

M E M O R A N D U M

February 15, 1999

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BEDELL) *CB*

RE: UNDOCKETED SPECIAL PROJECT NO. 980000B-SP - Access by
Telecommunications Companies to Customers in Multi-Tenant
Environments.

Attached are copies of the transmittal letters for the **Report on Access by Telecommunications Companies to Customers in Multi-Tenant Environments.**

CB/slh

Attachment

cc: Mary Bane, Deputy Executive Director/Technical
Division of RRR
Division of Communications

DOCUMENT NUMBER - DATE

01952 FEB 15 99

FPSC-RECORDS/REPORTING

STATE OF FLORIDA

JOE GARCIA
CHAIRMAN



CAPITAL CIRCLE OFFICE CENTER
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0855
(850) 413-6042

Public Service Commission

February 12, 1999

The Honorable Toni Jennings
President
The Florida Senate
The Capitol, Suite 409
Tallahassee, Florida 32399

Dear President Jennings:

Pursuant to the legislative directive in Chapter 98-277, Laws of Florida, the Florida Public Service Commission is pleased to submit a *Report on Access by Telecommunications Companies to Customers in Multitenant Environments*. The Report is submitted in two volumes. Also attached to this letter is suggested statutory language consistent with the Report.

In developing this Report, the Commission could not reach a definitive conclusion on whether a problem currently exists with accessing customers in a multitenant environment. The landlords asserted that no problem exists, while the alternative local exchange telecommunications companies asserted that there is a major problem. In spite of three workshops, extensive data gathering efforts, and lengthy discussions before the commissioners, neither side produced convincing evidence to support their position. However, participants all agreed that reasonable and nondiscriminatory access to telecommunications companies by customers should not be denied.

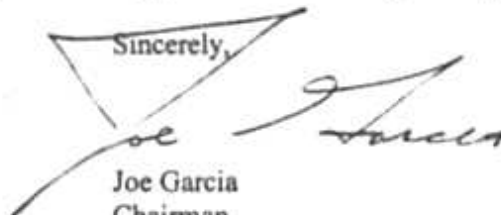
In our Report, we conclude that adopting legislation which sets forth standards for reasonable, nondiscriminatory, and technologically neutral access would assist in resolving the controversies between the landlords and telecommunications services providers. Although the Commission is not recommending specific legislative language in the Report, legislation would provide the guidelines necessary for access, may serve to lessen the polarization between the parties, and should serve to reduce impediments to competition in telecommunications. Therefore, we have attached some suggested language as a starting point should the Legislature wish to enact legislation during the upcoming session.

The Honorable Toni Jennings
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In the second of three public meetings regarding the report and the statutory language initially drafted by our staff, the Commission was urged to amend the statutory language to also give the landlords and tenants authority to file a petition with the Commission in instances where an alternative local exchange telecommunications company, which is serving one or more tenants in a multitenant building, refuses to serve another tenant(s) in the building. The attached language includes that authority. This language is in no way intended to create or impose a carrier of last resort responsibility on the alternative local exchange telecommunications companies. Rather, it offers all tenants in multitenant buildings, where access has already been granted to an alternative local exchange company, the right of redress before the Commission in instances where the alternative local exchange telecommunications company refuses to provide them service.

In addition, should the Legislature find it appropriate to develop legislation which gives the Commission authority over access issues, the Commission will develop a fiscal note identifying the resources needed to implement the specific language developed by the Legislature. We anticipate that additional positions may be needed if a significant number of petitions are expected to be filed with the Commission.

Please do not hesitate to call me if you have any questions concerning this Report.

Sincerely,

Joe Garcia
Chairman

JG:CB/tf
Attachments

cc: Honorable Tom Lee, Chairman, Committee on Regulated Industries
Members, Senate Committee on Regulated Industries
Commissioner Terry Deason
Commissioner Susan Clark
Commissioner Julia Johnson
Commissioner E. Leon Jacobs, Jr.

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Public Service Commission

February 12, 1999

The Honorable John Thrasher
Speaker
The Florida House of Representatives
The Capitol, Room 420
Tallahassee, Florida 32399

Dear Speaker Thrasher:

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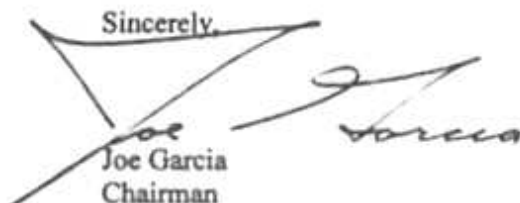
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Joe Garcia
Chairman

JG:CB/tf
Attachments

cc: Honorable Luis E. Rojas, Chairman, Committee on Utilities & Communications
Members, Committee on Utilities & Communications
Commissioner Terry Deason
Commissioner Susan Clark
Commissioner Julia Johnson
Commissioner E. Leon Jacobs, Jr.

STATE OF FLORIDA

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CHAIRMAN



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Public Service Commission

February 12, 1999

The Honorable Jeb Bush
Governor
State of Florida
The Capitol
Tallahassee, Florida 32399

Dear Governor Bush:

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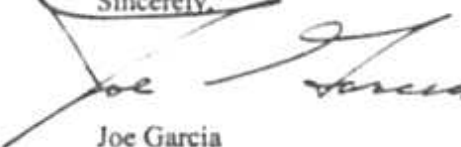
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Joe Garcia
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Attachments

cc: Commissioner Terry Deason
Commissioner Susan Clark
Commissioner Julia Johnson
Commissioner E. Leon Jacobs, Jr.

1 Section 1. Subsections (6), (8), and (10) of section 364.02 Florida Statutes, is created to read:

2 364.02 Definitions.--As used in this chapter:

3 (6) "Exclusionary contract" means an agreement between a landlord and a
4 telecommunications company in which the telecommunications company is given exclusive
5 access to the landlord's property for the purpose of providing telecommunications service.

6 (8) "Marketing agreement" means an agreement between a landlord or property manager
7 and a telecommunications company in which the telecommunications company provides some
8 form of remuneration to the landlord or property manager for each tenant subscribing to the
9 service of the telecommunications company.

10 (10) "Multitenant environment" includes all types of structures and tenancies with
11 multiple tenants except:

12 (a) condominiums, as defined in Chapter 718, Florida Statutes;

13 (b) cooperatives, as defined in Chapter 719, Florida Statutes;

14 (c) homeowners' associations, as defined in Chapter 617, Florida Statutes;

15 (d) those short-term tenancies served by call aggregators as defined by commission rule;
16 and

17 (e) all tenancies of 13 months or less in duration.

18
19 Section 2. Section 364.340, Florida Statutes, is created to read:

20 364.340 Multitenant environments; reasonable and nondiscriminatory access by
21 telecommunications companies to tenants in multitenant environments; exclusionary contracts
22 prohibited; disclosure of marketing agreements required; review by commission.--

23 (1) The standards for access by telecommunications companies to tenants in multitenant
24 environments are:

25 (a) Access shall be granted on a reasonable, nondiscriminatory, and technologically
26 neutral basis.

27 (b) Tenants, landlords, and telecommunications providers shall make every reasonable
28 effort to negotiate terms and conditions for access;

29 (c) A landlord may charge a telecommunications company or tenant the reasonable and
30 nondiscriminatory costs of installation, easement, or other costs of providing service to the
31 tenant;

1 (d) The tenant shall be responsible for obtaining all necessary easements;

2 (e) A landlord may impose conditions reasonably necessary for the safety, security, and
3 aesthetics of the property;

4 (f) A landlord may not deny access to space or conduit previously dedicated to public
5 service if that space or conduit is sufficient to accommodate the facilities needed for access;

6 (g) A landlord may deny access where the space or conduit required for installation is not
7 reasonably sufficient to accommodate the request or where the installation would unreasonably
8 interfere with the aesthetics of the building; and

9 (h) A landlord shall not charge a fee for the privilege of providing telecommunications
10 service to a tenant in a multitenant environment.

11 (i) Once access is granted to a telecommunications company to provide service in a
12 multitenant environment, that telecommunications company may not refuse any reasonable
13 request to serve another tenant.

14 (j) Nothing in this section shall abrogate the obligations of the carrier of last resort
15 described in s. 364.025.

16 (2) Exclusionary contracts between telecommunications companies and landlords for the
17 provision of telecommunications services to multitenant environments are prohibited.

18 (3) Landlords shall disclose to potential tenants the existence of a marketing agreement.

19 (4) The commission shall have exclusive jurisdiction for the purpose of resolving
20 disputes arising between telecommunications companies, tenants, and landlords concerning
21 access to tenants for the provision of telecommunications services in multitenant environments.

22 (a) The threshold for initiating an action for access shall be:

23 1. After a tenant initiates a request to a telecommunications company for service, the
24 telecommunications company and the tenant shall convey the request for service to the landlord;

25 2. If a landlord is unresponsive to a request for access, a written request shall be
26 submitted to the landlord;

27 3. If the landlord fails to timely respond, if access is denied, or if reasonable and
28 nondiscriminatory terms for access cannot be agreed upon, the telecommunications company and
29 the tenant may file a petition with the commission for review.

30 4. Where a telecommunications company has obtained access to one or more tenants in a
31 multitenant environment and that telecommunications company has refused to provide service to

1 another tenant, the landlord and tenant may file a petition with the commission.

2 (b) In resolving disputes related to access, the commission shall apply the standards
3 described in paragraph (1) of this section.

4 (5) The commission shall promulgate rules for the purpose of implementing the
5 provisions of this section.

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