

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: December 7, 2006

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

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

RE: Docket No. 060619-TX – Compliance investigation of North American Telecommunications Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records.

AGENDA: 12/19/06 – Regular Agenda – Proposed Agency Action – 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\060619.RCM.DOC

Case Background

On September 14, 2006, staff opened Docket No. 060619-TX against North American Telecommunications Corporation (North American Telecom) for its apparent violation of Section 364.183(1), F.S., Access to Company Records. On May 26, 2006, and July 20, 2006, staff sent certified letters to North American Telecom requesting data contained in the company's records for inclusion in the Commission's annual report to the Legislature on the status of local competition in Florida (local competition report). North American Telecom signed the return receipt card for each certified letter that was sent. On July 27, 2006, and July 31, 2006, after not receiving a response to the certified letters, staff called the company and left

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two voicemail messages for the contact person listed in the Master Commission Directory for North American Telecom. However, that person never returned staff's calls.

Staff's recommendation in Docket No. 060619-TX was presented at the October 24, 2006, Agenda Conference. At that time, the Commission voted to impose a penalty in the amount of \$10,000 against North American Telecom for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. On November 13, 2006, in an effort to resolve the company's apparent violation, North American Telecom submitted a proposed settlement offer to the Commission.

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 North American Telecommunications Corporation's proposed settlement offer of \$3,500 to be paid in seven equal monthly payments of \$500 each for deposit into the General Revenue Fund to resolve the apparent violation of Section 364.183(1), F. S., Access to Company Records?

Recommendation: Yes, the Commission should accept North American Telecommunications Corporation's proposed settlement offer of \$3,500 to be paid in seven equal monthly payments of \$500 for deposit into the General Revenue Fund to resolve the apparent violation of Section 364.183(1), F.S., Access to Company Records. **(Curry, Ollila, McKay, Tan)**

Staff Analysis: On November 13, 2006, staff received a proposed settlement offer from North American Telecom to resolve the company's apparent violation of Section 364.183(1), F.S. According to the company, the position within the company with the responsibility of responding to the Commission's inquiries has experienced extensive turnover for several months. As a result of the turnover, the company failed to respond to the Commission's data request. The company has reassigned the duties of that position and does not anticipate having a problem with responding to the Commission in the future. To resolve the company's apparent violation, North American Telecom has offered to submit a settlement payment in the amount \$3,500 to be paid in seven equal monthly payments of \$500 each.

The monetary amount of North American Telecom's settlement is consistent with similar proposals approved by the Commission in previous dockets. Staff believes that North American Telecom has taken the necessary actions to correct the problem which caused the company's apparent violation. Therefore, staff recommends that the Commission accept the company's proposed settlement offer of \$3,500 to be paid in seven equal monthly payments of \$500 each for deposit into the General Revenue Fund to resolve the apparent violation of Section 364.183(1), F. S., Access to Company Records.

Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should remain open pending the receipt by the Commission of the seven monthly payments of \$500, for a total of \$3,500. The payments should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of each payment, the Commission shall forward the contribution to the Division of Financial Services to be deposited into the General Revenue Fund. North American Telecom shall submit the first payment of \$500 no later than February 15, 2007. Each subsequent payment shall be due on the 15th day of each month thereafter until the balance 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 submit one of its payments, the company's Certificate No. 7864 should be cancelled. If the company's certificate is cancelled the company should be required to immediately cease and desist providing telecommunications services in Florida. This docket should be closed administratively if North American Telecom timely submits all payments and pays the \$3,500 settlement in full or upon the cancellation of the company's certificate. **(Curry, Ollila, McKay, Tan)**

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