

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

AUGUST 6, 2002

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. (Deferred from July 23, 2002 conference.)

ISSUE 1: Should the Commission accept Talk America's settlement offer to make a voluntary payment of \$240,000, in 36 equal monthly installments, to the State of Florida General Revenue Fund to resolve 522 apparent violations of Rule 25-4.118, Florida Administrative Code, Toll, Local Toll, or Toll Provider Selection, 105 apparent violations of Section 364.604(2), Florida Statutes, Billing Practices, and 30 apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints?

PRIMARY RECOMMENDATION: No. The Commission should not accept Talk America's settlement offer to make a voluntary payment of \$240,000 to the State of Florida General Revenue Fund to resolve 522 apparent violations of Rule 25-4.118, Florida Administrative Code, Toll, Local Toll, or Toll

COMMISSIONERS ASSIGNED: Baez, Palecki, Bradley

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Bradley

Michael A. Palecki

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER DATE

08253 AUG-6 02

FPSC-COMMISSION CLERK

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Provider Selection, 105 apparent violations of Section 364.604(2), Florida Statutes, Billing Practices, and 30 apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, and consequently, this matter should proceed to a hearing.

DENIED

ALTERNATIVE RECOMMENDATION: Yes. The Commission should accept Talk America's settlement offer to make a voluntary payment of \$240,000 to the State of Florida General Revenue Fund. The payment should be made in 36 equal monthly intervals in the amount of \$6,666.67 each. The first payment should be received within 30 calendar days from the issuance date of the Commission's Consummating Order and should identify the docket number and company name. Each subsequent payment should be due within 30-day intervals following the first payment and should also identify the docket number and company name. The Commission should forward the payments to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. In addition, if staff's alternative recommendation is approved, then all pending motions would be rendered moot.

APPROVED

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ISSUE 2: Should these two dockets be closed?

RECOMMENDATION: No. If the Commission approves staff's primary recommendation, these dockets should remain open pending the resolution of the show cause proceedings and subsequent hearing. However, if the Commission approves staff's alternative recommendation, the order will be issued as a Proposed Agency Action (PAA). In the event that a person whose substantial interests are affected by the PAA order files a protest within 21 days of the issuance of the order, this docket should remain open pending resolution of the protest. If the Commission approves staff's alternative recommendation, and no protest is received, the Order will become final upon issuance of a Consummating Order. Thereafter, Talk America should have 30 calendar days from the issuance of the Commission's Consummating Order to remit its first payment of \$6,667.67. Both dockets should remain open until Talk America remits all 35 subsequent payments of \$6,666.67 each. Upon remittance of all 36 payments, totaling \$240,000, both dockets should then be closed administratively.

APPROVED