

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. 060625-TX – Compliance investigation of Telephone One Inc. for
apparent violation of Section 364.183(1), F.S., Access to Company Records.

AGENDA: 12/19/06 – 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\060625.RCM.DOC

Case Background

On September 14, 2006, staff opened Docket No. 060625-TX against Telephone One Inc. (Telephone One) for its apparent violation of Section 364.183(1), F.S., Access to Company Records. Staff sent three certified letters to Telephone One 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). The first certified letter sent on May 26, 2006, was returned to staff by the United States Postal Service marked "forward time expired." On July 20, 2006, staff sent a second certified letter to the company. That letter was also returned to staff; however, the United States Postal Service provided a forwarding address for the company. Staff sent a third certified letter to the new address on August 1, 2006. Telephone One signed the return receipt for the third certified letter, but staff never received the company's response to the data request. On June 8, 2006, and June 13, 2006, staff also called

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the company and left two voicemail messages for the company's contact person listed in the Master Commission Directory. The company did not return either of staff's phone calls.

Staff's recommendation in Docket No. 060625-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 Telephone One for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. On November 8, 2006, in an effort to resolve the company's apparent violation, Telephone One 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 Telephone One's proposed settlement offer of \$3,500 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 Telephone One's proposed settlement offer of \$3,500 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 8, 2006, staff received a proposed settlement offer from Telephone One. According to the company, Telephone One did submit the requested information to the Commission's staff. However, staff has no record of having received the information from the company. Telephone One was also unable to confirm that the company did indeed respond to staff's request for data. In an effort to resolve the matter, Telephone One has offered to submit a settlement payment in the amount \$3,500.

The monetary amount of Telephone One's settlement is consistent with similar proposals approved by the Commission in previous dockets. Therefore, staff recommends that the Commission accept the company's proposed settlement offer of \$3,500 for deposit into the General Revenue Fund to resolve the apparent violation of Section 364.183(1), F. S., Access to Company Records.

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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 of the \$3,500 settlement payment. The payment should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of payment, the Commission shall forward the contribution to the Division of Financial Services to be deposited into the General Revenue Fund. Telephone One's settlement payment should be received by the Commission no later than February 15, 2007. If the company fails to submit the payment, the company's Certificate No. 5806 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 upon either the receipt of the settlement payment or upon 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.