

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of transfer of assets and Interexchange Telecommunications Certificate No. 2984 and change in name from National Data & Communications, Inc. to National Data & Communications of Florida, LLC.

DOCKET NO. 990501-TI
ORDER NO. PSC-99-1167-PAA-TI
ISSUED: June 7, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TRANSFER OF ASSETS; AND TRANSFER OF AND NAME
CHANGE ON INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Section 364.33, Florida Statutes, provides that a person may not acquire ownership or control of any telecommunications facility, or any extension thereof for the purpose of providing telecommunications services to the public, including the acquisition, transfer, or assignment of majority organizational

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control or controlling stock ownership, without prior approval from this Commission.

By letter dated March 22, 1999, National Data & Communications, Inc. (NDCI) and National Data & Communications of Florida, LLC (NDCF) filed with this Commission an application for approval of transfer of assets from NDCI to NDCF. NDCI is the holder of Interexchange Telecommunications Certificate No. 2984. The companies further requested the transfer and name change of NDCI's Certificate No. 2984 from NDCI to NDCF.

In accordance with our authority under Section 364.33, Florida Statutes, to approve the acquisition or transfer of majority organizational control or controlling stock ownership of a telecommunications company providing service in Florida, we have reviewed the Petition of NDCI and NDCF, and find it appropriate to approve it. We have based our review and decision upon an analysis of the public's interest in efficient, reliable telecommunications service. Our decision does not address the potential impact of the transfer on the competitive market in Florida, or on the companies' or their competitors' interests. We emphasize, however, that our approval of the Petition pursuant to our authority under Section 364.33, Florida Statutes, does not preclude us from addressing any of our concerns that may arise regarding this transaction to the appropriate federal or state agencies.

NDCI and NDCF have complied with Rule 25-24.473, Florida Administrative Code, regarding the transfer of IXC certificates. We find the transfer to be in the public interest and, therefore, approve the transfer. IXC Certificate No. 2984 shall be amended to reflect that NDCF is the holder of this certificate.

If this Order becomes final and effective, it shall serve as NDCF's certificate. It should, therefore, be retained by NDCF as proof of certification and as evidence of the name change.

IXCs are subject to Chapter 25-24, Florida Administrative Code, Part X, Rules Governing Telephone Service Provided by Interexchange Telephone Companies. IXCs are also required to

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comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapters 25-4, Florida Administrative Code.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that the request for approval of transfer of assets from National Data & Communications, Inc. to National Data & Communications of Florida, LLC is hereby approved. It is further

ORDERED that the request for assignment of and name change on Interexchange Telecommunications Certificate No. 2984 from National Data & Communications, Inc. to National Data & Communications of Florida, LLC, is hereby approved. It is further

ORDERED that Interexchange Telecommunications Certificate No. 2984 shall be amended to reflect that National Data & Communications of Florida, LLC, is the holder of this certificate.

ORDERED that National Data & Communications of Florida, LLC Interexchange Telecommunications service Certificate No. 2984 is subject to the terms and conditions set forth in the body of this Order. It is further

ORDERED that this Order will serve as National Data & Communications of Florida, LLC's certificate and that this Order should be retained as proof of certification and as evidence of the name change. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order, unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 7th
day of June, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

KMP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

As identified in the body of this order, our action approving the transfer of assets; and transfer and name change on interexchange telecommunications certificate is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 28, 1999. If such a petition is filed, mediation

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may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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

RECEIVED-FPSC

M E M O R A N D U M

99 JUN -7 AM 10:40

June 7, 1999

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *KMP CB*

RE: DOCKET NO. 990501-TI - REQUEST FOR APPROVAL OF TRANSFER OF ASSETS AND INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 2984 AND CHANGE IN NAME FROM NATIONAL DATA & COMMUNICATIONS, INC. TO NATIONAL DATA & COMMUNICATIONS OF FLORIDA, LLC.

99-1167-PAA

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING TRANSFER OF ASSETS; AND TRANSFER OF AND NAME CHANGE ON INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE, to be issued in the above-referenced docket. (Number of pages in order - 5)

KMP/anr
Attachment
cc: Division of Communications
I: 990501.kmp

See 2-5

455

12/0

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Number of Originals 5 Date 6, 8, 99 Copies Per Original 19
Requested By Public

Item Presented
Agenda For (Date) _____ Order No. 99-1167 In Docket No. 990501
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>	<u>--</u>	_____
	<u>Docket Mailing List - Mailed</u>	_____	_____
<u>12</u>	<u>Docket Mailing List - Faxed</u>	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 104 Verified By Michael
Date and Time Completed 6/10 Job Checked For Correctness and Quality (Initial) C

Mail Room Verification

Date Mailed / Verified By /