



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

COMMISSION  
CLERK

RECEIVED PSC  
JUL 11 PM 3:49

**DATE:** JULY 12, 2001

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

**FROM:** DIVISION OF LEGAL SERVICES (B. KEATING) *BK*  
DIVISION OF COMPETITIVE SERVICES (K. CRAIG) *(KC) (KW)*

**RE:** DOCKET NO. 010126-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST WIRELESS ONE NETWORK, L.P. D/B/A CELLULAR ONE OF SOUTHWEST FLORIDA FOR APPARENT VIOLATION OF SECTION 364.183(1), F.S., ACCESS TO COMPANY RECORDS.

**AGENDA:** 07/24/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\LEG\WP\010126.RCM

CASE BACKGROUND

- July 25, 1997 - Wireless One Network, L.P. d/b/a Cellular One of Southwest Florida (Cellular One) obtained Florida Public Service Commission Alternative Local Exchange Telecommunications Certificate No. 5181.
- July 6, 2000 - Staff mailed a certified letter requesting information necessary for inclusion in the 2000 local competition report required of the Commission by Section 364.386, Florida Statutes. Staff requested a response by August 10, 2000.
- July 11, 2000 - A representative from Cellular One signed for and received the certified letter.
- January 30, 2001 - After receiving no response to its July 6, 2000 letter, staff opened this docket to initiate show cause

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proceedings against Cellular One for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

- February 8, 2001 - Staff filed a recommendation for the February 20, 2001 Agenda Conference.
- February 16, 2001 - Cellular One's request for deferral of Item 27, Docket No. 010126-TX, on the February 20, 2001 Agenda Conference was approved by the Chairman.
- March 12, 2001 through May 8, 2001 - Staff attempted to contact Cellular One to continue settlement discussions, however no response was received from the company.
- June 18, 2001 - Commission Order No. PSC-01-1314-SC-TX was issued to order Cellular One to show cause why it should not be fined \$10,000 or have its certificate canceled for its apparent violation of Section 364.183(1), Florida Statutes.
- June 26, 2001 - A representative from Cellular One contacted staff to inquire about the method for resolving issues associated with this docket.
- June 29, 2001 - Staff received a letter from Cellular One proposing a voluntary contribution of \$3,500 to resolve the case. Cellular One included a statement in which it waived the right of objection to the administrative cancellation of its certificate in the event the settlement proposal is accepted and the company ultimately fails to pay in accordance with its settlement offer. Cellular One also added that if there is a factual dispute as to the manner or level of compliance with any provision in the settlement, staff will bring the matter to the Commission for consideration. (Attachment A, page 6)

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, and 364.285, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Wireless One Network, L.P. d/b/a Cellular One of Southwest Florida (Cellular One) to resolve the show cause proceedings for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

**RECOMMENDATION:** Yes. Staff recommends that the Commission accept Cellular One's settlement proposal of a \$3,500 voluntary contribution and assurance that the company will implement measures to ensure future compliance. The voluntary contribution should be received by the Commission within ten business days of the issuance date of the Order approving the settlement offer and should include 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. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 5181 should be canceled administratively. **(B. Keating/K. Craig)**

**STAFF ANALYSIS:** On July 6, 2000, staff mailed a certified letter to Cellular One requesting information necessary for inclusion in the 2000 local competition report required of the Commission by Section 364.386, Florida Statutes. On July 11, 2000, a representative from Cellular One signed for and received the certified letter, however staff did not receive a response to the data request. Staff opened this docket on January 30, 2001, to initiate show cause proceedings against Cellular One for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

On February 8, 2001, staff filed a recommendation for the February 20, 2001 Agenda Conference. Cellular One's request for deferral of this item was approved by the Chairman on February 16, 2001. Staff attempted to contact Cellular One to continue settlement discussions on many occasions between March 12, 2001 through May 8, 2001, but the company made no substantial effort on its part to settle this docket. Accordingly, staff filed the original show cause recommendation on May 16, 2001.

On June 18, 2001, Commission Order No. PSC-01-1314-SC-TX was issued to order Cellular One to show cause why it should not be fined \$10,000 or have its certificate canceled for its apparent violation of Section 364.183(1), Florida Statutes. Cellular One

contacted staff on June 26, 2001, to inquire about the method for resolving issues in this docket. In a letter received on June 29, 2001, Cellular One proposed a settlement offer, and included a waiver of objection to the administrative cancellation of Certificate No. 5181 in the event the settlement proposal is accepted and the company ultimately fails to pay in accordance with its settlement offer (Attachment A, page 6). Cellular One also added that if there is a factual dispute as to the manner or level of compliance with any provision in the settlement, staff will bring the matter to the Commission for consideration. In its response to Order No. PSC-01-1314-SC-TX, Cellular One proposed the following:

- A voluntary contribution of \$3,500.
- To ensure all Commission communications will be routed to the administrative assistant to the Vice President, who will manage scheduling for each matter to assure a timely response.

The settlement amount of \$3,500 in this recommendation is consistent with the Commission's approval of the settlement offered in Order No. PSC-01-1145-AS-TX, issued May 21, 2001, in Docket No. 010130-TX, Initiation of Show Cause Proceedings Against Hayes Telecommunications Services, Inc. for Apparent Violation of Section 364.183(1), Florida Statutes, Access to Company Records.

Therefore, staff recommends that the Commission accept Cellular One's settlement proposal of a \$3,500 voluntary contribution and assurance that the company will implement measures to ensure future compliance. The voluntary contribution should be received by the Commission within ten business days of the issuance date of an Order approving the settlement offer and should include 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. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 5181 should be canceled administratively.

DOCKET NO. 010126-TX  
DATE: JULY 12, 2001

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. If the Commission approves staff's recommendation on Issue 1, this docket should remain open pending the remittance of the \$3,500 voluntary contribution. Upon staff's verification of receipt of the voluntary contribution, or failure to pay the contribution and subsequent cancellation of Certificate No. 5181, this docket should be administratively closed. **(B. Keating)**

**STAFF ANALYSIS:** This docket should remain open pending remittance of the \$3,500 voluntary contribution. Upon staff's verification of receipt of the voluntary contribution, or failure to pay the contribution and subsequent cancellation of Certificate No. 5181, this docket should be administratively closed.

# WIRELESS ONE

NETWORK

2001 JUN 29 11:3:29  
DIVISION OF  
COMPETITIVE SERVICES

June 26, 2001

Kristen Craig  
Division of Competitive Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

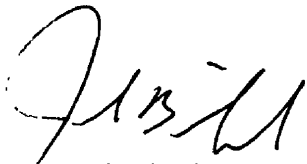
REFERENCE:      Docket No: 010126-TX  
                    Order No: PSC-01-1314-SC-TX  
                    Issue:      June 18, 2001

Dear Ms. Craig:

Wireless One Network, L.P. will voluntarily submit a contribution in the amount of \$3500.00 to settle Docket # 010126-TX. Additionally, Wireless One Network, L.P. has made internal changes to prevent a reoccurrence of this action and, in the future, will comply with local competitive reports required by Section 364.386, Florida Statutes. Specific changes include; routing of all Commission communications to the administrative assistant to the Vice President, who will manage scheduling for each matter and assure a timely response.

Wireless One Network, L.P. has agreed to waive any objection to the administrative cancellation of its certificate should it fail to pay in accordance with its settlement offer. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, staff will bring the matter to the Commission for consideration.

Sincerely,



John Bickford  
Director of Distribution

JSB/km

MAIL ROOM

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