

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

In re: Petition by Citizens of State of Florida for investigation of Talk.com Holding Corp. d/b/a Network Services d/b/a The Phone Company and its affiliate, The Other Phone Company, Inc. d/b/a Access One Communications, for willful violation of Rule 25-4.118, F.A.C.

DOCKET NO. 010409-TP  
ORDER NO. PSC-01-1361-PCO-TP  
ISSUED: June 21, 2001

ORDER GRANTING MOTION TO CONSOLIDATE  
DOCKET NOS. 010409-TP AND 010564-TX

On April 6, 2001, the Office of Public Counsel (OPC) filed a petition for this Commission to initiate a formal investigation of TALK.com Holding Company d/b/a Network Services d/b/a The Phone Company, and of its affiliate The Other Phone Company d/b/a Access One Communications (collectively "Talk.com"). OPC seeks to have us investigate whether Talk.com willfully violated Rule 25-4.118, Florida Administrative Code, which prohibits companies from changing customers' telephone service providers without proper authorization. OPC's petition was assigned Docket No. 010409-TP. At issue in this docket are Talk.com's interexchange carrier (IXC) certificates.

Subsequently, on April 20, 2001, Commission staff opened a docket to investigate whether Talk.com had willfully violated Rules

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25-4.118 and 25-24.110, Florida Administrative Code, or Chapter 364, Florida Statutes, under its alternative local exchange carrier (ALEC) certificates. The docket opened by our staff is concerned with slamming complaints, as well as other types of apparent rule violations. The docket opened by our staff was assigned Docket No. 010564-TX.

On June 4, 2001, Talk.com filed a motion requesting consolidation of these dockets. In support of its motion, Talk.com argues that both dockets were opened to investigate allegations of possible rule violations by the same companies, and the consumer inquiries that are the basis of the allegations are substantially the same. According to Talk.com, consolidation will facilitate a complete resolution of the allegations while avoiding unnecessary duplication of efforts by all parties. Talk.com argues that it would be inefficient and unnecessarily expensive to respond to the same complaint inquiry in two separate dockets.

No response to Talk.com's motion to consolidate was filed. Counsel for OPC has represented that OPC does not object to consolidation of the dockets.

Rule 28-106.108, Florida Administrative Code, provides:

If there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated 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.

Both of these dockets involve similar, if not the same, issues of fact and law. In addition, with the exception of OPC, both dockets involve the same participants. As noted above, OPC does not object to consolidation.

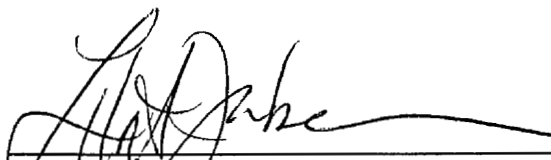
Having reviewed the pleadings, I find that keeping these dockets separate would cause unnecessary duplication of time and resources. Also, the consolidation of these dockets will promote the just, speedy, and inexpensive resolution of the proceedings. Thus, Talk.com's Motion to Consolidate is hereby granted.

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Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Talk.com's Motion to Consolidate is hereby granted.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 21st Day of June, 2001.

  
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LILA A. JABER  
Commissioner and Prehearing Officer

( 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2)

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reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.