

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Cypress Communications Operating Company, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records.	DOCKET NO. 050955-TX ORDER NO. PSC-06-0442-PAA-TX ISSUED: May 22, 2006
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The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING SETTLEMENT OFFER FOR APPARENT VIOLATION OF
364.183(1), FLORIDA STATUTES.

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background:

On December 27, 2005, our staff opened Docket No. 050955-TX against Cypress Communications Operating Company, LLC (Cypress) for its apparent violation of Section 364.183(1), F.S., Access to Company Records. On June 3 and July 19, 2005, our staff sent certified letters via the United States Postal Service (U.S.P.S.) to Cypress requesting data contained in its company records for inclusion in the Florida Public Service Commission's (this Commission's) annual report to the Legislature on the status of local competition in Florida (local competition report). Cypress signed the return receipt card for each certified letter, but our staff did not receive the company's response.

Our staff's recommendation in Docket No. 050955-TX was presented to this Commission at the February 28, 2006, Agenda Conference. On March 20, 2006, Proposed Agency Action (PAA) Order No. PSC-06-0229-PAA-TX was issued by this Commission imposing a \$10,000 penalty on Cypress for its apparent violation of Section 364.183(1), Florida Statutes. On April 17, 2006, Cypress submitted a settlement proposal.

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FPSC-COMMISSION CLERK

We are vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285 and 364.386, Florida Statutes.

II. Analysis:

On April 17, 2006, Mr. Randy New, counsel for Cypress, submitted an offer to settle the issue in this docket. In the letter, Mr. New stated that Cypress did timely respond to the data request via regular U. S. mail, but did not have proof that it had done so. Thus, Cypress proposed the following:

- A monetary offer of \$3,500; and
- To institute processes within the company to avoid a situation of this nature arising in the future.

We find the terms of the settlement agreement as summarized are fair and reasonable. Additionally, the amount of the settlement offer is consistent with this Commission's action in accepting similar terms of settlement for the same violation in Docket No. 000217-TX, In Re: Initiation of show cause proceedings against ATI Telecom, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

III. Decision:

Therefore, we find it appropriate to accept Cypress Communications Operating Company, LLC's settlement offer to voluntarily contribute \$3,500 to this Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes. If no person, whose substantial interests are affected by the proposed actions files a protest of this Commission's decision within the 21 day protest period, this Commission's Order will become final upon issuance of a Consummating Order. If this Commission's Order is not protested and Cypress complies with its settlement offer, this docket shall be closed administratively. If Cypress fails to remit the voluntary contribution of \$3,500 to this Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8176 shall be canceled and this docket shall be closed administratively.

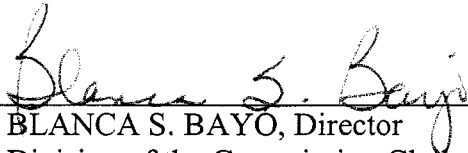
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Cypress Communications Operating Company, LLC's settlement offer to voluntarily contribute \$3,500 to this Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes be accepted. It is further

ORDERED that if this Commission's Order is not protested and Cypress complies with its settlement offer, this docket shall be closed administratively. It is further

ORDERED that if Cypress fails to remit the voluntary contribution of \$3,500 to this Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8176 shall be canceled and this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 22nd day of May, 2006.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

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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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 12, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.