

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.

DOCKET NO. 050363-TP
ORDER NO. PSC-05-0734-PAA-TP
ISSUED: July 8, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER
IMPOSING PENALTY AND ORDERING RECORD CORRECTION

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 June 16, 1999, we granted Southeastern Services, Inc. (SSI) a certificate of public convenience and necessity (certificate) to provide Competitive Local Exchange Company (CLEC) services (Certificate No. 7018), and on March 23, 2001, we granted a certificate to provide Alternative Access Vendor (AAV) services (Certificate No. 7767). On December 28, 2001, we granted SSI a certificate to provide Interexchange Company (IXC) services (Certificate No. 7988).

On March 31, 2005, Northeast Florida Telephone Company (NEFCOM) submitted a letter indicating that the applications for certificates filed by SSI failed to disclose that Mr. Mark Woods, President of SSI, was adjudicated guilty of the felony crime of grand theft on December 4, 1979, and requested that the Commission conduct an investigation into the matter. Thereafter, our staff conducted an investigation into the matter and determined that SSI did not disclose the information as required on the AAV, CLEC, and IXC certificate application forms. We sent SSI a letter on April 12, 2005, requesting a written response explaining SSI's position and the company's proposal to resolve the issue.

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On May 19, 2005, SSI submitted a letter, dated May 4, 2005, in which the company explained the circumstances of Mr. Woods' felony adjudication, and on May 19, 2005, SSI, offered to make a \$2,500 contribution to the Florida General Revenue Fund to settle the matter. On June 7, 2005, SSI submitted a letter in which the company provided amendments to the company's original applications addressing Mr. Wood's felony adjudication.

Section 364.335(1)(a)&(d), Florida Statutes, Application for a Certificate, states:

(1) Each applicant for a certificate shall:

(a) Provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, . . .

(d) Submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be prescribed by commission rule.

Rule 25-24.810, Florida Administrative Code (F.A.C.), Application for a Certificate, requires that an applicant for a certificate shall submit an application on Form PSC/CMP 8 (11/95) entitled "Application Form for Authority to Provide Competitive Local Exchange Service Within the State of Florida", and is incorporated into this rule by reference.

Rule 25-4.720, F.A.C., Application for a Certificate, requires that an applicant seeking to provide Alternative Access Vendor Service shall submit an application on Commission Form PSC/CMP 43 (1/95), entitled "Application Form for Authority to Provide Alternative Access Vendor Service Within the State of Florida," and is incorporated into this rule by reference.

Rule 25-4.471, F.A.C., Application for Certificate, requires that an applicant desiring to apply for a certificate shall submit an application on Commission Form PSC/CMP 31 (12/96), entitled "Application Form for Authority to Provide Interexchange Telecommunications Service Between Points Within the State of Florida," and is incorporated into this rule by reference.

Each of the above referenced application forms contains a section whereby the applicant is required to indicate if any of the officers, directors, or any of the ten largest stockholders have previously been found guilty of any felony or of any crime. In each of the applications submitted by SSI for an AAV, CLEC, and IXC certificate, Mr. Woods listed "No" or "None" in response to the aforementioned question. However, documents provided in NEFCOM's letter dated March 29, 2005, indicate that Mr. Woods entered a plea of Nolo Contendere to grand theft on December 4, 1979.

To resolve this matter, SSI submitted a settlement offer to do the following:

1. Amend the certificate applications so that each application lists "Yes" to the question if any officer has previously been found guilty of any felony, include an explanation of the circumstances, and sign an affidavit attesting to the accuracy of the information.
2. Voluntarily contribute the sum of \$2,500 to the Florida General Revenue Fund.

The amended applications have been placed in the appropriate docket files. SSI is current on its payments of Regulatory Assessment Fees for each of its three certificates and has no outstanding complaints. Further, this Commission has received only two consumer complaints against SSI since obtaining its certificates; one on January 25, 2001, and the second on January 3, 2002.

The subject matter at issue in this recommendation has never been previously addressed by this Commission at an Agenda Conference. We are vested with jurisdiction in this matter pursuant to Sections 364.285, 364.335, 364.337, 364.345, Florida Statutes. Accordingly, we accept Southeastern Services, Inc.'s settlement offer to resolve its apparent failure to disclose required information on each of its applications for a certificate of public convenience and necessity to provide services within the State of Florida as an Alternative Access Vendor, a Competitive Local Exchange Company, and an Interexchange Company.

This Order will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of this Proposed Agency Action Order. This docket shall be closed administratively upon either receipt of the payment of the voluntary contribution or upon the cancellation of the company's certificates.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the penalty and conditions described in the body of this order are hereby imposed. It is further

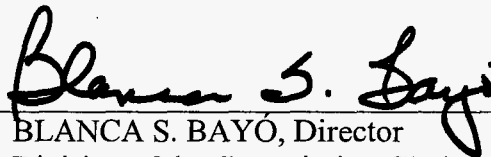
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission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

ORDERED that, as provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. If SSI fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts shall be deemed admitted and the right to a hearing waived. It is further

ORDERED that if SSI fails to pay the amount of the voluntary contribution within fourteen (14) calendar days of the issuance of the Consummating Order, Certificate Nos. 7018, 7767, and 7988 shall be cancelled. If SSI's certificates are cancelled, the company shall be required to immediately cease and desist providing all intrastate telecommunications services in Florida. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed administratively upon either receipt of the payment of the voluntary contribution or upon the cancellation of the company's certificates.

By ORDER of the Florida Public Service Commission this 8th day of July, 2005.



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

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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 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,

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Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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.