

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0058

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JAN 11 11:39 AM '01  
REPORTING

DATE: JANUARY 4, 2001

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIK*  
DIVISION OF LEGAL SERVICES (BANKS) *FRB DV*

RE: DOCKET NO. 001222-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3549 ISSUED TO NATIONWIDE COMMUNICATIONS OF MICHIGAN, INC. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 01/16/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001222.RCM

CASE BACKGROUND

- **04/29/94** - This company obtained Florida Public Service Commission Interexchange Telecommunications (IXC) Certificate No. 3549.
- **10/13/97** - Docket No. 971317-TP was established for nonpayment of the 1996 Regulatory Assessment Fee (RAF) for the company's IXC and payphone certificates, overbilling consumers for long distance calls, and not responding to staff. On January 22, 1998, Order No. PSC-98-0121-PCO-TP was issued, which ordered the company to show cause why fines should not be imposed for the three rule violations. Nationwide subsequently paid the past due RAFs, including penalty and interest charges, and proposed a settlement. On December 8, 1998, Order No. PSC-98-

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1651-FOF-TP was issued, which accepted the company's settlement offer. The company paid the settlement amount and the docket was closed.

- **12/08/99** - The Division of Administration mailed the 1999 RAF notice. The due date was January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice.
- **09/07/00** - Ms. Pam Keillor, called on behalf of Patrick Wiggins, Attorney for Nationwide, and requested information about this docket. Staff was advised that the company would pay the outstanding balance and make a settlement offer.
- **10/20/00** - The Commission received a check for the outstanding amount, including statutory penalty and interest charges. The company reported no revenues for the period ended December 31, 1999.
- **11/14/00** - The Commission received the company's proposed settlement.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Nationwide Communications of Michigan, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller 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 the Commission Order, Certificate No. 3549 should be canceled administratively. (Isler)

**STAFF ANALYSIS:** Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

After this docket was opened, but prior to staff filing a recommendation, the Commission received the company's payment for the outstanding regulatory assessment fee, including statutory penalty and interest charges, and a letter from the company, which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. In addition, the company included a waiver of objection to the administrative cancellation of its certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of its offer. This settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

This is the second docket established for the same apparent rule violation. The company's General Manager, Mr. Robert L. Miller, Jr., wrote a letter dated October 30 and stated that after the prior docket, he believed the company's internal comptroller and external CPA firm provided the company two safeguards against further missed filings. Mr. Miller advised that the internal comptroller has since been replaced and Nationwide intends to replace its CPA firm once the firm has discharged its duties with respect to Nationwide's audited financials. Mr. Miller has assured staff that Nationwide has made this filing a priority with its

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current comptroller and retained CT Corporation to centrally handle all such corporate filings.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller 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 the Commission Order, Certificate No. 3549 should be canceled administratively.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate. (Banks)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate.