

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 921239-TI
proceedings against FIRST) ORDER NO. PSC-93-1638-FOF-TI
NETWORK SYSTEMS INTERNATIONAL) ISSUED: November 8, 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(2),)
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
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER IMPOSING FINE

BY THE COMMISSION:

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 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 PCSI's stock, assets and customer base as a result of PCSI's default on its contracts. Ultimately no certificate was issued to PCSI and both PCSI and Florida Digital Network ceased operations when Florida Digital Network filed for bankruptcy.

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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 No. 21082 denying a certificate to Fiberlink.

By Order No. 15429, PATS 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, 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. Inquiries continued to be made 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 essentially 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

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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. 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 Officer.

Based on the above information, we issued Order No. PSC-93-0750-FOF-TI, requiring 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. Because of a scrivener's error, that Order was not delivered and an Order Reaffirming Order No. PSC-93-0983-TI was issued.

Both Rule 25-24.470 and Section 364.33 require an interexchange carrier to receive our approval before providing interexchange service. We further found it appropriate to require both First Network Systems, Inc. a/k/a First Net and Leading Edge Communications to show cause why all certificated interexchange telecommunications services companies should not be required to discontinue service to both companies pursuant to Rule 25-24.4701(3), Florida Administrative Code. Rule 25-24.4701(3) provides:

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 feasible within the context of existing facilities and technology.

Both Order No. PSC-93-0750-FOF-TI and the subsequent Order Reaffirming Order to Show cause provided that a failure to respond would result in a default.

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Order No. PSC-93-0983-FOF-TI was returned as undeliverable. Apparently the Companies had moved leaving no forwarding address.

Based on the information before us, we find that both First Network Inc. a/k/a First Net and Leading Edge Communication are in default. Accordingly we find it appropriate to fine both Companies in the amount of \$10,000.

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. are hereby each fined \$10,000 for violation of Rule 25-24.470, and 25-24.470(2) Florida Administrative Code. It is further

ORDERED that this docket shall remain open to allow reasonable efforts to collect the fines.

By ORDER of the Florida Public Service Commission this 8th day of November, 1993.



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.

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 Records and Reporting 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 or sewer 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.