

State of Florida



ORIGINAL

Public Service Commission

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COMMISSION
CLERK

DATE: April 5, 2006

TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director

FROM: Melinda H. Watts, Engineering Specialist III, Division of Competitive Markets & Enforcement *MHW*

RE: Docket No. 050955-TX - Compliance investigation of Cypress Communications Operating Company, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Please add the attached response to Docket No. 050955-TX, dated March 27, 2006, from Randy New, counsel for Cypress Communications Operating Company, LLC, to the subject docket file. Please note the response contains an original notarized document.

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH _____

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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DIVISION OF
COMPETITIVE SERVICES

March 27, 2006

VIA FEDERAL EXPRESS

Ms. Melinda Watts
Engineer, Competitive Market Division
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Compliance investigation of Cypress Communications Operating Company, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records, Docket No. 050955-TX

Dear Ms. Watts:

We talked just last week about the above-referenced matter. As you know, I have recently been chosen to be regulatory counsel to Cypress. Both prior to, and after our conversation about this matter, I explored how it came to be that the report requested by the Commission is not in the Commission's hands. Cypress to date has used the United States Postal Service to send to all commissions and regulating agencies information of the type that the Commission has requested. Thus, as a bottom line, Cypress believes you should have the report in your possession but you, obviously, do not.

All requests for information and records are processed under the supervision and sometimes by the hand of Nicole Browne who is and has been a Regulatory Analyst of Cypress. Given our use of the United States Postal Service, we are not going to be able to produce an electronically-generated fax log or a transmission record from a carrier or any other discrete piece of external evidence that proves that the Commission must have misplaced our report.

In our conversations with Mrs. Browne, I have come to believe that the report was sent to the Commission timely given that she was able to produce a copy of the report and that she has followed her standard procedure for processing the report. Attached is a copy of the report as faxed to me and an original affidavit of Mrs. Browne describing for you her process and her belief about this report.

I know that you were not sure that we could handle this matter other than through the hearing process given that the item had been noticed. To the extent we have due process rights at issue in the docket, we are happy to handle this matter informally if that is possible. We certainly would appreciate your consideration of our request to remove us from the docket and from consideration for a penalty.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

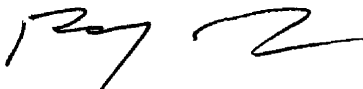
I have talked with Mrs. Browne about our information request handling processes on a going forward basis and she has been more than willing to change her process to assure this lack of proof on our part does not happen to the Commission again. My client is willing to change her process to a fax-based process. Alternatively, she would agree to change the process to establish a signed and dated log for reports and information requested by the Commission; however, my personal concern is that change merely begs the question of the accuracy of the log. We will do either.

In short, Cypress has not willfully refused to provide the information as the statute provides. Indeed, the company appreciates the role that the Commission performs especially given that the Commission works to maintain a competitive marketplace. The date for us to file a petition is April 13, I believe. If you could remove us from the Commission's consideration, we would appreciate it and I can supplement the letter to you for your records if need be.

If not, we will file with the Commission, present what we have presented to you, and hope to have the Commission's indulgence to improve our process. I would obviously like to avoid the expense to my client of the petition and my time to appear, but I and they are happy to do what the Commission requires.

I have copied on this letter Ms. Deena Snipes who is the Executive Director of Cypress and Mr. Bob Shingler who is the CEO of Cypress so you will know that the highest levels of this company are committed to providing this Commission the information that it needs.

Sincerely,



Randy L. New

Enclosures: Affidavit of Nicole Browne
Copy of report to Commission

cc: Mr. Bob Shingler
Ms. Deena Snipes

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

Legal Company Name: Apress Communications Operating Company, Inc.
 D/B/A: _____
 FPSC Company Code (e.g., TX000) TX669
 Contact name & title: Nicole Browne - Regulatory Analyst
 Telephone number: (404) 442-0202
 E-mail address: nbrowne@apress.com.net
 Stock Symbol (if company is publicly traded): _____

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 type="checkbox"/> Private line/special access	<input type="checkbox"/> Prepaid service
<input type="checkbox"/> Wholesale loops	<input checked="" type="checkbox"/> VoIP
<input checked="" type="checkbox"/> Wholesale transport	<input type="checkbox"/> Cable television
<input checked="" type="checkbox"/> Interexchange service	<input type="checkbox"/> Satellite television
<input 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 added.~~

