

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against The Other Phone Company, Inc. d/b/a Access One Communications for apparent violation of Rule 25-24.820, F.A.C., Revocation of a Certificate.

DOCKET NO. 981867-TX
ORDER NO. PSC-99-1190-AS-TX
ISSUED: June 8, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING OFFER OF SETTLEMENT

BY THE COMMISSION:

On March 7, 1997, by Order No. PSC-97-0172-FOF-TP in Docket No. 961314-TP, we approved the transfer of Alternative Local Exchange Company (ALEC) Certificate No. 4099 from Payphone Consultants, Inc. to The Other Phone Company. On October 19, 1998, by Order No. PSC-98-1400A-FOF-TP in Docket No. 981161-TP, we approved a name change on ALEC Certificate No. 4099 from The Other Phone Company, Inc. to The Other Phone Company, Inc. d/b/a Access One Communications, effective October 29, 1998. As a provider of alternative local exchange telecommunications service in Florida, The Other Phone Company, Inc. d/b/a Access One Communications (Access One) is subject to the rules and regulations of this Commission.

For the period May 23, 1997 through April 28, 1999, this Commission received 14 complaints against Access One that have been determined to be apparent unauthorized carrier changes (slamming infractions) in violation of Section 364.337, Florida Statutes. On December 14, 1998, our staff opened this docket to investigate the apparent unauthorized local carrier change complaints against Access One.

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On January 21, 1999, our staff met with Access One to discuss the consumer complaints regarding unauthorized local carrier changes. Access One expressed concern and stated that due to the cost of obtaining a customer from the LEC, Access One takes extreme caution when marketing its services. It not only verifies the call once the telemarketer makes a sale, but it also follows up with a confirmation call. According to Access One, the company takes these steps prior to the conversion of the customer's account. This is done in order to allow the customer to ask any additional questions and to ensure the customer fully understands that he or she has authorized a change in service providers. In addition, Access One mails out a welcome letter to all new customers.

On April 29, 1999, Access One submitted a settlement offer (Attachment A) in lieu of proceeding with the show cause process. Access One has agreed to pay \$7,500 in settlement, and has taken steps to preclude future slamming infractions.

Access One also informed our staff that it had discontinued the use of the telemarketing firm that was the source of the majority of its complaints and has converted to the use of an automated verification system. Since that time, the company has few apparent slamming violations.

Because of the steps Access One has already taken to prevent slamming violations and the fact that there are no additional apparent slamming infractions, we believe Access One's voluntary contribution to the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, in the amount of \$7,500, is appropriate. If Access One fails to timely pay the settlement amount, its certificate will be canceled.

As a certificated telecommunications company, Access One is required to continue to adhere to the rules of the Florida Public Service Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the offer of settlement dated April 28, 1999, by The Other Phone Company, Inc. d/b/a Access One Communications is hereby approved. It is further

ORDERED that The Other Phone Company, Inc. d/b/a Access One Communications shall remit \$7,500 within five business days of this

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Order becoming final. The voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. Upon remittance of the \$7,500, this docket shall be closed administratively. If The Other Phone Company, Inc. d/b/a Access One Communications fails to make payment in accordance with the terms in its settlement offer, Alternative Local Exchange Company (ALEC) Certificate No. 4099 shall be canceled administratively effective 10 days after this Order becomes final.

By ORDER of the Florida Public Service Commission this 8th day of June, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida

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Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



ATTACHMENT A
DOCKET NO. 981867-TX

April 28, 1999

Ms. Kelly Biegalski
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Dear Ms. Biegalski,

I am following up our telephone conversation today, regarding making a settlement offer, for unresolved complaints against Access One Communications.

I would like to state again that we feel Access One takes all the necessary steps to ensure customers are aware of the products and services which Access One has to offer and that they are aware that they are switching their local telephone service from the ILEC to Access One. Since the majority of our sales are obtained using outside telemarketing firms, we send all customers through two different verification calls prior to switching their service. I have previously sent you copies of our sales script; third party verification script; Access One verification script; and welcome package that all customers receive. We take these steps to ensure that every customer fully understands who we are and how we operate.

As you have seen over the past several months, we switched our third party verification script to an automated process. This eliminated any questions or misunderstandings from the customer. If the customer does not understand any point or has some question regarding the service, the script is aborted and the customer must be re-sold and re-verified in order to obtain service from Access One. This change was put into effect in November 1998. Prior to making this change, we also terminated a relationship we had with a telemarketing firm in Tampa due to complaints we received from the PSC. We showed that not only do we take complaints from the PSC seriously, but that we act on them very quickly.

Please understand that it cost our company hundreds of dollars, per customer, to switch to our service. It does not serve the customer, nor Access One, to switch anyone who does not want to do business with us. We are a small start up company, trying to do the right thing, and cannot afford to take the financial hit that comes from slamming customers.

We feel that we have demonstrated in our discussions; meetings; and actions with the PSC, that these past problem have been addressed and eliminated going forward. With this in mind, and considering our size and resources, we feel that \$7500 is a fair settlement considering that we also have eliminated all charges and switching fees to the customers. This would cover the 14 unresolved complaints outstanding today.

I look forward to resolving this issue with you.

Sincerely,

Kevin D. Griffo
President