. With the decline in the number of WAW companies, the Commission's workload has declined in that industry, although not proportionately with the decline in companies. Due to the decline in workload, the Commission is reducing the number of employees regulating the WAW industry. In the 2004-2005 fiscal year, at least half of the reduction in the number of Commission employees is in the WAW area. Therefore, the Commission has already taken corrective measures to address most of the deficit in WAW. The requested increase in the telecommunications RAF is not related to the under collection in WAW.

FLORIDA TELECOMMUNICATIONS INDUSTRY ASSOCIATION

June 14, 2004

Ms. Chris Moore, Esquire
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 040436-TP
Regulatory Assessment Fee Rulemaking

Dear Ms. Moore:

Enclosed is a list of questions related to the regulatory assessment fee proposal that the Florida Telecommunications Industry Association (FTIA) is submitting on behalf of its members. At the June 8th workshop several members had questions and indicated a desire to submit them to you. The consensus was that we should work informally to request and receive information.

In this sprit and in an effort to streamline the requests, we are submitting these questions. We hope to receive responses in time for review and use at the June 29, 2004 agenda conference.

If you have any questions, please do not hesitate to contact me.

Thank you,

Susan C. Langston

Susan C. Langston
Executive Director

Enclosure

cc: Dr. Mary Bane

Rec'd 4:30 6-14-04

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Serving Florida's Telecommunications Industry Since 1908

1. Please provide the hours, separately for direct and indirect hours, for each sub-industry within an industry and activity group as broken out in Exhibit A of the Auditor General's Report No. 2004-031 for each year (fiscal or calendar) from FYE 1998 to the most recent year available.

2. Please provide the total number of FPSC employees for each of the years beginning with FYE 1998 to the most recent year available. Identify to the extent possible the number of employees by section, bureau and division associated with each industry. Identify which employees are dedicated to each industry and identify the number of employees not dedicated to an industry, but whose time is allocated indirectly.

3. Please provide all studies, budget information etc. showing the Commission's efforts to reduce costs that reflect the move to less regulation of the telecommunications industry.

4. Please provide all analyses and studies that support the assignment of 70% of Consumer Affairs' costs to telecommunications.

5. Please provide an explanation of what percent each bureau/department represents of the Commission's budgets for each of the last five years.

6. Please provide all support for your beliefs that the figures shown in Exhibit B of the Auditor General's Report No. 2004-031 are incorrect. Please specifically address why you believe the Auditor General's FYE 6/30/02 cash balance for Local Exchange of $25,650,353 is incorrect.

7. Please provide any and all support, study, analyses, etc. that demonstrate that .0023% is the appropriate rate for Regulatory Assessment Fees for telecommunications. Provide any and all support, study, analyses, etc. that reviewed an increase for telecommunications to any rate other than .0023% or to any other non-telecommunications industry segment.

8. Please provide copies of all FPSC budget(s) for the last 5 fiscal years and include any time study or time related studies that were done to determine each industry's portion of the annual budget. Please provide the projected budget for the next fiscal year. Please explain the basis for the projection.

9. Is there an anticipated budget shortfall for telecommunications for the next fiscal year? If yes, please provide a detailed explanation of the expected shortfall.

10. Please identify the number of staff positions that have been eliminated in each of the past 5 years. What is the FPSC's targeted headcount going forward? Will this result in a decrease in the Regulatory Assessment Fee (RAF) for the telecommunications industry?

11. It was stated in the June 8, 2004 workshop that the FPSC is currently under collecting from the Water/Waste Water industry even though they are at the maximum allowable rate per the statute. Please explain in detail any plans to correct this issue. Is the requested increase to the telecommunications RAF due to the under collection from the Water/Waste Water industry?