Residential	Name of Package	Local	Long Distance	Broadband	Wireless	Video Service	Price	Take Rate

Business	Name of Package	Local	Long Distance	Broadband	Wireless	Video Service	Price	Take Rate
			/		/			135
		/		/			104	10%
		/		/			77	25%
		/		/			78	35%
		/		/			68	15%
		/		/			65	5%
		/		/			53	5%

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.
Tampa, Orlando, Miami, West Palm, Ft Lauderdale, Boca Raton
- b. Provide residential price(s) for VoIP service.
n/a
- c. Provide business price(s) for VoIP service.
see Attachment I
- d. List all call features included with the service, e.g., call forwarding, caller ID, voice mail, etc.
see Attachment II
- 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.

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)

- 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
Business	Downstream	Upstream	\$ Price/month
	See Attachment III		

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.
- 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? No
- c. Have you executed any commercially negotiated agreements with any carriers? If so, please identify the carriers.
Yes, BellSouth
- 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? No
- b. What effects do you believe these mergers (if approved) will have on local competition in Florida? UNKNOWN AT THIS TIME.
- c. Has your local competition strategy changed as a result of the merger announcements? If so, please explain how. No.
- d. How will these mergers (if approved) affect your local competition strategy in Florida? NA

Miscellaneous

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

4,000,000

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.

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. No.

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. NA

ATTACHMENT 1

EZ OFFICE IP PRICING SCHEDULE

	12 Months	24 Months	36 Months	48 Months	60 Months
1 - 2 Seats	\$149	\$139	\$130	\$124	\$117
3 - 4 Seats	\$113	\$106	\$99	\$94	\$89
5 - 11 Seats	\$99	\$94	\$89	\$84	\$79
12 - 25 Seats	\$75	\$70	\$65	\$60	\$55
26 - 38 Seats	\$68	\$63	\$58	\$53	\$48
39 - 75 Seats	\$64	\$59	\$54	\$49	\$44
76+ Seats	\$62	\$57	\$52	\$47	\$47

ATTACHMENT II

CLASS and PBX Features

- *Dial Tone* — A tone employed in a dial telephone system to indicate to the calling party that the equipment is ready to receive dial or tone pulses.
- *Local Calling* — Making telephone calls to telephone numbers in the same Local Calling Area (Rate center based NPA/NXX dialing plan that identifies calling parties as local or long distance).
- *DID and DOD* — Direct Inward Dial and Direct Outward Dial provides traditional inward and outward bound dialing functionality via traditional standardized numbering plans defined through E.164 numbering conventions.
- *Calling Restrictions* — Calling Restrictions allows the channel partner or office administrator to prevent calls from designated (3)Tone Business accounts to certain classes of numbers, including 900 services.
- *Speed Dial* — Speed Dial provides shortened dial numbers for up to 20 phone numbers.
- *Call Forwarding* — Call Forwarding allows the end-user to forward any incoming calls to another phone number.
- *Remote Call Forwarding* — Remote Call Forwarding allows the end-user to remotely control the call forwarding settings through the Personal Portal.
- *Call Transfer* — Call Transfer allows the end-user to transfer an existing call to another phone number. Supervised transfers, where the end-user remains on the call, and unsupervised transfers, where the caller immediately drops off the call transfers are both supported.
- *Call Waiting* — Call Waiting provides notification of a new incoming call when the line is already in use. Notification is through pulse tones played into the existing call or phone display of the incoming call including Caller ID on supporting CPEs. This feature can be deactivated for all calls or on a per-call basis.
- *Caller ID* — Caller ID provides the phone number or caller's name if available of incoming calls. A compatible CPE is required.
- *Caller ID Block* — Caller ID Block disables transmission of Caller ID information. Subscription based and per call settings are available.
- *Call Waiting ID* — Call Waiting ID provides Caller ID within the Call Waiting notification context.
- *Call Waiting Block* — Call Waiting Block disables call waiting. Subscription-based and per-call settings are available.
- *Redial Last Number* — Redial Last Number enables the end-user to redial the most recently dialed number.
- *Last Call Return* — Last Call Return allows the end-user to dial the last incoming call phone number.
- *Call Park/Pickup* — Allows a call to be transferred to hold where it can be accessed via another phone.

