

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: May 8, 2002
TO: Blanca Bayo, Director, Division of Commission Clerk and Administrative Services
FROM: Angela Fondo, Division of Competitive Markets and Enforcement *AF*
RE: Add to file in Docket No. 020185-TX

Please add this correspondence to Docket No. 020185-TX.

cc: Office of the General Counsel (Teitzman)

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DIVISION OF
COMPETITIVE SERVICES

May 3, 2002

Ms. Angela Fondo
Regulatory Analyst
Bureau of Service Quality
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Florida PCS Docket No. 020185-TX

Dear Ms. Fondo:

I have continued to research the issues that caused our problem with regard to our ALEC Data Request Survey. In my investigation I have uncovered the following:

- October 3rd of 2000 - Wireless One Network, L.P., d/b/a Cellular One of Southwest Florida (WON) and Wireless One Network Management (WON Management) filed a joint request with the commission to transfer ALEC certificate No. 5181 and IXC certificate No. 5182 from WON to WON Management.
- December 20, 2000 – Docket Number 001522-TP dealt with the disposition of the request, and ordered (PSC-00-2455-PAA-TP) that the transfer be approved and will become final and effective upon the issuance of a Consummating Order.
- January 17, 2001 – Docket Number 001522-TP was the Consummating Order and Order No. PSC-00-2455-PAA-TP was ruled effective and final.

It is our contention that based on this ruling, all correspondence and/or data requests relevant to the ALEC certificate in question in your complaint should have been sent to Wireless One Network Management. Further, had this been the case, we would have received the original notice and would have complied with the Data Request. As this Data Request was sent to Cellular One (the DBA of Wireless One Network, L.P.), the request was received by the new owner of Cellular One of Southwest Florida, and was never received by WON Management.

It is my strong belief that this information supports our assertion that WON Management never received the Data Request, and is therefore not liable for any fines associated with its alleged lack of compliance. However, should the PSC find that they do not agree with this assessment, I would argue that this is at worst a first offense. You have stated that the commission views this violation more harshly because it is a second offense. However the offense for the year 2000 Data Request was issued against the then holder of the certificate in question (Wireless One Network, L.P. D/B/A Cellular One of Southwest Florida). As this certificate transfer was ordered effective in January of 2001, WON Management, the current holder of the certificate, could not have received a fine for the prior year.

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I believe that what we have is a clerical problem, not a compliance problem. WON Management is interested in putting this matter behind us. It is our desire to retain this certificate, and our ardent hope is that soon we will begin to provide services to the public under this certificate. Given the information provided in this letter, as well as the mitigating circumstances I described in my previous letter (dated April 19th) to you, we propose the following:

- WON Management pay the outstanding ALEC assessment fee (forwarded via overnight mail concurrent with this letter).
- WON Management complete the Data Request Form (completed and sent to your office via FAX on 4/23/2002).
- Florida PSC waive any further penalty.
- Florida PSC change it's records to correctly reflect the current holder of the ALEC certificate in question (WON Management).

Let me once again stress that it is not our intention to avoid complying with Florida PSC rules or guidelines. I can assure you that great care will be taken to ensure that we comply with all future PSC orders. Please call me if you have any questions.

Sincerely,



James A. Dwyer, III

JAD/km