

FLORIDA PUBLIC SERVICE COMMISSION  
Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

MEMORANDUM

APRIL 25, 1991

TO : DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [WILLIAMS, STRONG] *FW*  
DIVISION OF LEGAL SERVICES [KURLIN] *pat* *AL* *MS*

RE : DOCKET NO. 910090-TI; APPLICATION OF JONES LIGHTWAVE OF TAMPA, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING OPERATION AS AN INTEREXCHANGE TELEPHONE COMPANY IN FLORIDA.

AGENDA : MAY 7, 1991 - CONTROVERSIAL - PROPOSED AGENCY ACTION - PARTIES MAY PARTICIPATE

PANEL : FULL COMMISSION

DISCUSSION OF ISSUES

ISSUE 1: Should a certificate be granted to JONES LIGHTWAVE OF TAMPA, INC. to operate as an interexchange telephone company (IXC) in Florida?

RECOMMENDATION: Yes, a certificate should be granted to JONES LIGHTWAVE OF TAMPA, INC. (the company) to operate as an interexchange telephone company in Florida.

ALTERNATIVE RECOMMENDATION: No, a certificate should not be granted to JONES LIGHTWAVE OF TAMPA, INC. (the company) to operate as an interexchange telephone company in Florida.

STAFF ANALYSIS: On January 28, 1991, the company filed an application for a Certificate of Public Convenience and Necessity to operate as an interexchange telephone company (IXC).

The company, located at 9697 E. Mineral Avenue, Englewood, Colorado 80112 is a Colorado corporation authorized to transact business in Florida. At present, they have no other applications pending for certification in any other state. The company states that no regulatory penalties have ever been imposed, nor has it been involved in any civil court proceedings with IXCs, local exchange companies (LECs) or other telecommunications entities.

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The company is a non-facilities based company which initially plans to lease dark fiber transmission capacity from other non-certificated carrier's carriers. It will then re-lease this capacity to other certificated telecommunication carriers. The company plans to limit its services, at this time, to providing transmission facilities to certificated IXCs. The company initially plans to offer this resold carrier's carrier service in the Clearwater, Plant City, Palmetto, St. Petersburg, Tampa and Zephyrhills exchange areas.

Section 364.02 (7) states that "[t]he term 'telecommunications company' does not include an entity which provides a telecommunications facility exclusively to a certificated telecommunications company . . . ." However, the only way that Jones (the company) may legally lease transmission capacity from a carrier's carrier is if it becomes certificated. This is the only realistic way that the company can effectively and competitively enter the marketplace. Otherwise, the underlying carrier's carrier may not lease facilities to JONES LIGHTWAVE OF TAMPA, INC. without obtaining its own certificate.

Staff has reviewed the application as filed and recommends that a certificate be issued.

**ALTERNATIVE STAFF ANALYSIS:** The company does not plan to provide service to end users. Its application indicates that it will only be leasing dark fiber which it will then lease to certificated interexchange carriers.

The Commission is only authorized to certificate "telecommunications companies". In the definition of telecommunications companies in 364.02 (7), the specific service which the company wants to offer is excluded from the definition.

The term "telecommunications company" does not include an entity which provides a telecommunications facility exclusively to a certificated telecommunications company ...

Since by definition, the company is not a telecommunications company, there is no reason to grant the company a certificate.

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**ISSUE 1:** Does JONES LIGHTWAVE OF TAMPA, INC.'s proposed interexchange carrier tariff meet the Commission's requirements?

**RECOMMENDATION:** Yes, JONES LIGHTWAVE OF TAMPA, INC.'s proposed interexchange carrier tariff meets the Commission's requirements.

**STAFF ANALYSIS:** Commission Rule 25-24.485 requires that each interexchange carrier wishing to do business in Florida maintain a tariff on file with this Commission of particular format and content. The Company's tariff is of proper format and states that it will not require any deposits from its customers.

The company's tariff meets our standard filing requirements.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed after the effective date of the proposed agency action (PAA) order, assuming no protest is received.

**STAFF ANALYSIS:** This docket should be closed after the effective date of the proposed agency action (PAA) order, assuming no protest is received.