

BEFORE THE PUBLIC SERVICE COMMISSION

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| In re: Application for certificate to provide competitive local exchange telecommunications service by USA Telephone Inc. d/b/a Choice One Telecom. | DOCKET NO. 050238-TX<br>ORDER NO. PSC-05-0818-PAA-TX<br>ISSUED: August 9, 2005 |
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The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER  
GRANTING A CERTIFICATE TO PROVIDE COMPETITIVE LOCAL EXCHANGE  
SERVICE BY USA TELEPHONE, INC. D/B/A CHOICE ONE TELEPHONE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code

I. Case Background

On May 26, 2005, the Commission issued Proposed Agency Action (PAA) Order PSC-05-0587-PAA-TX accepting USA Telephone Inc. d/b/a Choice One Telecom's (Choice One) settlement offer in this docket. The purpose of Choice One's settlement offer was to resolve outstanding issues associated with prior dockets and to obtain Commission authority to continue operating as a Competitive Local Exchange Telecommunications Company (CLEC) in Florida.

Previously, we had cancelled Choice One's CLEC Certificate No. 5647 effective November 5, 2004, in Docket No. 040845-TX, In Re: Compliance investigation of USA Telephone Inc. d/b/a Choice One Telecom for apparent violation of Section 364.183(1), F.S., Access to Company Records, and Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies. In a related action, Docket No. 040920-TI, In Re: Compliance investigation of USA Telephone Inc. d/b/a Choice One Telecom for apparent violation of Section 364.336, Florida Statutes, Choice One's IXC tariff was also cancelled and its name was removed from the register.

Prior to issuance of the Consummating Order in this docket, Choice One notified our staff that it is unable to pay one of its financial obligations in accordance with the settlement

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terms, we accepted PAA Order PSC-05-0587-PAA-TX. Choice One has proposed and seeks Commission approval of an alternative arrangement for paying monies it owes Florida Telecommunications Relay, Inc. (FTRI). This Order addresses Choice One's request for approval of an alternative payment arrangement.

Choice One remains an active CLEC in Florida serving more than 3,000 customers. The company reported \$1,940,300.94 gross intrastate operating revenue for its CLEC operations in 2004.

We have jurisdiction over these matters pursuant to Sections 364.04, 364.285, 364.336, 364.337, and 427.704.

## II. Decision

Prior to the deadline for protest, Choice One notified staff that it did not have sufficient funds to fulfill all of its settlement offer obligations approved by us in Order PSC-05-0587-PAA-TX. Specifically, Choice One explained that it does not have the financial capability to immediately pay all the monies owed FTRI for the Telecommunications Relay Surcharges (TRSs). The key elements of Choice One's settlement offer, accepted by the thisCommission in Order PSC-05-0587-PAA-TX, are:

- Pay \$7,500 as settlement of the total assessed penalty of \$11,500 (in the prior dockets described in the Case Background).
- In the future, respond promptly and pay Regulatory Assessment Fees (RAFs) on a timely basis.
- Provide data described in Attachment A and upon analysis, pay all required fees to FTRI.

Upon Consideration, we accept the alternative arrangement proposed by USA Telephone Inc. d/b/a Choice One Telecom to pay monies owed to Florida Telecommunications Relay, Inc., wherein \$3,384.30 will be paid immediately, and the balance owed of \$6,000.00, plus interest of \$114.12, for a total of \$6,114.12, will be paid in six equal installments of \$1,019.02 each, beginning September 1, 2005.

Based on the forgoing, it is

ORDERED by the Florida Public Service Commission that the alternative arrangement proposed by USA Telephone Inc. d/b/a Choice One Telecom is accepted. It is further

ORDERED by the Florida Public Service Commission that Certificate 8587 shall become active with an effective date of May 3, 2005

ORDERED by the Florida Public Service Commission that this Order will become effective upon the issuance of a Consummating Order unless a person whose substantial interests

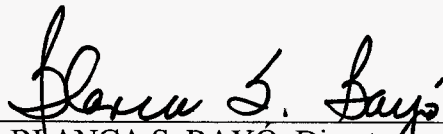
are affected by our decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. It is further

ORDERED by the Florida Public Service Commission that if a protest is filed, as provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. It is further

ORDERED by the Florida Public Service Commission that if Choice One fails to fully comply with all terms of the settlement, Choice One shall be required to immediately cease and desist providing any telecommunications services in Florida. It is further

ORDERED that in the event this Order becomes final, this docket shall open until all payments are made.

By ORDER of the Florida Public Service Commission this 9th day of August, 2005.



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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

VSM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal

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proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 30, 2005.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.