

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

OCTOBER 5, 2004

RE: Docket No. 040289-TI - Compliance investigation of Optical Telephone Corporation for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection. (Deferred from May 18, 2004 conference; revised recommendation filed.)

Issue 1: Should the Commission penalize Optical Telephone Corporation \$10,000 per apparent violation, for a total of \$90,000, for nine (9) apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

Recommendation: Yes.

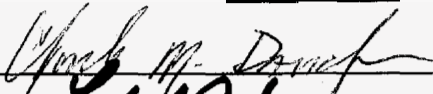
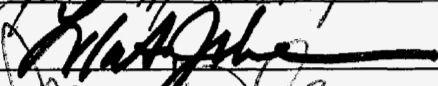
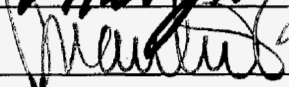
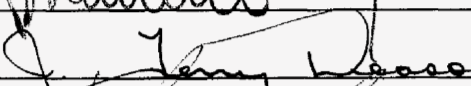
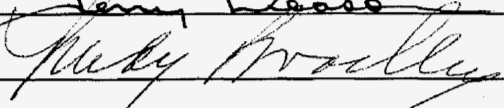
APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

10700 OCT-5 8

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(Continued from previous page)

Issue 2: Should the Commission penalize Optical Telephone Corporation \$10,000 per apparent violation, for a total of \$140,000, for fourteen (14) apparent violations of Section 364.604(2), Florida Statutes?

Recommendation: Yes.

APPROVED

Issue 3: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's 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. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If OTC fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted, the right to a hearing waived, and the penalty should be deemed assessed. If OTC fails to pay the penalty within fourteen (14) calendar days after issuance of the Consummating Order, the company's tariff should be cancelled and Registration No. TJ551 should be removed from the register. If OTC's tariff is cancelled and Registration No. TJ551 is removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing interexchange telecommunications service in Florida. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the removal of the company's registration number from the register and cancellation of the company's tariff. If OTC subsequently decides to reapply for registration as an intrastate interexchange company, it should be required to first pay any outstanding penalties assessed by the Commission. Any action by the Commission, including but not limited to any settlement, should not preempt, preclude, or resolve any matters under review by any other Florida Agencies or Departments.

APPROVED