

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

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REGULATORY AND REPORTING

DATE: NOVEMBER 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PIK*
DIVISION OF LEGAL SERVICES (K. PEÑA; BEDELL) *AD*

RE: DOCKET NO. 991022-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3950 ISSUED TO NATIONWIDE COMMUNICATIONS OF MICHIGAN, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 11/16/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991022.RCM

CASE BACKGROUND

- **01/31/95** - This company obtained Florida Public Service Commission PATS Certificate No. 3950. In a prior docket, No. 971317-TP, Nationwide was ordered to show cause why it should not be fined or have its certificate canceled for three rule violations, including nonpayment of the 1996 regulatory assessment fees for its pay telephone and interexchange telecommunications certificates. The Commission accepted and the company paid a \$2,750 settlement and the docket was closed.
- **12/10/98** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. In accordance with Florida Statute 350.113(4), the Commission "shall provide each

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regulated company with written notice of the date that payment of the fee is due at least 45 days prior to such date", which would put the due date to February 1, 1999.

- **03/17/99** - The Division of Administration mailed a delinquent letter.
- **08/31/99** - Mr. Bob Miller, representative, called and requested information about this docket. Staff was advised that the company would pay the outstanding balance and make a settlement offer.
- **09/02/99** - The company paid the past due fee, statutory penalty, and all except \$.50 of the interest. The company reported a loss of revenues of \$56,291.56 for the period ending December 31, 1998.
- **09/07/99** - At the Agenda Conference, the Commission voted to fine the company \$1,000 or cancel its certificate.
- **09/09/99** - The Commission received a letter from Mr. Richard Makens, President, who offered to pay a \$250 settlement.
- **09/20/99** - Staff wrote the company and advised that staff could not recommend acceptance of the settlement and outlined the company's options.
- **09/21/99** - Order No. PSC-99-1866-PAA-TC was issued, which imposed a \$1,000 fine or canceled the company's certificate.
- **10/05/99** - Ms. Susan Davis Morley, attorney for Nationwide, called staff and advised that the company had authorized her to modify its settlement offer.
- **10/07/99** - The Commission received a letter from Ms. Morley, which proposed to pay a settlement of \$500, pay the \$.50 balance with the settlement, and stated the company had taken steps to prevent late payments in the future.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Nationwide Communications of Michigan, Inc. to resolve the apparent violation 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 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. (Isler)

STAFF ANALYSIS: Staff and company representatives were in contact. The company indicated that it wished to keep its certificate active, would pay the past due balance, and would make a settlement offer. On September 2, the company paid the past due amount in full except for a \$.50 interest balance. On September 21, 1999, Order No. PSC-99-1866-PAA-TC was issued, which imposed a \$1,000 fine or canceled the company's certificate. The company had until October 12 to respond to the Order. On October 7, Ms. Susan Davis Morley, proposed to pay a \$500 settlement, pay the outstanding \$.50 balance with the settlement, and advised the company had taken steps to prevent late payments in the future.

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 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.

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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 upon receipt of the \$500 contribution or cancellation of the certificate. (K. Peña; Bedell)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate.