



## P R O C E E D I N G S

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2           **CHAIRMAN GRAHAM:** Okay. Let's swing back  
3 around and get to the meaty stuff. Item Number 3.

4           **MS. PAGE:** Good morning, Commissioners.  
5 Pamela Page with the Office of General Counsel.

6           In Item Number 3 staff is recommending that  
7 the Commission propose the amendment of Rule  
8 25-22.0365 as set forth in Attachment A of staff's  
9 recommendation.

10           This rulemaking was initiated when the  
11 Commission, at a prior Agenda Conference, granted  
12 Competitive Carriers of the South's petition to initiate  
13 rulemaking in which the competitive carrier sought the  
14 amendment of this rule because they believe that the  
15 current process is not expeditious enough to address  
16 disputes that directly impact a customer's service. The  
17 amendments encompass a new three-step process for a  
18 party intending to invoke the rule.

19           The revised language states that absent  
20 resolving the dispute themselves, a party is required to  
21 request an informal meeting with staff, which must be  
22 conducted within seven days of the request for this  
23 meeting and prior to the filing of the petition for  
24 expedited process.

25           Most of the time frames in the expedited

1 process have been reduced, except that the 120-day  
2 resolution time frame remains the same.

3 CompSouth, AT&T, and Verizon are present and  
4 would like to make comments, and staff is available to  
5 address any questions you may have.

6 **CHAIRMAN GRAHAM:** Thank you, staff.

7 Who are we starting with? Ms. Keating.

8 **MS. KEATING:** I'm probably your most likely  
9 choice since it's our proposed rule.

10 Good morning, Commissioners. I'm Beth Keating  
11 with the Gunster Law Firm here today on behalf of  
12 CompSouth. And I really need to begin by thanking staff  
13 for working with us and for their patience in working on  
14 this rule for almost a year and a half at this point.  
15 We also appreciate the efforts of the other stakeholders  
16 in working with us. Even though I don't think we  
17 necessarily see eye to eye at the end of the day, I  
18 think there have been some genuine efforts to try to  
19 reach consensus on this.

20 But with regard to your staff's recommendation  
21 and the rule as it's proposed before you today, we  
22 appreciate your staff's analysis that the rules and the  
23 statutes already give a Prehearing Officer an awful lot  
24 of authority to shorten the 120-day time frame.  
25 Unfortunately though that's not readily apparent from

1 the text of the rule as it stands today or even as it's  
2 proposed, and that's really one of the reasons that we  
3 come back to that we think the rule has been  
4 underutilized. As such, we would have liked to have  
5 seen our proposed changes to paragraph 11 included. We  
6 think they provide additional clarity and emphasis with  
7 regard to the Prehearing Officer's authority.

8 We gather that your staff thinks that language  
9 is redundant of some language that's already in  
10 paragraph nine and in the underlying statute, as well as  
11 in the uniform rules, but we think it really provides  
12 some additional clarity. And even if it could be  
13 considered redundant, there's really no harm in the  
14 redundancy. Our thought is if you're going to go ahead  
15 and modify the rule, you might as well modify it to make  
16 it as clear as possible. Staff has also included some  
17 very helpful additional language and clarification in  
18 the recommendation in that regard, and we appreciate  
19 that.

20 Our concern though is ultimately if you issue  
21 this rule for adoption, there won't be an order out  
22 there that includes any of that helpful language or  
23 dicta that anybody could look back to later on to  
24 indicate that the Commission did agree that the  
25 Prehearing Officer had that authority.

1           As such, we'd just ask that you do issue the  
2 proposed rule for adoption, but that you include our  
3 proposed changes to paragraph 11.

4           If you decide you don't want to include our  
5 language, if there's some other way to make some  
6 affirmative statement or recognition of the Prehearing  
7 Officer's authority to shorten the time frame, you know,  
8 we'd appreciate that.

9           But just to conclude, I do want to emphasize  
10 that the changes your staff has proposed to make to the  
11 rule, they are necessary and they are important and we  
12 appreciate them. They provide an avenue, particularly  
13 the addition of paragraph three, to allow competitors to  
14 resolve time-sensitive issues, particularly those that  
15 are customer impacting, in as short a time frame as  
16 possible.

17           So with that, Commissioners, CompSouth would  
18 just ask that you issue the proposed rule for adoption,  
19 but that you consider including our proposed changes to  
20 paragraph 11 as well. Thank you.

21           **CHAIRMAN GRAHAM:** Thank you.

22           Commissioner Balbis.

23           **COMMISSIONER BALBIS:** Thank you. I have a  
24 question for staff, and it's going to focus on paragraph  
25 three of the proposed rule. And just walk me through

1 this. So currently the rule is in place where there's a  
2 120-day clock from whence they file for an expedited  
3 proceeding; correct?

4 **MR. BATES:** Correct.

5 **COMMISSIONER BALBIS:** So now we've added an  
6 additional step prior to that clock starting where they  
7 have to have this meeting that's going to occur within  
8 seven days. So doesn't that just extend the process  
9 from 120 to 127 days potentially?

10 **MR. BATES:** My answer would be that it would  
11 depend on when they've actually filed their request for  
12 expedited treatment.

13 **COMMISSIONER BALBIS:** But prior to filing the  
14 request, they have to try and resolve the dispute  
15 themselves and then have the informal meeting within  
16 seven days.

17 **MR. BATES:** Correct.

18 **COMMISSIONER BALBIS:** Okay. And I think, you  
19 know, I just want to be clear, I think having the  
20 parties resolve it themselves is the best option. I'm  
21 just wondering if that's the best way to do it.

