

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of CLEC Certificate No. 7839 issued to National Telecom, LLC, for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 031014-TX
ORDER NO. PSC-04-0371-PAA-TX
ISSUED: April 6, 2004

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING VOLUNTARY CANCELLATION OF
COMPETITIVE LOCAL EXCHANGE 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.

National Telecom, LLC (National) currently holds Certificate of Public Convenience and Necessity No. 7839, issued by the Commission on July 13, 2001, authorizing the provision of Competitive Local Exchange service. The Division of the Commission Clerk and Administrative Services advised our staff that National had not paid the Regulatory Assessment Fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2003. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 2003 had not been paid. National was scheduled to remit its RAFs by January 30, 2004.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161 (2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms, for the period of January 1, through December 31,

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FPSC-COMMISSION CLERK

are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for certification receive a copy of our rules governing Competitive Local Exchange service.

On July 17, 2003, the Commission received a letter from Ms. Mildred Jones dated July 15, 2003, requesting cancellation of the company's certificate. The letter stated that the company had never done business in the state and had no customers. Staff faxed the company a note on July 23, 2003, and advised it to either pay the 2003 Regulatory Assessment Fee or provide a date certain it would be paid. Ms. Jones called staff on July 24, 2003, and stated that she had mailed a check for \$50, along with an application to withdraw. As of October 28, 2003, the Commission had not received the Regulatory Assessment Fee; therefore, this docket was established.

On January 27, 2004, Order No. PSC-04-0093-PAA-TX was issued, which denied the company a voluntary cancellation. The company had until February 17, 2004, to protest the Proposed Agency Action Order or its certificate would be cancelled on the Commission's own motion. On January 28, 2004, Ms. Jones called staff and advised that she had received the Order and did not understand it since she had done what she thought she was supposed to do. After further checking, Ms. Jones advised staff that she had sent the \$50 check and application for withdrawal to the Florida Department of State, Division of Corporations, instead of the Florida Public Service Commission. On January 29, 2004, staff faxed Ms. Jones a sample protest letter and the 2003 Regulatory Assessment Fee return form. On February 4, 2004, the Commission received the company's payment of the 2003 Regulatory Assessment Fee (postmarked January 29, 2004). The company reported no revenues for the period ended December 31, 2003. On February 20, 2004, the Commission received the company's timely filed protest to Order No. PSC-04-0093-PAA-TX, which requested voluntary cancellation of National Telecom, LLC's certificate.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that National Telecom, LLC's Certificate No. 7839 to provide Competitive Local Exchange services is hereby canceled, effective July 17, 2003. It is further

ORDERED that National Telecom, LLC to immediately cease and desist providing Competitive Local Exchange service 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


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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 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 6th day of April, 2004.

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

By: 

Paul Nichols, Chief
Bureau of Administrative Services

(S E A L)

VSM

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 April 27, 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.