

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. P-100, SUB 19  
DOCKET NO. P-100, SUB 168

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. P-100, SUB 19

In the Matter of	)	
Rules to Require Regulated Telephone	)	
Companies to File Construction and	)	ORDER RESCINDING
Operating Budgets	)	COMMISSION RULE R9-3
	)	AND ELIMINATING
DOCKET NO. P-100, SUB 168	)	FILING REQUIREMENT
	)	FOR CENTRAL OFFICE
In the Matter of	)	EQUIPMENT REPORT
Filing Requirement for the Central Office	)	FOR ALL LOCAL
Equipment Report as Required by Standing	)	EXCHANGE COMPANIES
Data Request of Uncertain Origin	)	

BY THE COMMISSION: On June 30, 2009, House Bill 1180 became law as set forth in Session Law 2009-238 (hereinafter S.L. 238). Entitled "An Act Establishing The Consumer Choice And Investment Act Of 2009", the law creates a new category of price plan which any local exchange carrier (LEC) or competing local provider (CLP) may opt into by simply "filing notice of its intent to do so with the Commission". The election is effective immediately upon filing. The Commission refers to these new price plans in general as "Subsection (h) price plans".

On July 21, 2009, the Commission issued an Order Requesting Comments and Instituting Certain Interim Requirements in Docket No. P-100, Sub 165 wherein the Commission began the process of determining an orderly procedure for carriers to follow when adopting a Subsection (h) price plan and addressing further implications of S.L. 238. In its July 21, 2009 Order, the Commission noted that Commission rules, statutes, notice, and reporting obligations may be impacted by S.L. 238. The Commission noted that, while rules and statutes are the most salient items affected by the passage of S.L. 238, there are also orders that the Commission has issued over the years that have imposed notice obligations and reporting requirements on LECs that may be affected by a Subsection (h) election. The Commission determined that it was appropriate to solicit comments from parties setting forth those statutes, Commission rules, notice, and reporting obligations that they believe will no longer be in force for a LEC or CLP in such circumstances, together with the reasons therefore.

On October 20, 2009, the Commission issued its Order Implementing Certain Requirements in Docket No. P-100, Sub 165. In its October 20, 2009 Order, the Commission concluded, after reviewing the initial and reply comments filed by the parties in response to

the July 21, 2009 Order, that the Public Staff and the other commenting parties to the docket should be directed to address this issue, and, to that end, should be constituted as a Working Group<sup>1</sup> to develop a matrix that: (a) addresses which statutes, Commission rules, and notice and reporting obligations will no longer be in force for a company electing a Subsection (h) price plan; (b) suggests any necessary changes to those rules or notice and reporting obligations; and (c) sets out any differing positions and the rationales therefore. The Commission further stated that the parties may also address in the matrix any issues that they have come to believe are relevant, necessary, and convenient for Commission decision. The parties were directed to file such a matrix by no later than 45 days from the issuance of the October 20, 2009 Order.

After being granted two extensions of time to file, on February 2, 2010, the Working Group filed its Report and Matrix.

On March 30, 2010, the Commission issued its Order Concerning Working Group Report in Docket No. P-100, Sub 165. The Commission noted that two specific issues were outside the scope of the March 30, 2010 Order but stated that the issues would be addressed by the Commission in the context of another docket. The purpose of this Order is to address the two outstanding issues from the March 30, 2010 Order.

**First**, in its March 30, 2010 Order, the Commission outlined the Working Group's Matrix presentation of Issue No. 37, as follows:

Rule R9-3 – Annual Filing of Construction Plans and Objectives by Telephone Companies

Working Group Position for Subsection (h) entities:

- (i) Subsection (h) entities should be exempted.
- (ii) Rule should be eliminated for Subsection (h) and **all other LECs**.

The NCTIA and the Public Staff agreed with the Working Group's position.

CompSouth did not take a position on the continued need for this requirement at this time.

The Commission concluded in its March 30, 2010 Order that Docket No. P-100, Sub 165 was not the appropriate proceeding to eliminate the applicability of Rule R9-3 for rate-of-return LECs<sup>2</sup>, as contemplated by the Working Group's position on Issue No. 37 which

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<sup>1</sup> The members of the Working Group include: the Public Staff, The North Carolina Telecommunications Industry Association, Inc. (NCTIA), and the Competitive Carriers of the South, Inc. (CompSouth). CompSouth's members include: Access Point Inc.; Birch Communication (f/k/a ACCESS Integrated Networks, Inc.); Cavalier Telephone; Cbeyond Communications; Covad Communications Company; Deltacom, Inc.; Level 3 Communications; NuVox Communications, Inc.; tw telecom of north carolina l.p.; and XO Communications, Inc.

<sup>2</sup> By Order dated May 14, 2007, in Docket No. P-100, Sub 19A, the Commission exempted price regulation plan LECs from Rule R9-3.

states that the rule should be eliminated for Subsection (h) and all other LECs. The Commission stated that it would address this change in the context of another docket.

By this Order, the Commission is eliminating the applicability of Rule R9-3 for rate-of-return LECs. Since, with the adoption of this change, no telecommunications companies would continue to be required to adhere to Rule R9-3, the Commission is rescinding Rule R9-3 in its entirety from its official set of Commission Rules, effective on the date of this Order.

**Second**, in its March 30, 2010 Order, the Commission noted that, for Issue No. 88, item (i), the Working Group's position was that the filing requirement for the Central Office Equipment Report, required by a standing data request of uncertain origin, should be eliminated for all Subsection (h) entities and all other LECs. The Commission concluded in its March 30, 2010 Order that eliminating the filing requirement for all other LECs was outside the scope of Docket No. P-100, Sub 165; the Commission stated that it would address this change in the context of another docket.

The Commission finds it appropriate to eliminate the filing requirement for the Central Office Equipment Report for all LECs. The LECs are responsible for continuing to have such information available in the event the Commission or the Public Staff requests such information, such as in the case of verification of UNE Zone status under the Federal Communications Commission's UNE rules.

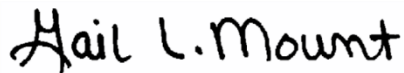
IT IS, THEREFORE, ORDERED as follows:

1. That Commission Rule R9-3 (Annual Filing of Construction Plans and Objectives by Telephone Companies) is rescinded in its entirety as of the date of this Order; and
2. That the filing requirement for the Central Office Equipment Report for all LECs is hereby eliminated. The LECs are responsible for continuing to have such information available in the event the Commission or the Public Staff requests such information, such as in the case of verification of UNE Zone status under the Federal Communications Commission's UNE rules.

ISSUED BY ORDER OF THE COMMISSION.

This the 9<sup>th</sup> day of April, 2010.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Deputy Clerk