

ORIGINAL

REQUEST FOR CHANGE TO AGENDA CONFERENCE  
HAND DELIVER

Date of Request: 2/24/2006 Date of Agenda Conference: 2/28/2006 Item No. 11  
050948-TX, 050952-TX and  
Docket No.: 050957-TX Brief Title: Arrow Comm, France Telecom, DSLi, access to co. records

Requested by:  Staff  Other Arrow Communications, France Telecom, DSLi Corp.  
(Name)

Please attach a copy of the written documentation filed (IF OTHER)

STAFF's Recommendation to Executive Suite (IF OTHER)  Approve Requests  Deny Request

**ACTION REQUESTED [see APM 2.11]**

- Defer Item to Agenda Scheduled Date: 3/21/2006
- Change Order of Item or Take Up at Time Certain
- Withdraw Item (not expected to return to Agenda)
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) A copy of the front page of the recommendation must be provided to CCA by 12 noon on the regular filing date for use as a place-holder during agenda preparation.
- Add Item to Published Agenda [see Section 120.525(2), F.S.] – Issue an ADDENDUM and give Legal NOTICE
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] – Issue an ADDENDUM and Give Fair NOTICE

Concise explanation, justification or comments (attach additional sheet if necessary):

Arrow Communications has requested deferral of Docket No. 050948-TX pending settlement negotiations with staff.

France Telecom has requested deferral of Docket No. 050952-TX claiming that it did provide the requested data. Staff needs time to verify the company's claim.

DSLi has requested deferral of Docket No. 050957-TX pending settlement negotiations and/or discussions with staff pertaining to Docket matters.

NOTE: DEFERRAL OF DOCKET NOS. 050948-TX, 050952-TX AND 050957-TX ONLY IN ITEM NO. 11; ALL OTHER DOCKETS IN ITEM 11 TO REMAIN ON THE AGENDA.

Signature (Technical Staff): *Helinda Watts*

Initials (Division Director or Designee): *Am*

Signature (Legal Staff): *Krista Scott*

Initials (General Counsel or Designee): *C.J.F.*

**EXECUTIVE DIRECTOR:**

Recommendation to the Chairman's Office

Initials: *MAB*

Comments:

Approve Request  Deny Request

Date: 2/24/06

**CHAIRMAN'S OFFICE:**

Initials: *SP6 by Rob*

Approve Request  Deny Request

Date: 2/24/06

Executive Suite will send the original to the Division of Commission Clerk & Administrative Services and return copy to the requesting staff after the Chairman's Office takes action on this request. Requesting staff should distribute copies to the Division Directors (OPR & OCR) and Attorney assigned to the docket.

DOCUMENT NUMBER - DATE

01613 FEB 24 8

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February 23<sup>rd</sup>, 2006

5000 SW 75<sup>th</sup> AV, Third Floor  
Miami, FL 33155  
(305) 725-6792 (Mobile)

Attn: Melinda Watts  
Engineer  
Competitive Market Division  
Florida Public Service Commission  
2540 Shumard Oak BLVD  
Tallahassee, FL 32399  
(850) 413-6952 (Office)

Dear Ms. Watts:

1. Please accept this document as DSL Internet Corporation /DBA DSLi Corp (TX609) written request to defer DSLi's Docket (050957-TX) from the Florida Public Service Commission 02-28-06 Agenda. This request is being electronically submitted to the Florida Public Service Commission today based on pending settlement negotiations and/or pending discussions with staff members related to Docket matters.

Best Regards,

s/Eduardo E. Maldonado, MBA  
Director of Operations



france telecom

www.francetelecom.com

February 23, 2006

State of Florida  
Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Docket No. 050952-TX - France Telecom Corporate Solutions L.L.C.

Dear Sir/Madam:

Regarding the above referenced docket, we request a deferral of the hearing scheduled February 28, 2006, 9:30 a.m. at Room 148, Betty Easley Conference Center.

