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

DATE: October 30, 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. 080451-TX – Compliance investigation of Tele Circuit Network Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records.

AGENDA: 11/13/08 – 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\RCP\WP\080451s.RCM.DOC

Case Background

On July 8, 2008, staff opened Docket No. 080451-TX against Tele Circuit Network Corporation (TCNC) for its apparent violation of Section 364.183(1), Florida Statutes (F.S.), Access to Company Records. On February 15, 2008, staff sent a certified letter via the United States Postal Service to TCNC requesting data contained in its company records. The data was required to compile the Commission's annual report to the Legislature on the status of local competition in Florida (local competition report). TCNC did receive the certified letter, but failed to provide the requested data.

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Docket No. 080451-TX
Date: October 30, 2008

Staff's recommendation in Docket No. 080451-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 TCNC for its apparent violation of Section 364.183(1), F.S. On October 13, 2008, TCNC submitted a settlement proposal. This recommendation addresses TCNC's proposed settlement.

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

Discussion of Issues

Issue 1: Should the Commission accept Tele Circuit Network Corporation'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), F.S.?

Recommendation: Yes. The Commission should accept the company'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 **(M. Watts/Tan)**

Staff Analysis: On October 13, 2008, Mr. Ashar Syed, president of TCNC, submitted an offer to settle the issue in this docket. In the letter, Mr. Syed stated that TCNC outsourced all of its regulatory tax compliance reporting to Thomson Tax & Accounting. TCNC believed that Thomson Tax & Accounting would respond to the report, but it did not do so because the report was not related to taxes or regulatory assessment fees. To correct this situation, TCNC clarified its contract with Thomson Tax & Accounting; will monitor all reports that are due to the Commission; and will double check each report to ensure it is accurate and timely submitted.

To resolve the apparent violation of Section 364.183(1), F.S., TCNC has offered to make a voluntary contribution of \$3,500 for deposit in the General Revenue Fund. 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.

Accordingly, staff recommends that the Commission accept Tele Circuit Network Corporation'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), F.S.

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Issue 2: Should this docket be closed?

Recommendation: If no person, whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of the Consummating Order. If the Commission's Order is not protested and TCNC complies with its settlement offer, this docket should be closed administratively. If TCNC fails to remit the voluntary contribution of \$3,500 to the Commission within 30 days of the issuance of the Consummating Order, Certificate No. 8573 should be canceled as set forth in PAA Order No. PSC-08-0628-PAA-TX, and this docket should be closed administratively. If TCNC's certificate is canceled, TCNC 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.