

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ374 issued to Next Communications, Inc. for violation of Section 364.336, Florida Statutes.

Docket No. 030776-TI
Order No. PSC-04-0076-AS-TI
Issued: January 26, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ACCEPTING SETTLEMENT

BY THE COMMISSION:

I. BACKGROUND

Next Communications, Inc., obtained Florida Public Service Commission Interexchange Telecommunications Registration No. TJ374 on October 19, 2000.

A separate proceeding, Docket No. 011065-TI, was established on August 9, 2001, for nonpayment of the 2000 Regulatory Assessment Fees (RAFs) by Next Communications, Inc. On November 21, 2001, Order No. PSC-01-2288-PAA-TI was issued, which imposed a \$500 fine or removal of the company's registration. The company responded to the Order by proposing a settlement and paying the past due fee, including statutory late payment charges. On February 22, 2002, Order No. PSC-02-0226-AS-TI was issued, which accepted the company's \$250 settlement. In addition, the company proposed to pay future RAFs on a timely basis. The company paid the \$250 contribution and the docket was closed.

On December 12, 2002, the Division of the Commission Clerk & Administrative Services (CCS) mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003. On February 21, 2003, the Office of the General Counsel (GCL) sent a

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delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service did not return the unopened delinquent notice or the certified receipt.

On March 19, 2003, CCS notified the Division of Competitive Markets and Enforcement (CME) staff that this company had not paid the 2002 RAF. On April 28, 2003, our CME staff wrote the company and explained that payment for the RAF needed to be paid by May 19, 2003, to avoid an enforcement docket from being established. On July 11, 2003, our CME staff faxed the company a note requesting that payment for the 2002 RAF, including statutory late payment charges, be made. On August 7, 2003, payment was not received; therefore, this docket was established.

On August 12, 2003, we received the company's payment for the minimum 2002 RAF, along with statutory late payment charges for the years 2001 and 2002. The company did not complete and send in the 2002 RAF return form so our CME staff did not know the amount of the company's revenues, if any, for the year 2002. On August 13, 2003, our CME staff faxed the company a note and the 2002 RAF return form and asked that it be completed.

Our CME staff wrote the company a letter on November 20, 2003, and asked that the 2002 RAF return form be completed and explained that the company needed to resolve this docket by proposing a settlement or requesting cancellation. A representative from Next Communications, Inc. called our CME staff on December 01, 2003, and stated the company had gone through some personnel changes and had moved offices. The representative advised that the company wished to keep its registration active and would complete the 2002 return form. On December 2, 2003, staff faxed the information to the company explaining what needed to be done to resolve this docket.

On December 8, 2003, we received the company's 2002 return form, along with full payment for the balance of the 2002 RAF, including statutory late payment charges. In addition, the company proposed a settlement. The company reported revenues in the amount of \$3,574,726 for the period ended December 31, 2002.

We are vested with jurisdiction over this matter pursuant to Sections 364.02, 364.336, 364.285, and 364.337, Florida Statutes.

II. SETTLEMENT AGREEMENT

Section 364.336, Florida Statutes, requires the payment of RAFs by January 30 of the subsequent year for telecommunications companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

After this docket was opened, but prior to the filing of a recommendation, we received the company's payment for the outstanding Regulatory Assessment Fee, including statutory late payment charges, and a letter from the company which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. The settlement amount in this docket is consistent with amounts we have accepted for recent, similar violations.

Accordingly, we find that the terms of the settlement agreement as summarized in herein are acceptable. The contribution shall be received by this Commission within fourteen (14) calendar days from the date of this Order and shall identify the docket number and company name. We shall forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of this Order, the company's tariff shall be cancelled and its name removed from the register administratively. In addition, the company shall be required to immediately cease and desist providing intrastate interexchange services in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company shall be required to first pay any outstanding RAF, including statutory late payment charges and the contribution.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Next Communications, Inc.'s settlement offer is hereby approved. It is further

ORDERED that Next Communications, Inc.'s contribution shall be received by this Commission within fourteen (14) calendar days from the date of this Order and shall identify the docket number and company name. It is further

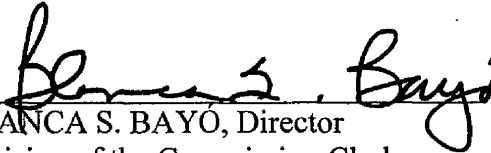
ORDERED that if Next Communications, Inc. fails to pay in accordance with the terms of this Order, the company's tariff shall be cancelled and its name removed from the register administratively. In addition, Next Communications, Inc. shall be required to immediately cease and desist providing intrastate interexchange services in Florida. It is further

ORDERED that if Next Communications, Inc.'s tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, Next Communications, Inc. shall be required to first pay any outstanding RAF, including statutory late payment charges and the contribution. It is further

ORDERED that this docket should be closed upon receipt of the \$500 contribution or cancellation of the tariff and removal from the register.

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By ORDER of the Florida Public Service Commission this 26th day of January, 2004.



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

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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.