This matter involves a compliance investigation for apparent violation of Section 364.183(1), F.S., Access to Company Records. France Telecom Corporate Solutions L.L.C. is listed as a party to the investigation due to the belief a report to the Legislature regarding the status of local competition of the telecommunications industry ("local competition report") was not filed. We filed the local competition report on July 21, 2005 via FedEx Express.

We respectfully request deferral of the above hearing to resolve this issue with Florida PSC staff, with whom we are already in communications regarding this issue. Thank you for your consideration. We have enclosed a copy of the local competition report, the FedEx Express delivery confirmation, Docket No. 050952-TX, and the Commission Conference Agenda Notice.

With Kind Regards,

s/ Charles Hartman  
Director of Taxation

(703)375-7317

cc/ Ms. Melinda Watts, Lead Staff, Florida Public Service Commission  
Ms. Danielle Aguto, Vice President & General Counsel, France Telecom North America  
L.L.C.

Federated  
7/24/05  
bfr

**2005 Competitive Local Exchange Carrier (CLEC) Data Request**  
(Due by July 15, 2005)

Legal Company Name: France Telecom Corporate Solutions L.L.C.  
 D/B/A: (same)  
 FPSC Company Code (e.g., TX000) TX705  
 Contact name & title: Charles Hartman, Director of Taxation  
 Telephone number: 703-375-3717  
 E-mail address: charles.hartman@francetelecom.com  
 Stock Symbol (if company is publicly traded): N/A

**Services Provided in Florida**

- Do you provide local telephone service in Florida? Circle your response: Yes No
- Please indicate which of the following services your company provides. Select all that apply.
 

<input checked="" type="checkbox"/> Local telephone service	<input type="checkbox"/> Paging service
<input checked="" type="checkbox"/> Private line/special access	<input type="checkbox"/> Prepaid service
<input type="checkbox"/> Wholesale loops	<input type="checkbox"/> VoIP
<input type="checkbox"/> Wholesale transport	<input type="checkbox"/> Cable television
<input type="checkbox"/> Interexchange service	<input type="checkbox"/> Satellite television
<input checked="" type="checkbox"/> Cellular/wireless service	<input type="checkbox"/> Broadband Internet access
- If your company provides **prepaid** local telephone service, is this the only service you currently provide in Florida? Circle your response: Yes No NA (not applicable)

**Bundled Services**

4. Please complete the following table. For each residential and business package of bundled services you sell, list its name (e.g., Sprint Solutions), mark the included services, and enter the price and take rate. The take rate is calculated by dividing the number of customers that have subscribed to the corresponding package by the number of customers that can obtain that package from your company. Examples have been shaded.

Residential	Name of Package	Local	Long Distance	Broadband	Wireless	Video Service	Price	Take Rate
	Resphone	✓	✓			✓	\$69.99	35%
	None							

Business	Name of Package	Local	Long Distance	Broadband	Wireless	Video Service	Price	Take Rate
	Buservice	✓	✓	✓			\$89.99	25%
	None							

**VoIP**

5. Indicate below whether you are offering or providing VoIP service to end-user customers in Florida. For purposes of this question, VoIP service is defined as IP-based voice service provided over a digital connection. VoIP calls under this definition may or may not terminate on the PSTN.

- Not offering VoIP service in Florida.
- Offering business VoIP services.
- Offering residential VoIP services.

If you are offering or providing VoIP service in Florida:

- a. Provide the exchanges where you are offering VoIP service.
- b. Provide residential price(s) for VoIP service.
- c. Provide business price(s) for VoIP service.
- d. List all call features included with the service, e.g., call forwarding, caller ID, voice mail, etc.
- e. Check all that apply to your VoIP service:
  - Offer wireless VoIP service.
  - Offer wireline VoIP service.
  - 911 (Location information not provided automatically to PSAP).
  - E911 (Location information provided automatically to PSAP).
  - CALEA (Communications Assistance for Law Enforcement Act).
  - Telephone Relay Service.

