

VOTE SHEET

OCTOBER 2, 2001

RE: Docket No. 010409-TP - Petition by Citizens of State of Florida for investigation of Talk America Inc. and its affiliate, The Other Phone Company, Inc. d/b/a Access One Communications, for willful violation of Rule 25-4.118, F.A.C.

Docket No. 010564-TX - Investigation of possible violation of Commission Rules 25-4.118 and 25-24.110, F.A.C., or Chapter 364, F.S., by The Other Phone Company, Inc. d/b/a Access One Communications, holder of ALEC Certificate No. 4099, and Talk America Inc., holder of ALEC Certificate No. 4692.

ISSUE 1: Should the Commission order Talk America Inc., holder of Certificate Nos. 4099, 4100, 4692, and 2985, to show cause why it should not be fined \$10,000 per apparent violation, for a total of \$5,220,000, for 522 apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

RECOMMENDATION: Yes. The Commission should order Talk America Inc. to show cause in writing within 21 days of the Commission's order why it should not be fined \$10,000 per apparent violation, totaling \$5,220,000, for 522 apparent violations of Rule 25-4.118, Florida Administrative Code, Toll, Local Toll, or Toll Provider Selection. The company's response should contain specific allegations of fact and law. If Talk America Inc. fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts should be deemed admitted, the right to a hearing waived, and the fine

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Michael A. Paterlini

[Signature]

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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

12469 OCT-25

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should be deemed assessed. If Talk America Inc. pays the fine, it should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. If the company fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the expiration of the show cause response period, Certificate Nos. 4099, 4100, 4692, and 2985 should be canceled.

APPROVED

ISSUE 2: Should the Commission order Talk America Inc., holder of Certificate Nos. 4099, 4100, 4692, and 2985, to show cause why it should not be fined \$10,000 per violation, totaling \$1,050,000, for 105 apparent violations of Section 364.604, Florida Statutes, Billing Practices?

RECOMMENDATION: Yes. The Commission should order Talk America Inc. to show cause in writing within 21 days of the Commission's order why it should not be fined \$10,000 per apparent violation, totaling \$1,050,000, for 105 apparent violations of Section 364.604, Florida Statutes, Billing Practices. The company's response should contain specific allegations of fact and law. If Talk America Inc. fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts should be deemed admitted, the right to a hearing waived, and the fine should be deemed assessed. If Talk America Inc. pays the fine, it should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. If the company fails to respond to the Order to Show Cause, and

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the fine is not paid within ten business days after the expiration of the show cause response period, Certificate Nos. 4099, 4100, 4692, and 2985 should be canceled.

APPROVED

ISSUE 3: Should the Commission order Talk America Inc., holder of Certificate Nos. 4099, 4100, 4692, and 2985, to show cause why it should not be fined \$10,000 per violation, for a total of \$300,000, for 30 apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints?

RECOMMENDATION: Yes. The Commission should order Talk America Inc. to show cause in writing within 21 days of the Commission's order why it should not be fined \$10,000 per apparent violation, totaling \$300,000, for 30 apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints. The company's response should contain specific allegations of fact and law. If Talk America Inc. fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts should be deemed admitted, the right to a hearing waived, and the fine should be deemed assessed. If Talk America Inc. pays the fine, it should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. If the company fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the expiration of the show cause response period, Certificate Nos. 4099, 4100, 4692, and 2985 should be canceled.

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ISSUE 4: Should these dockets be closed?

RECOMMENDATION: No. If staff's recommendation in Issues 1, 2, or 3 are approved, Talk America will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificates canceled. If Talk America timely responds to the show cause order, these dockets should remain open pending resolution of the show cause proceedings. If Talk America fails to respond to the show cause order or pay the proposed fines within ten business days after the expiration of the 21-day response period, Certificate Nos. 4099, 4100, 4692, and 2985 should be canceled and these dockets may be closed administratively.

APPROVED