

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
certificate to provide
alternative local exchange
telecommunications service by
C.I.O., Inc.

DOCKET NO. 990971-TX
ORDER NO. PSC-00-0078-PAA-TX
ISSUED: January 10, 2000

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING C.I.O., INC.'S APPLICATION FOR CERTIFICATE TO
PROVIDE ALTERNATIVE LOCAL EXCHANGE SERVICE

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.

On July 27, 1999, C.I.O., Inc. (C.I.O. or company) submitted its application in order to provide alternative local exchange telecommunications service in Florida. After reviewing the application, our staff determined that revisions to the application were necessary. On July 30, 1999, staff mailed a letter to Mr. Rick Austin, President of C.I.O., stating that C.I.O. needed to amend its tariff and corporate filing information and submit an amended application for approval. Since C.I.O. did not respond to this letter, staff mailed a certified letter to C.I.O. on September 13, 1999, and requested receipt of the amended application by

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September 28, 1999. C.I.O. submitted the required information on September 21, 1999.

Staff placed its recommendation for approval of C.I.O.'s application on the October 5, 1999, Agenda Conference. Prior to the agenda date, however, staff began receiving customer complaints concerning C.I.O. Based on the number and substance of the customer complaints, on September 27, 1999, staff requested a deferral of this item in order to further investigate the customer complaints and the company.

Based on the investigation, it appears that C.I.O. was collecting payments for telephone service and not forwarding the payments to TeleConex. TeleConex, Inc. d/b/a TeleConex (TeleConex) is a certificated alternative local exchange company (ALEC) that entered into a marketing agreement with C.I.O. in September 1998. In addition, based on staff's discussions with concerned customers, it seems that Mr. Austin solicited many of TeleConex's customers, advising them that if they remained with TeleConex they might lose their telephone service. C.I.O. was alleged to have stated that if the customers switched their service to Pre-Cell they would receive service at a lower rate. Needless to say, many TeleConex customers were confused. Mr. Austin succeeded in changing some of TeleConex's customers to Pre-Cell. Pre-Cell Solutions, Inc. (Pre-Cell) is another certificated ALEC that entered into a marketing agreement with C.I.O. in May 1999. Staff began receiving customer complaints regarding C.I.O. and Pre-Cell. It appears that C.I.O. began soliciting customers in order to switch them from Pre-Cell to C.I.O.

Staff contacted C.I.O. and scheduled an audit for October 29, 1999. Prior to that time, Mr. Austin contacted staff and canceled the audit. To date, the audit has not been rescheduled.

In addition, on October 11, 1999, C.I.O. filed for a name change with the Secretary of State to change the name from C.I.O., Inc. to C.I.O.'s Family Phones Inc., but has not filed the same change with us as required by Rule 25-24.815, Florida Administrative Code. Furthermore, the telephone numbers for C.I.O.

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listed on its application and customer telephone bills have been disconnected.

Based on the above stated information, it appears that C.I.O. has not demonstrated nor do we believe C.I.O. has the managerial capability to operate a telecommunications company in Florida. Thus, we believe granting C.I.O. a certificate would not be in the public interest. Therefore, we deny C.I.O.'s application for certificate to provide alternative local exchange telecommunications service.

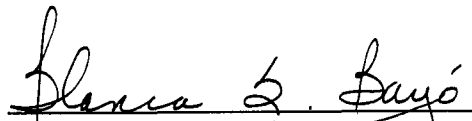
Therefore, it is

ORDERED by the Florida Public Service Commission that C.I.O., Inc.'s application to provide alternative local exchange telecommunications service in Florida is hereby denied. 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" attached hereto. It is further

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

By ORDER of the Florida Public Service Commission this 10th day of January, 2000.



BLANCA S. BAYÓ, 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 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation 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.

The action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 31, 2000.

In the absence of such a petition, this order shall become final and 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.

M E M O R A N D U M

January 6, 2000

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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CALDWELL) *Dur* *BR*

RE: DOCKET NO. 990971-TX - APPLICATION FOR CERTIFICATE TO
PROVIDE ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS
SERVICE BY C.I.O., INC.

0078-PAA

Attached is a Notice of Proposed Agency Action Order Denying C.I.O., Inc.'s Application for Certificate to Provide Alternative Local Exchange Service to be issued in the above-referenced docket. (Number of pages in order - 4)

DWC/sa
Attachment
cc: Division of Communications
I:990971or.dwc

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