

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: October 16, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (M. Watts)
Office of the General Counsel (Tan)
Office of Strategic Analysis and Governmental Affairs (Hunter, Shafer)

RE: Docket No. 080449-TX – Compliance investigation of Grande Communications Networks, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

AGENDA: 10/28/08 – 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\RCP\WP\080449s.RCM.DOC

Case Background

On July 8, 2008, staff opened Docket No. 080449-TX against Grande Communications Networks, Inc. (GCN) for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. On February 15, 2008, staff sent a certified letter via the United States Postal Service to GCN requesting data contained in its company records for inclusion in the Florida Public Service Commission's (Commission's) annual report to the Legislature on the status of local competition in Florida (local competition report). GCN signed the return receipt card for the certified letter, but staff did not receive the company's response.

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Staff's recommendation in Docket No. 080449-TX was presented to the Commission at the September 4, 2008, Agenda Conference. On September 24, 2008, the Commission issued Proposed Agency Action (PAA) Order No. PSC-08-0628-PAA-TX imposing a \$10,000 penalty on GCN for its apparent violation of Section 364.183(1), Florida Statutes. On September 23, 2008, GCN submitted a settlement proposal. This recommendation addresses GCN's proposed settlement.

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 Grande Communications Networks, Inc.'s settlement offer to voluntarily contribute \$3,500 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: Yes. The Commission should accept the company's settlement proposal.
(M. Watts/Tan)

Staff Analysis: On September 23, 2008, Ms. Kristene Stark, senior regulatory analyst for GCN, submitted an offer to settle the issue in this docket. In the letter, Ms. Stark stated that GCN did timely respond to the data request via facsimile, but did not have proof that it had done so. Thus, GCN proposed the following:

- Make a voluntary contribution of \$3,500; and
- File and secure confirmation of subsequent filings to avoid this situation in the future.

The amount of the settlement offer is consistent with the Commission's action in accepting similar terms of settlement for the same violation in Docket No. 050955-TX, In Re: Compliance investigation of Cypress Communications Operating Company, LLC for apparent violation of Section 364.183(1), F.S., Access to Company Records. Therefore, staff recommends that the Commission accept Grande Communications Networks, Inc.'s settlement offer to voluntarily contribute \$3,500 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.

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Issue 2: Should this docket be closed?

Recommendation: If GCN complies with its settlement offer, this docket should be closed administratively. If GCN fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 7514 should be canceled and this docket should be closed administratively. If GCN's certificate is canceled in accordance with the Commission's Order from this recommendation, GCN should be required to immediately cease and desist providing telecommunications services in Florida. **(Tan)**

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