22 And, Ms. Keating, I, I think the existing rule  
23 and the proposed rule, it's pretty clear that the  
24 Prehearing Officer does have the authority to shorten  
25 that time frame. Have any of your clients or have you

1 ever requested that time frame to be shortened and the  
2 Prehearing Officer denied it, or has that ever been  
3 attempted?

4 **MS. KEATING:** I can say this: The rule has  
5 only been called in and attempted to be used very few  
6 times in the Commission's history since it's been  
7 implemented since 2004. I can think of only one  
8 occasion where it's actually been used, and it was not  
9 in my mind a typical instance when -- that the rule was  
10 intended to be used. There was no request in any of  
11 those instances that I'm aware of that less than 120  
12 days be used. But in most instances, use of the rule  
13 was denied outright, so you never really got to that  
14 point of asking for a less amount of time.

15 **COMMISSIONER BALBIS:** Okay. Thank you.

16 **CHAIRMAN GRAHAM:** Next.

17 **MR. HATCH:** Everybody is pointing at me, so  
18 I'll go ahead and start. Tracy Hatch on behalf of AT&T  
19 Florida.

20 As the staff notes in their recommendation,  
21 based on where we stand now, we still maintain that I  
22 don't think that you need to make any changes to the  
23 rule. It went through a very long and extensive process  
24 in its development to put the timelines together to  
25 rationalize how it would all fit together. But the

1 changes that the staff has come up with here don't  
2 trouble us greatly. We have no major objection to  
3 what's on the table today.

4 **CHAIRMAN GRAHAM:** Okay.

5 **MS. MASTERTON:** Susan Masterton with  
6 CenturyLink. And we also support the staff rec. We had  
7 some concerns with the rule the way it was originally  
8 proposed and some questions about the need for it. But  
9 we really appreciate it, all the parties, the staff  
10 working together, and think that the rule that's  
11 proposed today will be helpful. And we particularly  
12 like the subsection (3) that allows for the ability to  
13 meet with staff because we think a lot of issues may be  
14 able to be resolved at that stage, as well as clarifying  
15 and narrowing the issues for hearing, if, if no  
16 resolution is able to be reached. So we support the  
17 staff rec. Thank you.

18 **MR. O'ROARK:** De O'Roark on behalf of Verizon.  
19 Verizon also supports the staff rec.

20 Commissioner Balbis, to your question, I just  
21 note on the new section (3), that language was agreeable  
22 to the whole industry, so there was no dispute on, on  
23 that point.

24 I would agree with you that, I think, what's  
25 now section (10) does give the Prehearing Officer the

1 discretion to adopt a schedule that would require less  
2 than 120 days, if that were appropriate under the  
3 circumstances. So we don't think any further changes  
4 are needed to what staff has recommended. That's all I  
5 have. Thanks.

6 **CHAIRMAN GRAHAM:** All right. Thank you very  
7 much.

8 Commissioners, any questions or comments?

9 Commissioner Brown.

10 **COMMISSIONER BROWN:** Just want clarification  
11 from the other parties here.

12 Ms. Keating's proposal, though, to clarify the  
13 Prehearing Officer's authority, additional authority,  
14 although it's implicit in the rule, do you oppose what  
15 she's suggesting that staff is not recommending,  
16 Mr. Hatch?

17 **MR. HATCH:** I guess I don't oppose it, but I  
18 would certainly agree that it's more than redundant. I  
19 mean, it's --

20 **COMMISSIONER BROWN:** We -- because we've never  
21 seen that in a rule.

22 **MR. HATCH:** There's the old belt and  
23 suspenders approach to saying it two, three, four, or  
24 five times. It doesn't make it any better. The rule is  
25 really quite clear that says you can do it, you can do

1 it less than 120 days. And if the Prehearing Officer  
2 finds under the circumstances that something different  
3 is better, then he certainly has the authority to do  
4 that.

5 **COMMISSIONER BROWN:** Right. But no harm, no  
6 foul including it.

7 **MR. HATCH:** No.

8 **COMMISSIONER BROWN:** Thank you.

9 Agreed?

10 **MS. MASTERTON:** Yeah. I mean, I think we'd  
11 have to agree. Although when you include something, it  
12 implies it's different if you say it more than once, and  
13 I think -- we think the rule as it stands is sufficient.  
14 So --

15 **MR. HATCH:** May I add one additional thing to  
16 that? This is Tracy Hatch with AT&T. Is that when you  
17 start making those kinds of changes, then you start  
18 creating a psychological impulse to do it in less than  
19 120 days, and that's our greatest fear. It's one thing  
20 to give the Prehearing Officer the authority to do it  
21 under the circumstances; it's another thing to create  
22 essentially maybe a predisposition or presumption that  
23 he should do it in less than 120 days. And that's what  
24 our biggest concern is when you start tinkering with  
25 language that way.

1                   **COMMISSIONER BROWN:** That's deep. Thank you.

2                   **MR. HATCH:** Sorry.

3                   **MR. O'ROARK:** I don't have anything further  
4 for CenturyLink.

5                   **CHAIRMAN GRAHAM:** Anything further,  
6 Commissioners?

7                   Okay. Can I get a motion? Commissioner  
8 Edgar.

9                   **COMMISSIONER EDGAR:** I'd move the staff  
10 recommendation as it is before us.

11                   **CHAIRMAN GRAHAM:** It's been moved and  
12 seconded, staff recommendation. Any further comments?  
13 Seeing none, all in favor, say aye.

14                   (Vote taken.)

15                   Any opposed? By your action, you've approved  
16 staff recommendation on Item Number 3. Thank you very  
17 much.

18                   (Agenda item concluded.)

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3  
 4 I, LINDA BOLES, CRR, RPR, Official Commission  
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12 DATED THIS 16th day of May, 2014.

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 14 *Linda Boles*

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