



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: DECEMBER 23, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pij*
OFFICE OF THE GENERAL COUNSEL (DODSON) *BK for*

RE: DOCKET NO. 031015-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF CLEC CERTIFICATE NO. 7887 ISSUED TO NATIONNET COMMUNICATIONS CORPORATION, FOR VIOLATION OF RULES 25-24.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.835, F.A.C., RECORDS AND REPORTS; RULES INCORPORATED.

AGENDA: 01/06/04 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\031015.RCM

CASE BACKGROUND

- **09/10/01** - This company obtained Florida Public Service Commission Competitive Local Exchange Telecommunications Company (CLEC) Certificate No. 7887.
- **06/30/02** - The Commission received the company's payment for the 2001 Regulatory Assessment Fee (RAF). The company reported no revenues for the period ended December 31, 2001.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF return notice. Payment was due by January 30, 2003.

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- **02/21/03** - The Office of the General Counsel mailed a delinquent notice via certified mail for nonpayment of the 2002 RAF. The US Postal Service subsequently returned the unopened delinquent notice stamped "unclaimed; refused."
- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid its 2002 RAF.
- **04/11/03** - Staff wrote the company and explained that the 2002 RAF had not been paid, along with statutory late payment charges for the years 2001 and 2002, and that in order to avoid an enforcement docket from being established, the RAFs needed to be paid by April 30, 2003.
- **05/28/03** - The US Postal Service returned staff's April 11th letter stamped "box closed; unable to forward."
- **06/26/03** - Staff faxed a note to the company attempting collection of the 2002 RAF a final time before establishing a docket.
- **10/28/03** - The company did not pay the past due amount or contact staff; therefore, Docket No. 031015-TX was established for nonpayment of the 2002 RAF.

In Issue 1 of this recommendation, staff identifies Rules 25-4.0161 and 25-24.480, Florida Administrative Code, as those apparently violated by the company. Both rules are incorporated by Rule 25-24.835, Florida Administrative Code. To avoid redundancy, hereafter, the recommendation refers only to Rules 25-4.0161 and 25-24.480, Florida Administrative Code.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel NationNet Communications Corporation's CLEC Certificate No. 7887 for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated?

RECOMMENDATION: The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel NationNet Communications Corporation's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory late payment charges, and the information required by Rule 25-24.480, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If the company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory late payment charges, and required information are not received, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If NationNet Communications Corporation's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange services in Florida. **(Isler; Dodson)**

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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

In addition, NationNet Communications Corporation has had returned mail and has not updated the information within 10 days of the change of its address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Staff attempted to call the company, but was unsuccessful. Therefore, it appears NationNet Communications

Corporation has failed to comply with Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated, and has not requested cancellation of its certificate in compliance with Rule 25-24.820, Florida Administrative Code. The penalty amount recommended in this docket is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay RAFs, including statutory late payment charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel NationNet Communications Corporation's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory late payment charges, and the information required by Rule 25-24.480, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory late payment charges, and required information are not received, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If NationNet Communications Corporation's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange services in Florida.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty, fees, and required information or cancellation of the certificate. **(Dodson)**

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon receipt of the penalty, fees, and required information or cancellation of the certificate.