- Power Backup (If so, identify time duration below, e.g., 4 hours, 8 hours).
- Time duration of power backup (in hours).
- Directory Assistance.
- Operator Services.
- Equal Access to long distance providers.
- Local Number Portability.
- Local Calling.
- Long Distance Calling.
- International Calling.
- Contribute to Universal Service Fund.
- Require VoIP subscriber to also purchase Broadband service.
- Offered as primary line service.
- Offered as secondary line service only.
- Interconnected with PSTN.
- Peer-to-Peer only (no interconnection with PSTN).
- Use of public Internet.
- Use of private IP network.
- Call uptime 99.999%.
- Use of numbers from the North American Numbering Plan Administrator.

- f. If you are not offering or providing VoIP service to end-user customers in Florida, do you anticipate doing so? If yes, identify rollout month/year.

**Not planned.**

### **Broadband Internet Access**

6. Information provided in your response to this question will be reported on an aggregate, statewide basis, not on a company-specific basis.

- a. Please provide the percentage of residential households to which your broadband service is available in your service area.
- b. Provide the total number of **residential** lines and wireless channels over which you or an affiliate are providing broadband service in your service area.
- c. Provide the total number of **business** lines and wireless channels over which you or an affiliate are providing broadband service in your service area.
- d. What type(s) of broadband connection(s) do you provide?
  - xDSL
  - cable modem
  - satellite
  - fixed wireless
  - mobile wireless

- Broadband over power line  
 Other (Specify) Digital Local Loop - T1 Access.

e. Please fill out the following table providing the downstream and upstream data transfer rates and the monthly price for each tier of broadband service you offer.

**Data Transfer Rate – Broadband Service**

Residential	Downstream	Upstream	\$ Price/month
	N/A		
Business	Downstream	Upstream	\$ Price/month
	N/A		

**FCC’s Triennial Review Remand Order**

7. The following questions relate to the FCC’s Triennial Review Remand Order (TRRO), released on February 4, 2005.

- a. Has your business plan in Florida changed as a result of the TRRO? If so, how?  
**No Changes**
- b. If you are primarily a UNE-P provider do you expect to migrate to UNE-L, negotiate commercial agreements (to provide loop, switching, and transport), or change the focus of your business?  
**N/A**
- c. Have you executed any commercially negotiated agreements with any carriers? If so, please identify the carriers.  
**Yes, AT&T, Sprint, and MCI.**
- d. Is there any other information (or comments) that you wish to provide?  
**No**

**Mergers**

8. Several mergers have been announced in the past year, e.g., Sprint-Nextel, SBC-AT&T, and Verizon-MCI.

- a. Do you anticipate more mergers? Why or why not?  
**Yes, more mergers are likely since businesses are starting to invest more than in prior years.**
- b. What effects do you believe these mergers (if approved) will have on local competition in Florida?  
**This could decrease competition within Florida.**
- c. Has your local competition strategy changed as a result of the merger announcements? If so, please explain how.  
**No, our strategy has not changed.**

- d. How will these mergers (if approved) affect your local competition strategy in Florida? **These mergers will likely not have a material effect on our local competition strategy in Florida.**

**Miscellaneous**

9. In 2004, how much money did you invest in your network directly serving Florida's local service customers?

**None, we are a non-facilities based reseller.**

10. Are you currently operating under Chapter 7 or Chapter 11 protection?

**No.**

11. If you filed Form 477 with the FCC to include data as of December 31, 2004, please provide us with a copy. This form only applies to CLECs with a minimum of 10,000 access lines in Florida.

**N/A**

**Comments**

12. Have you experienced any significant barriers in entering Florida's local exchange markets? Please list and describe any major obstacles or barriers encountered that you believe may be impeding the growth of local competition in the state, along with any suggestions as to how to remove such obstacles. **We have not experienced any significant barriers in entering Florida's local exchange markets.**

13. Please provide any additional general comments or information you believe will assist staff in evaluating and reporting on the development of local exchange competition in Florida.





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02/23/2006

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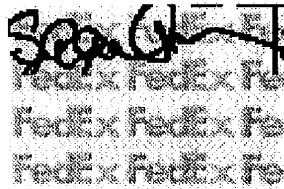
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# Public Service Commission

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

**DATE:** February 16, 2006

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (M. Watts, Howell, Ollila) *MTA 10*  
Office of the General Counsel (Tan, Wiggins, Scott, Teitzman, Fordham, Banks) *ETK*

**RE:** Compliance investigation for apparent violation of Section 364.183(1), F.S.,  
Access to Company Records. *TLT RW KS R C.L.F.*

Docket No. 050948-TX – Arrow Communications, Inc. d/b/a ACI  
Docket No. 050949-TX – Alternative Access Telephone Communications Corp.  
d/b/a AA Tele-Com  
Docket No. 050950-TX – KingTel, Inc.  
Docket No. 050951-TX – Yipes Enterprise Services, Inc.  
Docket No. 050952-TX – France Telecom Corporate Solutions L.L.C.  
Docket No. 050953-TX – Suntel Metro, Inc.  
Docket No. 050954-TX – Movie, Television & Graphics Corp. d/b/a M.T.G.  
Docket No. 050955-TX – Cypress Communications Operating Company, LLC  
Docket No. 050956-TX – CariLink International Inc.  
Docket No. 050957-TX – DSL Internet Corp d/b/a DSLi  
Docket No. 050962-TX – BAK Communications, LLC  
Docket No. 050963-TX – Vortex Broadband Communications, Inc.  
Docket No. 050964-TX – Infotelecom, LLC  
Docket No. 050965-TX – Benchmark Communications, LLC d/b/a Com One  
Docket No. 050966-TX – Asia Talk Telecom, Inc. d/b/a HelloCom Inc.

**AGENDA:** 02/28/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:**

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\050948.RCM.DOC DOCUMENT NUMBER-DATE

01325 FEB 16 8

FPSC-COMMISSION CLERK

Docket No. 050948-TX and others  
Date: February 16, 2006

### Case Background

Section 364.386, Florida Statutes, requires the Florida Public Service Commission (the Commission) to submit a report to the Legislature on December 1<sup>st</sup> of each year on the status of local competition in the telecommunications industry. To obtain the data required to compile this report (hereinafter referred to as the "local competition report") each year, staff mails data requests via United States Postal Service (U.S.P.S.) Certified Mail to all certificated incumbent and competitive local exchange telecommunications companies (ILECs and CLECs) in Florida in early June, with a response date due in mid-July. For the companies that do not respond by the due date, staff sends a second letter via U.S.P.S. Certified Mail with a due date in the first week of August. Since there are several hundred active CLEC certificates each year (over 400 as of the date of this filing), staff strongly encourages all companies to file these responses by the first week in August to be able to compile the report in a timely manner.

On June 3, 2005, staff mailed the initial data request to each certificated ILEC and CLEC as described above with a due date of July 15, 2005. By the due date all ILECs and the vast majority of CLECs had responded to the data requests. On July 19, 2005, staff sent a second letter to the CLECs that did not respond with a due date of August 1, 2005. Both the June 3, 2005, and July 19, 2005, letters referenced Section 364.285(1), Florida Statutes, and notified the recipients of the possible consequences of failure to provide the requested information. Each company identified in Attachment A did not provide a response to either of staff's letters by the established due dates or by the filing date of this recommendation.

The Commission is vested with jurisdiction over these matters pursuant to Sections 364.183, 364.285 and 364.386, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Docket No. 050948-TX and others  
Date: February 16, 2006

### Discussion of Issues

**Issue 1:** Should the Commission impose a penalty in the amount of \$10,000 on each of the companies listed in Attachment A or cancel each company's respective certificate, as listed in Attachment A, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

**Recommendation:** Yes. The Commission should impose a penalty of \$10,000 or cancel the certificate of each company listed in Attachment A for apparent violation of Section 364.183(1), Florida Statutes. (M. Watts/Howell/Ollila)

**Staff Analysis:** As stated in the Case Background, staff needs information contained in the company records of all Florida ILECs and CLECs to compile its annual local competition report for the Legislature. Section 364.183(1), Florida Statutes, Access to Company Records, states in part:

The Commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the Commission's jurisdiction. The Commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing. The Commission may require a telecommunications company to file records, reports or other data directly related to matters within the Commission's jurisdiction in the form specified by the Commission and may require such company to retain such information for a designated period of time.

A company's failure to respond to staff's data request effectively denies staff access to its company records. Based on the return receipts staff received from the initial data request, it appears that each of the CLECs listed in Attachment A received the data request and could have responded. It is imperative that the Commission receive 100% participation to accurately reflect the status of local telecommunication competition to the Legislature and the Governor. Since the 2005 local competition report has already been submitted to the Legislature, it is too late for data from the CLECs listed in Attachment A to be included. However, pursuant to Section 364.183(1), Florida Statutes, all ILECs and CLECs should timely respond to staff's data requests for future reports.

Pursuant to Section 364.285(1), Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have *refused to comply with* or to have *willfully violated* any lawful rule or order of the Commission, or any provision of Chapter 364, Florida Statutes.

Docket No. 050948-TX and others  
Date: February 16, 2006

Section 364.285(1), Florida Statutes, however, does not define what it is to "willfully violate" a rule or order. Nevertheless, it appears plain that the intent of the statutory language is to penalize those who affirmatively act in opposition to a Commission order or rule. See, Florida State Racing Commission v. Ponce de Leon Trotting Association, 151 So.2d 633, 634 & n.4 (Fla. 1963); c.f., McKenzie Tank Lines, Inc. v. McCauley, 418 So.2d 1177, 1181 (Fla. 1<sup>st</sup> DCA 1982) (there must be an intentional commission of an act violative of a statute with knowledge that such an act is likely to result in serious injury) [citing Smit v. Geyer Detective Agency, Inc., 130 So.2d 882, 884 (Fla. 1961)]. Thus, a "willful violation of law" at least covers an act of commission or an intentional act.

However, "willful violation" need not be limited to acts of commission. The phrase "willful violation" can mean *either* an intentional act of commission or one of omission, that is *failing* to act. See, Nuger v. State Insurance Commissioner, 238 Md. 55, 67, 207 A.2d 619, 625 (1965)[emphasis added]. As the First District Court of Appeal stated, "willfully" can be defined as:

An act or omission is 'willfully' done, if done voluntarily and intentionally and with the specific intent to do something the law forbids, or *with the specific intent to fail to do something the law requires to be done*; that is to say, with bad purpose either to disobey or to disregard the law.

Metropolitan Dade County v. State Department of Environmental Protection, 714 So.2d 512, 517 (Fla. 1<sup>st</sup> DCA 1998)[emphasis added]. In other words, a willful violation of a statute, rule or order is also one done with an intentional disregard of, or a plain indifference to, the applicable statute or regulation. See, L. R. Willson & Sons, Inc. v. Donovan, 685 F.2d 664, 667 n.1 (D.C. Cir. 1982).

Thus, the failure of each of the companies listed in Attachment A to allow staff access to its respective company records meets the standard for a "refusal to comply" and "willful violation" as contemplated by the Legislature when enacting Section 364.285, Florida Statutes.

"It is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833); see, Perez v. Marti, 770 So.2d 284, 289 (Fla. 3<sup>rd</sup> DCA 2000) (ignorance of the law is never a defense). Moreover, in the context of these dockets, all competitive local exchange telecommunications companies, like the companies listed in Attachment A, are subject to the statutes published in the Florida Statutes. See, Commercial Ventures, Inc. v. Beard, 595 So.2d 47, 48 (Fla. 1992).

Further, the amount of the proposed penalty is consistent with penalties previously imposed by the Commission upon other telecommunications companies that have failed to allow staff access to their company records. Therefore, staff recommends that the Commission impose a penalty in the amount of \$10,000 on each of the companies listed in Attachment A or cancel each company's respective certificate, as listed in Attachment A, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

Docket No. 050948-TX and others  
Date: February 16, 2006

**Issue 2:** Should these dockets be closed?

**Recommendation:** The Orders issued from this recommendation will become final and effective upon issuance of a Consummating Order in each respective docket, unless a person whose substantial interests are affected by the Commission's decision in a given docket 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 that docket's Proposed Agency Action Order. As provided by Section 120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any of the companies listed in Attachment A fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If any of the companies listed in Attachment A fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order in its respective docket, the company's CLEC certificate, as listed in Attachment A, should be canceled. If a company's certificate is canceled in accordance with the Commission's Orders from this recommendation, that company should be required to immediately cease and desist providing telecommunications services in Florida. These dockets should be closed administratively upon either receipt of the payment of the penalty imposed in the respective docket or upon the cancellation of the respective company's certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. **(Tan, Wiggins, Scott, Teitzman, Fordham, Banks)**

**Staff Analysis:** Staff recommends that the Commission take actions as set forth in the above staff recommendation.

DOCKET NO.	PROVIDER	REGULATION DATE	CERTIFICATE NO.
050948-TX	Arrow Communications, Inc. d/b/a ACI	7/20/1996	4468
050949-TX	Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com	3/10/1998	5332
050950-TX	KingTel, Inc.	6/16/1999	7012
050951-TX	Yipes Enterprise Services, Inc.	3/31/2003	7500
050952-TX	France Telecom Corporate Solutions L.L.C.	2/11/2003	8277
050953-TX	Suntel Metro, Inc.	10/20/2000	7609
050954-TX	Movie, Television & Graphics Corp. d/b/a M.T.G.	4/2/2001	7773
050955-TX	Cypress Communications Operating Company, LLC	9/3/2003	8176
050956-TX	CariLink International, Inc.	9/18/2001	7909
050957-TX	DSL Internet Corp d/b/a DSLi	11/21/2001	7941
050962-TX	BAK Communications, LLC	8/4/2003	8354
050963-TX	Vortex Broadband Communications, Inc.	3/8/2004	8431
050964TX	Infotelcom, LLC	4/25/2005	8566
050965-TX	Benchmark Communications, LLC d/b/a Com One	4/15/2005	8568
050966-TX	Asia Talk Telecom, Inc. d/b/a HelloCom Inc.	4/15/2005	8564

# FLORIDA PUBLIC SERVICE COMMISSION

## COMMISSION CONFERENCE AGENDA

**CONFERENCE DATE AND TIME:** February 28, 2006, 9:30 a.m.

**LOCATION:** Room 148, Betty Easley Conference Center

**DATE ISSUED:** February 17, 2006

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### NOTICE

Persons affected by Commission action on certain items on this agenda for which a hearing has not been held (other than actions on interim rates in file and suspend rate cases) may be allowed to address the Commission when those items are taken up for discussion at this conference. These items are designated by double asterisks (\*\*) next to the agenda item number.

Included in the above category are items brought before the Commission for tentative or proposed action which will be subject to requests for hearing before becoming final. These actions include all tariff filings, items identified as proposed agency action (PAA), show cause actions and certain others.

To obtain a copy of staff's recommendation for any item on this agenda, contact the Division of the Commission Clerk and Administrative Services at (850) 413-6770. There may be a charge for the copy. The agenda and recommendations are also accessible on the PSC Homepage, at <http://www.floridapsc.com>, at no charge.

