

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 031015-TX
ORDER NO. PSC-04-0017-PAA-TX
ISSUED: January 7, 2004

The following Commissioners participated in the disposition of
this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING PENALTIES, REQUIRING PAYMENT OF DELINQUENT
REGULATORY ASSESSMENT FEES AND REQUIRING INFORMATION IN
ACCORDANCE WITH RULES 25-24.0161, FLORIDA ADMINISTRATIVE CODE,
RECORDS AND REPORTS; RULES INCORPORATED, OR CANCELING COMPETITIVE
LOCAL EXCHANGE 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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CASE BACKGROUND

On September 10, 2001 NationNet Communications Corporation (NationNet) obtained Florida Public Service Commission Competitive Local Exchange Telecommunications Company (CLEC) Certificate No. 7887. On June 30, 2002, we received the company's payment for the 2001 Regulatory Assessment Fee (RAF). The company reported no revenues for the period ended December 31, 2001.

The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF return notice on December 12, 2002. Payment was due by January 30, 2003. Our Office of the General Counsel mailed the company a delinquent notice via certified mail for nonpayment of the 2002 RAF, on February 21, 2003. The US Postal Service subsequently returned the unopened delinquent notice stamped "unclaimed; refused."

On March 19, 2003, the Division of the Commission Clerk and Administrative Services notified our staff that this company had not paid its 2002 RAF. Our staff wrote the company on April 11, 2003, 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. On May 28, 2003, the US Postal Service returned staff's April 11 letter stamped "box closed; unable to forward." Our staff faxed a note to the company on June 26, 2003, attempting collection of the 2002 RAF a final time before establishing a docket. On October 28, 2003, Docket No. 031015-TX was established for nonpayment of the 2002 RAF because the company did not pay the past due amount or contact our staff.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes.

DISCUSSION

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

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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. Our 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.

It appears NationNet has failed to comply with Rules 25-4.0161 and 25-24.480, Florida Administrative Code. Both rules are incorporated by Rule 25-24.835, Florida Administrative Code. To avoid redundancy, we hereafter refer only to Rules 25-4.0161 and 25-24.480, Florida Administrative Code.

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, we assess a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel NationNet'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 penalty amount in this docket is consistent with amounts imposed for recent, similar violations. The total penalty of \$1,000 shall 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 shall 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 shall be required to immediately cease and desist providing competitive local exchange services in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that NationNet Communications Corporation shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$1,000 penalty to the Florida Public Service Commission for failure to comply with Section 364.366, Florida Statutes, and Rules 25-4.0161 and 25-24.480, incorporated by Rule 25-24.835, Florida Administrative Code, within 14 days after the issuance of the Consummating Order, payable to the Florida Public Service Commission. It is further

ORDERED that should NationNet Communications Corporation fail to comply with this Order, that entity's certificate shall be canceled, effective on the date of the issuance of the Consummating Order; the collection of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts; and the respective docket shall be closed. It is further

ORDERED that if NationNet Communications Corporation's certificate is cancelled in accordance with this Order, NationNet Communications Corporation shall immediately cease and desist providing competitive local exchange telecommunications services in Florida. 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth

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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 upon payment of the penalties, and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 7th Day of January, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

LHD

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.

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 28, 2004.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.