- *Lotuspeaker Paging* — Allows a one-way announcement via speakerphone of extensions to many or one endpoint.
- *Hot Groups* — Terminates a single number across a pool of endpoints depending on their availability.
- *Music On hold* — Plays a specific .wav file to calling parties on hold.
- *Bridged Line Appearances* — Allows a call to a specific number to ring multiple phones to be answered, for instance an office administrator and office manager phone simultaneously.
- *Call Hold* — Call Hold allows the end-user to place the existing call on hold.
- *Station-to-Station Calling* — Calling between end-user phones within a tenant, will be "on-net" calling and included in the seat price of (3)Tone Business service.
- *4-way Calling* — 4-way Calling enables the end-user to conference to other calls into the existing call using hook flash dial outs.
- *Hook Flash* — Hook flash allows the end-user to place an existing call on hold and perform other service activities including answering an incoming call, dialing out to another line, and unsupervised transfers.
- *Do Not Disturb* — Do Not Disturb sends all calls to voicemail and disables ringing of the local phone.
- *LCD Feature Support/Soft Key Support* — System manages programming of certified CPE interface keys — such as the speed dial keys of the Cisco 7960 IP Phone.
- *Hands Free Dialing* — Enables end user to dial outbound number without picking up receiver or initiating dial tone first.
- *Star Codes* — Star Codes allow the end-user to control certain line features using DTMF entries in the format *[0-9][0-9]. Supported Star Codes include:

- *00 Redial Last Number
- *01 - *20 Personal Speed-dial Numbers
- *67 Block Caller ID (per call)
- *69 Activate Last Call Return
- *70 Turn Off Call Waiting (per call)
- *78 Turns On Do Not Disturb
- *79 Turns Off Do Not Disturb
- *82 Unblocks Caller ID (per call)
- o

- *Local and Long Distance Calling*
- *Personal Communication Manager (PCM)* —End-user Web Interface
- *Office Administrator (OA)* —a Service Administration Web Interface
- *Unified Messaging* —Voicemail, E-mail, and Fax in One View
- *Audio and Web Conferencing on Demand*
- *Soft Attendant Console* —Receptionist Switchboard

ATTACHMENT III

256k	384K	512k	768K	1024 k	1540k
\$79	\$99	\$149	\$199	\$299	\$399
2Mbps	3Mbps				
\$599	\$799				

AFFIDAVIT OF NICOLE BROWNE

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, NICOLE BROWNE, who, after first being duly sworn, deposes and on oath says as follows:

1. My name is Nicole Browne and I have been a regulatory analyst with Cypress Communications Operating Company (hereafter, "Cypress") since 2002.
2. In that role, I am responsible for filing all regulatory reports and ensuring the company's compliance with various regulatory authorities.
3. In a standard business day during the months of January through June, I send approximately ten reports per day.
4. Due to the high financial cost of using Federal Express, UPS or other mail carriers with tracking service and delivery confirmation, Cypress' standard business procedures dictate the use of regular U.S. mail for sending all reports, unless otherwise mandated by the agency requesting the report. To avoid any confusion created by sending duplicates, we do not fax or e-mail the same reports we are sending via regular U.S. mail prior to mailing. Instead, we merely keep a copy of the report for our records, and in the rare occasions when mail is not received, we provide a copy upon request.

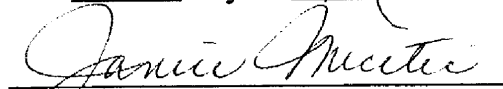
5. The Florida Public Service Commission does not require that Cypress send its Annual Report via fax or certified mail. Therefore, I have no transmission record to prove that the Annual Report was sent, nor would one be created as part of Cypress' standard business procedures.
6. Though I have no recollection of specifically mailing the 2005 Annual Report to the Florida Public Service Commission due to the high volume of reports I send every day, I have a copy of the report – but not the original – in my files. This indicates to me that in compliance with Cypress standard business procedures, the report was more than likely sent according to our standard business procedures.
7. Based upon our standard lead time for filing regulatory reports, my best guess is that I would have mailed it the first week of June in 2005.

SWORN, this 21st day of March, 2006.



NICOLE BROWNE

Sworn to and Subscribed before me
this 21 day of March, 2006.



Notary Public (Seal)

My commission expires: _____
Janice Micatic
Notary Public, DeKalb County, Georgia
My Commission Expires May 30, 2006