

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-**

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RECORDS AND REPORTING

**DATE:** JULY 15, 1999

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *PIE*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP CB*

**RE:** DOCKET NO. 981732-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 3567 ISSUED TO BN1 TELECOMMUNICATIONS, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 07/27/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981732.RCM

CASE BACKGROUND

- 07/19/94 - This company obtained Florida Public Service Commission IXC Certificate No. 3567.
- 12/17/97 - The United States Postal Service returned the receipt for the 1997 regulatory assessment fee (RAF) notice, which showed the RAF notice was signed for and delivered on this date.
- 11/05/98 - The Division of Administration notified staff by memorandum that this company had not paid its 1997 RAFs, plus statutory penalty and interest charges for the years 1994, 1995, and 1997.

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FPSC-RECORDS/REPORTING

- **02/16/99** - The Commission approved staff's recommendation at the Agenda Conference to fine the company \$500 or cancel its certificate.
- **02/17/99** - Mr. Damon Muldoon, attorney, called and explained that BN1 is in reorganization proceedings, but that another company is interested in purchasing BN1 and wanted to keep BN1's certificate in good standing.
- **03/09/99** - Staff received a letter from Mr. Muldoon, which proposed to pay a settlement of \$100, promised to pay the past due regulatory assessment fees, and pay future fees on a timely basis.
- **04/05/99** - The Division of Administration's records showed that the 1997 and 1998 RAFs were paid on this date. However, the full amount of the past due penalty and interest charges were not received.
- **04/19/99** - Order No. PSC-99-0516-FOF-TI was issued, which imposed a \$500 fine for the RAFs violation or canceled the certificate. The company had until April 6, 1999 to file a protest and until April 13, 1999 to pay the \$500 fine and past due amount.
- **06/11/99** - The company paid the past due statutory penalty and interest charges for 1994, 1995, 1997, and 1998 in full.

Staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by BN1 Telecommunications, Inc. to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the effective date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively with an effective date of December 31, 1998. (Isler)

**STAFF ANALYSIS:** After the February 16, 1999 Agenda Conference, but prior to the Order being issued, the company's attorney, Mr. Damon Muldoon, called staff and advised that although the company was in reorganization proceedings, it wanted to keep its certificate, would pay the past due RAFs and statutory penalty and interest charges, and would make a settlement offer. On March 9, 1999, the company proposed a \$100 settlement. Staff contacted Mr. Muldoon and explained that until the past due RAFs and penalty and interest charges were paid, staff could not recommend acceptance of BN1's settlement offer. The 1997 and 1998 RAFs and a portion of the penalty and interest charges were paid on April 5 and the balance of the penalty and interest charges were paid on June 11, 1999.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the effective date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively with an effective date of December 31, 1998.

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

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed.