



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0840

-M-E-M-O-R-A-N-D-U-M-

RECEIVED-FPSC
JUN 29 AM 11:25
RECORDS AND REPORTING

DATE: JUNE 29, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (CALDWELL) *WC*
DIVISION OF COMPETITIVE SERVICES (M. WATTS) *MWA* *W*

RE: DOCKET NO. 000221-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST ORLANDO DIGITAL TELEPHONE CORPORATION FOR APPARENT VIOLATION OF SECTION 364.183(1), F.S., ACCESS TO COMPANY RECORDS.

AGENDA: 07/11/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000221.RCM

CASE BACKGROUND

- May 13, 1997 - Orlando Digital Telephone Corporation (Orlando Digital) obtained Florida Public Service Commission Alternative Local Exchange Company Certificate Number 4866.
- June 25, 1999 - Staff mailed a certified letter requesting information necessary for inclusion in the local competition report required of the Commission by Section 364.386, Florida Statutes. Staff requested a response by August 6, 1999.
- July 6, 1999 - Orlando Digital signed for and received the certified letter. (Attachment B, page 6)
- December 6, 1999 - Staff sent a second certified letter requesting Orlando Digital respond to the data request no later than December 22, 1999.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DATE: June 29, 2000

- December 9, 1999 - Orlando Digital signed for and received the certified letter. (Attachment B, page 6)
- February 22, 2000 - After receiving no response to its June 25, 1999 and December 6, 1999 certified letters, staff opened this docket to investigate whether Orlando Digital should be required to show cause why it should not be fined or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.
- April 12, 2000 - Commission Order No. PSC-00-0677-SC-TX was issued to show cause Orlando Digital for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.
- June 28, 2000 - Orlando Digital submitted an offer to settle this case. (Attachment A, page 5)

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Orlando Digital Telephone Corporation to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within twenty business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.
(M. Watts)

STAFF ANALYSIS: Staff sent a certified letter requesting information contained in company records to Orlando Digital on June 25, 1999, and requested a written response by August 6, 1999. Staff did not receive the requested information from Orlando Digital. Staff sent a second certified letter requesting the information to Orlando Digital on December 6, 1999, and requested a written response by December 22, 1999. This second certified letter was received by Orlando Digital and signed for by Brenda

DOCKET NO. 000221-1X

DATE: June 29, 2000

White, the company President's wife (Attachment B, page 6). Staff did not receive the requested information from Orlando Digital in apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Therefore, on February 22, 2000, staff opened this docket to require Orlando Digital to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes.

On June 28, 2000, Orlando Digital sent a settlement offer (Attachment A, page 5) in response to Commission Order No. PSC-00-0677-SC-TX. In its settlement offer, Orlando Digital proposed the following:

- A monetary settlement of \$3,500.
- To set up procedures to prevent this from reoccurring.
- Twenty business days to remit the settlement.

Orlando Digital received and signed for both certified letters (Attachment B, page 6), and still did not provide the requested information. The Commission has approved settlement offers of \$3,500 and \$4,000 from other companies that neither provided the requested information nor presented evidence of reasonable mitigating factors to account for its failure to provide the information. Therefore, staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and we support Orlando Digital's offer of settlement. Any contribution should be received by the Commission within twenty business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

DOCKET NO. 000221-1X

DATE: June 29, 2000

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. With the approval of Issue 1, this docket should remain open pending the remittance of the \$3,500 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively, and this docket should be closed. (Caldwell)

STAFF ANALYSIS: This docket should remain open pending the remittance of the \$3,500 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively, and this docket should be closed.

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SCOTT R. CORBETT, LL.M. (Taxation)
DONALD R. CORBETT (1929-1992)

ORIGINAL

June 27, 2000

Florida Public Service Commission
Attn: Mr. Ray Kennedy
2450 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Orlando Digital Telephone Corporation
Docket No. 000221-TX

Dear Mr. Kennedy,

For purposes of resolving the above referenced matter, I have been authorized by Orlando Digital Telephone Corporation ("ODT") to offer a monetary settlement of \$3,500.00 as its penalty. ODT would also request that it be allowed 20 days in which to pay same if recommended by you and approved by the Commission. Furthermore, the situation which allowed the above developments to occur no longer exists, and ODT will assure the Commission that it will not happen again and that procedures have been set up so that such an incident will not reoccur. Thank you for your attention to this matter, and I look forward to your response.

Very truly yours,



Scott R. Corbett

APP
CAF SRC/ms
CMP
COM
CTR
ECR
LEG
OPC
PAI
RGO
SEC
SER
OTH

10-2-00 12:00:00

DOCUMENT NUMBER-DATE

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REGISTRATION REPORTING

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	3. Jack White President Orlando Digital Telephone Corporation 3601 Vineland Road, Suite 4 Orlando, FL 32811-6474		4a. Article Number 4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
	5. Received By: (Print Name) M. Don		7. Date of Delivery 7/6/99
	6. Signature: (Addressee or Agent) X [Signature]		8. Addressee's Address (Only if requested and fee is paid)
PS Form 3811, December 1994		102595-98-B-0229	Domestic Return Receipt

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?	SENDER: ■ Complete items 1 and/or 2 for additional services. ■ Complete items 3, 4a, and 4b. ■ Print your name and address on the reverse of this form so that we can return this card to you. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ Write "Return Receipt Requested" on the mailpiece below the article number. ■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
	3. Jack White President Orlando Digital Telephone Corp. 3601 Vineland Road, Suite 4 Orlando, FL 32811-6474		4a. Article Number Z362335725
	5. Received By: (Print Name)		7. Date of Delivery 7-9
	6. Signature: (Addressee or Agent) X [Signature]		8. Addressee's Address (Only if requested and fee is paid)
PS Form 3811, December 1994		102595-98-B-0229	Domestic Return Receipt

Thank you for using Return Receipt Service.