

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause ) DOCKET NO. 921239-TI  
proceedings against FIRST ) ORDER NO. PSC-93-0983-FOF-TI  
NETWORK SYSTEMS INTERNATIONAL ) ISSUED: June 30, 1993  
a/k/a FIRST NET and LEADING EDGE )  
COMMUNICATIONS, INC. for )  
violation of Rules 25-24.470, )  
Certificate of Public )  
Convenience and Necessity )  
Required, and 25-24.4701, )  
Provision of Regulated )  
Telecommunications Service to )  
Uncertificated Resellers )  
Prohibited, F.A.C. )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON

ORDER REAFFIRMING ORDER TO SHOW CAUSE

BY THE COMMISSION:

On May 18, 1993, we issued Order No. PSC-93-0750-FOF-TI requiring First Network Systems International Network Systems a/k/a First Net and Leading Edge Communications to show cause why each company should not be fined for providing intrastate telecommunications service without a certificate. Due to a scrivener's error the Order was incorrectly addressed and returned by the Post Offices as undeliverable. In order to provide an adequate notice and opportunity to respond and we are reissuing and reaffirming the text of Order No. PSC-93-0750-FOF-TI. The text of that Order follows.

On September 19, 1986, Gregory Hoenig filed an application to provide interexchange telecommunications service on behalf of Profit Concept Systems, Inc. (PCSI). An investigation into the activities of PCSI indicated the company was providing intrastate long distance service without a certificate in violation of both Rule 25-24.470, Florida Administrative Code and Section 364.33, Florida Statutes. On May 27, 1987, we issued Order No. 17622 imposing a \$16,916.18 fine. However, by the terms of Order No. 17622, if no protest was timely filed, and PCSI paid \$8,458.44 of the fine, the remaining fine was to be suspended. A protest of

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Order No. 17622 was filed by the Zurckel Group, Inc. and a hearing on the matter was scheduled. The hearing was cancelled when Florida Digital Network acquired PSCI's stock, assets and customer base as a result of PSCI's default on its contracts. Ultimately no certificate was issued to PSCI and both PSCI and Florida Digital Network ceased operations when Florida Digital Network filed for bankruptcy.

While reasonable efforts were being made to collect the fine imposed in Order No. 17622, Mr. Hoenig filed another application for an IXC certificate on behalf of Fiberlink USA, Inc. (Fiberlink) on September 23, 1988. After discovering that Mr. Hoenig was also president of Fiberlink, we issued Order 21082 denying a certificate to Fiberlink.

By Order No. 15429, Certificate No. 447 was issued to Mr. Hoenig as a sole proprietor. In Docket No. 890053, Certificate No. 447 was cancelled for failure to file an annual report.

On February 6, 1992, Mr. Hoenig filed an application to provide interexchange service on behalf of First Network Systems, International a/k/a First Net. We denied the application by Order No. PSC-92-0695-FOF-TI, dated July 22, 1992.

On March 9, 1992 our staff made inquiries into allegedly uncertificated interexchange service provided by Leading Edge Communications, Inc. (Leading Edge). On May 26, 1992 Leading Edge responded that it was not providing interexchange service nor was it providing alternative operator services. Our staff continued to make inquiries and Leading Edge provided a list of interexchange carriers (IXC's) which it marketed. Among these IXC's was First Network Systems. All of the IXC's marketed by Leading Edge were certificated except for First Network Systems. Further inquiries indicate that First Network Systems and First Network Systems International, Inc. are the same company.

Since these inquiries, numerous complaints and inquiries have been received concerning the activities of First Network Systems, International, Inc. a/k/a First Net. Similar information about Leading Edge Communications, Inc. has also been received, including a copy of a bill which states that Leading Edge Communications, Inc. has chosen First Network Systems as its carrier of choice to provide all benefits promised by Leading Edge Communications, Inc. On October 16, 1992, copies of information being used by First Network Systems to acquire business in Texas was provided as part

of an inquiry. In the information was a copy of a Florida IXC application which was apparently being used to represent certification in Florida.

From October, 1992 to present, consumers in Florida have made numerous inquiries regarding bills showing First Network System using AT&T Bill Manager Service. We have also received copies of complaints pending in Texas against First Network Systems. On February 5, 1993, additional information was received concerning Mr. Hoenig. According to Bob Sanit of Communications Gateway Network, Inc., Mr. Gregory Hoenig is now doing business under the name of Gateway Communications International Corporation.

On February 11, 1993, we received an application from Gateway Communications International Corporation (Docket No. 930146-TI). The application lists a Mr. William E. Webster as President. According to a complaint filed on March 1, 1993, Mr. William E. Webster was associated with First Network Services as Chief Operating Office. No action has been taken in that docket.

Based on the above information, we find it appropriate to order both First Network Systems International a/k/a First Net and Leading Edge Communications to show cause why they should not be fined for violation of Rule 25-24.470, Florida Administrative Code and Section 364.433, Florida Statutes. Both Rule 25-24.470 and Section 364.33 require an interexchange carrier to receive our approval before providing interexchange service. We further find it appropriate to require both First Network Systems, Inc. a/k/a First Net and Leading Edge Communications, Inc. to show cause why all certificated interexchange telecommunications services companies should not be required to discontinue service to both companies pursuant to Rule 25-24.470(3), Florida Administrative Code. Rule 25-24.470(3) provides:

If the Commission, upon making a determination that a customer of an interexchange company is unlawfully reselling or rebilling intrastate interexchange service may issue an order that directs the customer to cease and desist reselling or rebilling such service and simultaneously directs the interexchange company to discontinue providing such service to such customer and/or to cease providing service to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is technically

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feasible within the context of existing facilities and technology.

If either or both companies fails to respond, then all certificated IXC's shall be required to discontinue service to either company or both as the case may be.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that First Network Systems, International a/k/a First Net and Leading Edge Communications, Inc. shall show cause in writing why each or both companies should not be fined for violation of Rule 25-24.470, Florida Administrative Code and Section 364.33, Florida Statutes as outlined in the body of this Order. It is further

ORDERED that First Network Systems, International a/k/a First Net and Leading Edge Communications, Inc. shall show cause why all certificated interexchange carriers should not be required to discontinue service to either or both companies as outlined in the body of this Order. It is further

ORDERED that if either or both companies fails to respond that failure shall be deemed an admission of the facts alleged, a default and a waiver of the right to a hearing by either or both companies as the case may be. It is further

ORDERED that if either First Network Systems, International a/k/a First Net and Leading Edge Communications, Inc. fails to respond, all certificated interexchange carriers shall be ordered to discontinue service to the non-responding company(ies). It is further

ORDERED that any response to this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that this docket shall remain open pending resolution of the show cause process.

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By ORDER of the Florida Public Service Commission this 30th  
day of June, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting(

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 20, 1993.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

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If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.