

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Tristar Communications Corp. for apparent violation of Section 364.183(1), F.S., Access to Company Records.	DOCKET NO. 080450-TX ORDER NO. PSC-08-0803-PAA-TX ISSUED: December 4, 2008
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The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ACCEPTING SETTLEMENT OFFER

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 July 8, 2008, Docket No. 080450-TX was opened against Tristar Communications Corp. (TCC) for its apparent violation of Section 364.183(1), Florida Statutes (F.S.), Access to Company Records. On February 15, 2008, a certified letter was sent via the United States Postal Service to TCC requesting data contained in its company records. The data was required to compile the Florida Public Service Commission's (Commission) annual report to the Legislature on the status of local competition in Florida (local competition report). TCC did receive the certified letter.

An e-mail was sent to TCC advising that a response was past due. In an effort to collect the required data, attempts were made to contact the company via telephone calls or e-mails, reminding them that a response had not been received. The deadline established for receipt of the data was April 15, 2008. In this case, TCC advised that the data would be supplied by May 16, 2008. TCC did not provide a response until June 17, 2008, which was too late to incorporate into the local competition report.

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FPSC-COMMISSION CLERK

On September 24, 2008, we issued Proposed Agency Action (PAA) Order No. PSC-08-0628-PAA-TX imposing a \$10,000 penalty on TCC for its apparent violation of Section 364.183(1), F.S. On October 13, 2008, TCC submitted a settlement proposal.

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

**II. Analysis:**

On October 13, 2008, Mr. Nathan Gross, president of TCC, submitted an offer to settle the issue in this docket. In the letter, Mr. Gross stated that TCC tried to timely respond to the data request, but had to wait for information from an outside billing company. The billing company did not timely provide the data to TCC. To correct this situation, TCC has now brought its billing system in-house. TCC claims that direct access to its data will allow it to timely respond to any future data requests.

To resolve the apparent violation of Section 364.183(1), F.S., TCC has offered to make a voluntary contribution of \$3,500 for deposit in the General Revenue Fund. The amount of the settlement offer is consistent with our action in accepting similar terms of settlement for the same violation in Docket No. 050955-TX, In Re: Compliance investigation of Cypress Communications Operating Company, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records.

**III. Decision:**

Accordingly, we find it appropriate to accept Tristar Communications Corp.'s settlement offer to voluntarily contribute \$3,500 to us 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), F.S.

If no person, whose substantial interests are affected by the proposed action, files a protest of our decision within the 21-day protest period, this Order will become final upon issuance of the Consummating Order. If this Order is not protested and TCC complies with its settlement offer, this docket shall be closed administratively. If TCC fails to remit the voluntary contribution of \$3,500 within 30 days of the issuance of the Consummating Order, Certificate No. 8656 shall be canceled as set forth in PAA Order No. PSC-08-0628-PAA-TX, and this docket shall be closed administratively. If TCC's certificate is canceled, TCC shall be required to immediately cease and desist providing telecommunications services in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tristar Communications Corp.'s settlement offer to voluntarily contribute \$3,500 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), F.S., be accepted. It is further

ORDERED that if no person, whose substantial interests are affected by the proposed actions files a protest of this decision within the 21-day protest period, this Order will become final upon issuance of the Consummating Order. It is further

ORDERED that if this Order is not protested and Tristar Communications Corp. complies with its settlement offer, this docket shall be closed administratively. It is further

ORDERED that if Tristar Communications Corp. fails to remit the voluntary contribution of \$3,500 within 30 days of the issuance of the Consummating Order, Certificate No. 8656 shall be canceled as set forth in PAA Order No. PSC-08-0628-PAA-TX, and this docket shall be closed administratively. It is further

ORDERED that if TCC's certificate is canceled, TCC shall be required to immediately cease and desist providing telecommunications services in Florida.

By ORDER of the Florida Public Service Commission this 4th day of December, 2008.



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ANN COLE  
Commission Clerk

( S E A L )

TLT

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 25, 2008.

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.