

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by the Citizens of)
Florida to Investigate TALK.com Holding)
Company and The Other Phone)
Company for Willful Violation of)
Rule 25-4.118, Florida Administrative)
Code)

Docket No. 010409-TP

In re: Investigation of possible violation of)
Commission Rules 25-4.118 and)
25-24.110, F.A.C., or Chapter 364, F.S.,)
by The Other Phone Company, Inc. d/b/a)
Access One Communications, holder of)
ALEC Certificate No. 4099, and Talk.com)
Holding Corp. d/b/a Network Services d/b/a)
The Phone Company, holder of ALEC)
Certificate No. 4692)

Docket No. 010564-TX
Filed: June 4, 2001

MOTION TO CONSOLIDATE

Comes now Talk America, Inc., f/k/a Talk.com Holding Corp. d/b/a Network Services d/b/a The Phone Company and The Other Phone Company d/b/a Access One Communications (“Talk America” collectively) through its undersigned counsel and pursuant to Rule 28-106.108, Florida Administrative Code requests consolidation of the captioned dockets. As basis, Talk America would show:

1. Docket No. 010409-TP was assigned to a Petition to Initiate Investigation filed April 6, 2001, by the Citizens of Florida. In that Petition, the Citizens have requested the Commission to initiate a formal investigation to determine whether Talk.com Holding Corp. d/b/a Network Services d/b/a The Phone Company and The Other Phone Company d/b/a Access One Communications willfully violated Rule 25-4.118, Florida Administrative Code.

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2. On April 20, 001, and in an amended request April 27, Staff requested a docket be opened for the purposes of investigating the possible violation of Commission Rules 25-4.118 and 25-24.110, Florida Administrative Code or Chapter 364, by The Other Phone Company, Inc. d/b/a Access One Communications holder of ALEC Certificate 4099, and Talk.com Holding Corp. d/b/a Network Services d/b/a The Phone Company, holder of ALEC Certificate 4692. This request by Staff was assigned Docket No. 010564-TX.

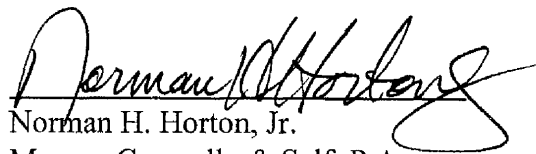
3. Both of these dockets were opened for the purpose of investigating allegations of possible rule violations by the same companies and the consumer inquiries which are the basis for the allegation are the same or substantially the same in each docket. The only apparent difference is that the Staff initiated docket addresses ALEC certificates while the petition filed by the Citizens requests an investigation of actions of the companies. (Petition p. 3, 4.)

4. Under the circumstances, Talk America believes it appropriate to consolidate these dockets and resolve the allegations raised in each in one docket. As mentioned, the respondent in both dockets is the same, the alleged violations are the same and the complaints being reviewed are the same. Consolidating the dockets will facilitate a complete resolution of the allegations and will avoid unnecessary duplication of effort by all parties. Both the Citizens and Staff have provided Talk America with a copy of the Complaints Query Report generated by the PSC relative to these dockets. Although there may be differences due to the time period reviewed or because of a printing instruction, the documents which list consumer inquiries and disposition of those inquiries are substantially the same. Each of the parties will be reviewing the same complaints and responses will be provided as to the complaints. It would be inefficient and unnecessarily expensive to respond to the same complaint or inquiry in two separate dockets.

5. Consolidation of these dockets would be consistent with Rule 28-106.108, Florida Administrative Code, which permits consolidation of separate matters “if it appears that consolidation would promote the just, speedy and inexpensive resolution of the proceedings and would not unduly prejudice the rights of a party.” First, although there are two dockets, they are not separate but the same matter as both dockets concern similar allegations by the Citizens and Staff and involve the same parties. Secondly, consolidation would be the most expeditious and efficient manner to dispose of the investigation because there would be no need to duplicate effort which would be caused by two proceedings and there need be only one review by the Commission.

WHEREFORE, for the reasons given, Talk America requests that the Commission consolidate these dockets for all purposes.

Respectfully submitted



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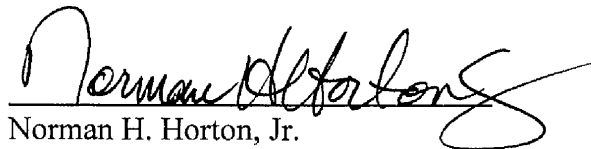
Attorneys for Talk America, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of Talk America, Inc.'s Motion to Consolidate in Docket Nos. 010409-TP and 010564-TX have been served upon the following parties by Hand Delivery (*) and/or U.S. Mail this 4th day of June, 2001.

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