Any person requiring some accommodation at this conference because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours before the conference. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD). Assistive Listening Devices are available in the Division of the Commission Clerk and Administrative Services, Betty Easley Conference Center, Room 110.

Video and audio versions of the conference are available and can be accessed live on the PSC Homepage on the day of the Conference. The audio version is available through archive storage for up to three months afterward.



**ITEM NO.**

**CASE**

11\*\*PAA

Compliance investigations for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Docket No. 050948-TX	-	Arrow Communications, Inc. d/b/a ACI
Docket No. 050949-TX	-	Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com
Docket No. 050950-TX	-	KingTel, Inc.
Docket No. 050951-TX	-	Yipes Enterprise Services, Inc.
Docket No. 050952-TX	-	France Telecom Corporate Solutions L.L.C.
Docket No. 050953-TX	-	Suntel Metro, Inc.
Docket No. 050954-TX	-	Movie, Television & Graphics Corp. d/b/a M.T.G.
Docket No. 050955-TX	-	Cypress Communications Operating Company, LLC
Docket No. 050956-TX	-	CariLink International, Inc.
Docket No. 050957-TX	-	DSL Internet Corporation d/b/a DSLi
Docket No. 050962-TX	-	BAK Communications, LLC
Docket No. 050963-TX	-	Vortex Broadband Communications, Inc.
Docket No. 050964-TX	-	Infotelecom, LLC
Docket No. 050965-TX	-	Benchmark Communications, LLC d/b/a Com One
Docket No. 050966-TX	-	Asia Talk Telecom, Inc. d/b/a HelloCom Inc.

**Critical Date(s):** None

**Commissioners Assigned:** All Commissioners

**Prehearing Officer:** Administrative

**Staff:** CMP: M. Watts, Howell, Ollila

GCL: Tan, Wiggins, Scott, Teitzman, Fordham, Banks

**Issue 1:** Should the Commission impose a penalty in the amount of \$10,000 on each of the companies listed in Attachment A of staff's February 16, 2006 memorandum or cancel each company's respective certificate, as listed in Attachment A, for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

**Recommendation:** Yes. The Commission should impose a penalty of \$10,000 or cancel the certificate of each company listed in Attachment A of staff's memorandum for apparent violation of Section 364.183(1), Florida Statutes.

**Issue 2:** Should these dockets be closed?

**Recommendation:** The Orders issued from this recommendation will become final and effective upon issuance of a Consummating Order in each respective docket, unless a person whose substantial interests are affected by the Commission's decision in a given docket 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 that docket's Proposed Agency Action Order. As provided by Section

ITEM NO.

CASE

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11\*\*PAA

Compliance investigations for apparent violation of Section 364.183(1), F.S., Access to Company Records.

(Continued from previous page)

120.80(13) (b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any of the companies listed in Attachment A of staff's memorandum fails to timely file a protest in its respective docket and request a Section 120.57, Florida Statutes, hearing, the facts in that docket should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If any of the companies listed in Attachment A fails to pay the penalty within fourteen (14) calendar days after the issuance of the Consummating Order in its respective docket, the company's CLEC certificate, as listed in Attachment A, should be canceled. If a company's certificate is canceled in accordance with the Commission's Orders from this recommendation, that company should be required to immediately cease and desist providing telecommunications service in Florida. These dockets should be closed administratively upon either receipt of the payment of the penalty imposed in the respective docket or upon the cancellation of the respective company's certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

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**MEMO**

TO: FPSC Division of the Commission Clerk & Administrative Services  
FROM: David B. Erwin  
SUBJECT: Request by Arrow Communications, Inc. (ACI)  
for Deferral of Docket No. 050950-TX  
DATE: February 23, 2006

1. Arrow Communications, Inc. (ACI) requests a deferment from the February 28, 2006 FPSC Agenda, to the next scheduled Commission Agenda in order to negotiate with Staff to reach a solution acceptable to Staff and Company.

s/ David B. Erwin