

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

SCANNED

May 2, 2006

Docket No. 050965-TX – Compliance investigation of Benchmark Communications, LLC d/b/a Com One for apparent violation of Section 364.183(1), F.S., Access to Company Records.

Issue 1: Should the Commission accept Benchmark Communications, LLC d/b/a Com One’s proposal that the Commission vacate Proposed Agency Action Order No. PSC-06-0229-PAA-TX as it pertains to Benchmark Communications, LLC only, or in the alternative its settlement offer to voluntarily contribute \$500 to the Commission for deposit in the General Revenue Fund within 30 days of the issuance of the Consummating Order to resolve its apparent violation of Section 364.183(1), Florida Statutes?

Recommendation: No. The Commission should not accept the company’s proposal to vacate PAA Order No. PSC-06-0229-PAA-TX as it pertains to Benchmark only, or its settlement offer of \$500.

DEFERRED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS’ SIGNATURES

MAJORITY

DISSENTING

Four horizontal lines for majority signatures.

Four horizontal lines for dissenting signatures.

REMARKS/DISSENTING COMMENTS:

Commissioner Arriaga participated in the conference by telephone. He agreed with/dissented from the majority vote and will sign the vote sheet upon return to the office.

DOCUMENT NUMBER-DATE

03873 MAY-2 8

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Issue 2: 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 Benchmark fails to timely file a protest and 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 Benchmark fails to pay the \$10,000 penalty imposed in PAA Order No. PSC-06-0229-PAA-TX within fourteen (14) calendar days after the issuance of the Consummating Order, the company's CLEC Certificate No. 8568 should be canceled. If Benchmark's certificate is canceled in accordance with the Commission's Order from this recommendation, Benchmark should be required to immediately cease and desist providing telecommunications service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty imposed or upon the cancellation of the company's certificate.