

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 8, 2006

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

FROM: Division of Competitive Markets & Enforcement (Watts, Ollila)
Office of the General Counsel (Tan, Teitzman)

RE: Docket No. 050954-TX – Compliance investigation of Movie, Television & Graphics Corp. d/b/a M.T.G. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

AGENDA: 06/20/06 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050954P.RCM.DOC

Case Background

On March 20, 2006, the Florida Public Service Commission (the Commission) issued Proposed Agency Action (PAA) Order No. PSC-06-0229-PAA-TX (the PAA Order) in Docket No. 050954TX – Compliance investigation of Movie, Television & Graphics Corp. d/b/a M.T.G. for apparent violation of Section 364.183(1), F.S., Access to Company Records, imposing a penalty of \$10,000 on Movie, Television & Graphics Corp. d/b/a M.T.G. (MTG) for its apparent violation of Florida statutes for failure to allow staff access to its company records. Consummating Order (CO) PSC-06-0290-CO-TX was issued on April 13, 2006, making the PAA Order final and effective. According to the PAA Order, MTG was given until 14 calendar days after the issuance of the CO, or April 27, 2006, to pay the \$10,000 penalty or have its competitive local exchange telecommunications company (CLEC) certificate canceled.

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MTG contacted staff via E-mail on April 26, 2006, with its response to the CLEC data request and a settlement offer. Staff explained that since the CO had been issued, making the PAA Order final and effective, the company's only options were to pay the penalty by April 27, 2006, or have its CLEC certificate canceled. MTG requested that it be allowed to pay the \$10,000 penalty over time. Staff instructed the company to submit its request in writing along with its proposed payment plan. This recommendation addresses the company's request for a payment plan.

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

Discussion of Issues

Issue 1: Should the Commission accept Movie, Television & Graphics Corp. d/b/a M.T.G.'s request to pay the \$10,000 penalty imposed by Proposed Agency Action Order PSC-06-0229-PAA-TX in 23 equal monthly payments of \$416.67, with a final payment of \$416.59, until the \$10,000 is paid in full?

Recommendation: Yes, the Commission should accept the company's proposed payment plan for the penalty imposed by PAA Order PSC-06-0229-PAA-TX. **(M. Watts/Olila/Tan/Teitzman)**

Staff Analysis: On April 26, 2006, MTG submitted an offer to settle the issue in this docket. Because the protest period had expired and the CO had been issued, a settlement was no longer an option for the company. MTG expressed its interest in keeping its CLEC certificate active in Florida even though it claims it is not currently providing local telecommunications service and cannot afford to pay the entire penalty at this time. To keep its certificate, MTG proposes to pay the \$10,000 penalty in 24 monthly installments until it is paid in full.

The Commission has approved similar payment plans for settlements in other dockets, such as the payment plan approved in Docket Nos. 010409-TP, In Re: 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., and 010564-TX, In Re: 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, in which the Commission approved a plan to allow Talk America, Inc. to pay a total of \$240,000 in 36 equal monthly payments. Therefore, staff recommends that the Commission accept Movie, Television & Graphics Corp. d/b/a M.T.G.'s request to pay the \$10,000 penalty imposed by Proposed Agency Action Order PSC-06-0229-PAA-TX in 23 equal monthly payments of \$416.67, with a final payment of \$416.59, until the \$10,000 is paid in full.

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Issue 2: Should this docket be closed?

Recommendation: This docket should remain open pending the receipt by the Commission of the 23 monthly payments of \$416.67 with a final payment of \$416.59, for a total of \$10,000, from MTG. The first payment shall be due within 14 calendar days after the issuance of the Order in this docket, and each subsequent payment shall be due on the 15th day of each month thereafter until the penalty is paid in full. If the 15th of a given month is on a weekend or holiday, the payment shall be due on the next business day. If the company fails to timely submit one of its payments, certificate number 4692 should be canceled and this docket should be closed administratively. If MTG timely submits all payments and pays the \$10,000 penalty in full, this docket should be closed administratively. **(Tan/Teitzman)**

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