



Public Service Commission

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

DATE: SEPTEMBER 5, 2000
TO: ALL PARTIES
FROM: DIANA CALDWELL, *DWC* SENIOR ATTORNEY, DIVISION OF LEGAL SERVICES
RE: DOCKET NO. 990750-TP - PETITION BY ITC^DELTACOM COMMUNICATIONS, INC. D/B/A ITC^DELTACOM FOR ARBITRATION OF CERTAIN UNRESOLVED ISSUES IN INTERCONNECTION NEGOTIATIONS BETWEEN ITS^DELTACOM AND BELLSOUTH TELECOMMUNICATIONS, INC.

Attached is information regarding mediation that I believe will be helpful. Please note that the Agreement to Engage in Mediation form is a sample and can be modified to suit the needs of the parties. You may add or delete clauses as you deem necessary. If you have any questions or comments, I will be glad to provide assistance.

Attachment

DWC

c: Division of Competitive Services (Ollila)

- APP _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- LEG _____
- OPC _____
- PAI _____
- RGO _____
- SEC I
- SER _____
- OTH _____

DOCUMENT NUMBER-DATE

2004 SEP-5 8

FPSC-RECORDS/REPORTING

MEDIATION

The Public Service Commission (PSC) often resolves disputes involving regulated utilities and their customers or other parties through formal proceedings. However, such proceedings can be expensive, time consuming and may not result in an outcome that satisfies all parties. Therefore, the PSC encourages parties to voluntarily participate in other less formal processes to resolve disputes. Parties may attempt to negotiate their dispute among themselves at any time and do not need the Commission's participation or permission to do so. However, when negotiations are unproductive, the parties may wish to consider mediation as an alternative to formal proceedings.

WHAT IS MEDIATION?

Mediation is a voluntary, informal, non-adversarial process. Parties select a neutral third party to act as mediator. The mediator does not attempt to make a judgement about right or wrong and does not prescribe what the resolution of the dispute should be. Instead, the mediator attempts to facilitate an agreement that leaves final resolution subject to the approval of all parties. The PSC must also approve the mediated agreement for it to become final. A party may withdraw from the process at any time without penalty and it is possible that only a partial agreement or no agreement will be reached. Parties retain their right to formal proceedings should they fail to reach an agreement through mediation.

WHAT TYPES OF ISSUES CAN BE RESOLVED THROUGH MEDIATION?

Some of the issues that can be resolved through mediation are: rulemaking, customer complaints, intercompany disputes, show cause proceedings, and tariffs.

IS MEDIATION APPROPRIATE FOR MY SITUATION?

- You are a party to a dispute involving a regulated industry.
- You are motivated to resolve the dispute.
- You are willing to negotiate with the other parties involved.
- You have a clear idea of how you would like the matter to be resolved.

WHY SHOULD I CHOOSE MEDIATION?

- To save time and money.
- To retain more control over how your dispute is ultimately resolved.
- To maintain good relations among parties.
- Formal proceedings remain available if the dispute is not resolved.

HOW DOES THE PROCESS WORK?

A party notifies the PSC of its desire to use mediation by filing a written request to mediate.

Other parties are notified and a written agreement to engage in mediation is filed by the parties that choose to participate.

The agreement states the identity of the mediator the parties have selected, the issues they have agreed to mediate, and the date and time of the first mediation session.

If an agreement is reached through the mediation session(s), the Commission will review it and enter a final order incorporating the agreement of the parties.

**Sample
AGREEMENT TO ENGAGE IN
MEDIATION**

FLORIDA PUBLIC SERVICE COMMISSION

Upon signing of this document, each of the parties identified below voluntarily agrees to engage in mediation in good faith for the purpose of resolving the disputed issues of Docket No. _____ . The process shall be concluded within 60 days of the date this agreement is signed unless otherwise agreed in writing by all parties.

Each party understands that choosing to engage in mediation is voluntary and does not confer or limit standing in any subsequent judicial or administrative proceeding. However, non-participation may limit standing as provided in Rule 28-106.111, FAC. Each party retains the right to a formal hearing before the Florida Public Service Commission (Commission) should the issues fail to be resolved through the mediation process. If any issues remain unresolved, the Commission shall notify the parties in writing of the legal remedies which remain available for disposition of the dispute and the deadlines for pursuing each within 7 days of the conclusion of the mediation.

If the parties have selected a mediator, provide the following. Name: _____ ;
Address: _____ ; Telephone Number: _____ .

Each party agrees that the cost of engaging the services of an outside mediator will be shared equally among the parties (excluding the Commission) unless specifically stated otherwise and agreed to in writing by all parties.

Each party agrees that the Commission may assign a staff member to conduct the mediation unless a mutually agreed upon mediator is selected by the parties. There is no charge for mediation services when the mediation is conducted by a member of the Commission staff.

Each party agrees that all mediation communications of the parties or the mediator prepared for the purpose of mediation shall be considered confidential offers of settlement and are not admissible in subsequent administrative, legislative, or judicial proceedings, unless: agreed to in writing by all parties; the communication has already been made public; or, the communication is required to be made public by statute or judicial order.

Each party understands that any agreement reached through the mediation process is subject to final review by the Commission. The Commission's final review of the mediated agreement shall be limited to whether the agreement is lawful and in the public interest.

Signature Date

Name of Party

Signature Date

Name of Party

Below, please list the date, time and place of the first mediation session.

Date of first mediation session _____ Time _____

Place first session to be conducted _____

Below, please list the names, addresses, and telephone numbers of any persons who may attend the mediation; please also indicate whether the person is authorized to settle or recommend settlement in this case:

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Name

Representing

Address

City State zipcode

Telephone number
Authorized to negotiate settlement: Yes ___ No ___

Sample
REQUEST FOR MEDIATION

Florida Public Service Commission

NAME OF PARTY

PARTY'S REPRESENTATIVE (IF ANY)

ADDRESS

ADDRESS

TELEPHONE NUMBER (VOICE)

TELEPHONE NUMBER (VOICE)

TELEPHONE NUMBER (FAX)

TELEPHONE NUMBER (FAX)

Statement of preliminary agency action in Docket No. _____.

Using the space below or additional pages if necessary, explain how your substantial interests will be affected by the Florida Public Service Commission's decision in this case. Please also specifically state the relief sought.

