

VOTE SHEET

SEPTEMBER 21, 2004

RE: Docket No. 040845-TX - Compliance investigation of USA Telephone Inc. d/b/a CHOICE ONE Telecom for apparent violation of Section 364.183(1), F.S., Access to Company Records, and Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Issue 1: Should the Commission impose a penalty in the amount of \$10,000 against USA Telephone Inc. d/b/a CHOICE ONE Telecom for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records, and order the company to submit the required information listed in Attachment A of staff's September 9, 2004 memorandum to the Division of Regulatory Compliance and Consumer Assistance?

Recommendation: Yes.

APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures of majority commissioners: Chuck M. Draf, Manteo, J. James, and Rudy Bradley.

Four horizontal lines for dissenting signatures.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

10182 SEP 21 04

FPSC-COMMISSION CLERK

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Issue 2: Should the Commission impose a penalty in the amount of \$1,000 against USA Telephone Inc. d/b/a CHOICE ONE Telecom for its apparent repeat violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, for not paying the 2003 Regulatory Assessment Fee?

Recommendation: Yes.

APPROVED

Issue 3: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If USA Telephone fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If USA Telephone fails to submit the required information, and pay the penalties and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC Certificate No. 5647 should be cancelled and the collection of the Regulatory Assessment Fees, plus statutory late payment charges, should be referred to the Department of Financial Services for further collection efforts. If USA Telephone's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange service in Florida. This docket should be closed administratively upon either receipt of the required information, and the payment of the penalties and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's CLEC Certificate No. 5647.

APPROVED