



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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DATE: DECEMBER 20, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PK*
DIVISION OF LEGAL SERVICES (BANKS) *BB c. 29*

RE: DOCKET NO. 000940-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: 01/02/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000940.RCM

CASE BACKGROUND

- **01/31/95** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 3950.
- **10/13/97** - Docket No. 971317-TP was established for nonpayment of the 1996 Regulatory Assessment Fee (RAF) for Nationwide's payphone and interexchange telecommunications (IXC) certificates, overbilling consumers for long distance calls and not responding to staff dealing with the IXC portion of the docket. On January 22, 1998, Order No. PSC-98-0121-PCO-TP was issued, which ordered the company to show cause why a \$500 fine should not be imposed for nonpayment of the payphone RAF or cancelled the company's pay telephone certificate, and why a \$500 fine should not be imposed for nonpayment of the IXC RAF, \$250 fine for the overbilling, and \$1,500 for not

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responding to staff or cancelling the company's IXC certificate. On January 30, 1998, the company paid the past due RAFs for both certificates. On November 4, 1998, the company proposed a settlement of \$2,750 for all rule violations and proposed to refund the overcharges. On December 8, 1998, Order No. PSC-98-1651-FOF-TP was issued which accepted the company's settlement offer. On December 18, 1999, the company paid the settlement amount and the docket was closed.

- **08/03/99** - Docket No. 991022-TC was established for nonpayment of the 1998 RAF. On September 21, 1999, Order No. PSC-99-1866-PAA-TC was issued, which imposed a \$1,000 fine or cancelled the company's certificate. The company subsequently paid the past due amount and offered to pay a \$500 settlement and proposed to pay future RAFs timely.
- **12/08/99** - The Division of Administration mailed the 1999 RAF notice. The due date was January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice.
- **08/21/00** - Ms. Pam Keillor, called on behalf of the company's attorney, Mr. Patrick Wiggins, and advised that the company would pay the past due amount and propose a settlement.
- **09/06/00** - The Commission received a letter proposing to pay a contribution and requesting that future RAF notices be sent to the attention of the CEO.
- **10/23/00** - The Commission received the company's payment for the past due RAFs, including penalty and interest charges. The company reported no revenues on its RAF return for the period ended December 31, 1999.
- **11/14/00** - The Commission received the company's amended settlement proposal.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes. Accordingly, 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, Certificate No. 3950 should be canceled administratively. (Isler)

STAFF ANALYSIS: After this docket was opened, but prior to staff filing a recommendation, the company's attorney contacted staff and advised that the past due amount would be paid in full and the company would propose a settlement. The company subsequently paid the past due RAF, including statutory penalty and interest charges, and offered to pay a \$1,000 contribution. In addition, the company proposed to pay future RAFs on a timely basis.

This is the third docket established for the same apparent rule violation. The company's General Manager, Mr. Robert L. Miller, Jr., wrote a letter dated October 30 and stated that after the prior two dockets, he believed the company's internal comptroller and external CPA firm provided the company two safeguards against further missed filings. Mr. Miller advised that the internal comptroller has since been replaced and Nationwide intends to replace its CPA firm once the firm has discharged its duties with respect to Nationwide's audited financials. Mr. Miller has assured staff that Nationwide has made this filing a priority with its current comptroller and retained CT Corporation to centrally handle all such corporate filings.

To staff's knowledge, this is only the second time a company has had three dockets established for the same apparent rule violation. The other case was Docket No. 000968-TC, James M. Bracewell d/b/a Southern Tele-Communications. In that docket, the Commission cancelled the company's certificate since Southern Tele-Communications did not respond to the Proposed Agency Action. Therefore, although the only other instance of a third-time

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violation for the same company ended in cancellation of the certificate, staff believes that Nationwide is sincere in its belief that the changes it has implemented will prevent a recurrence of this rule violation.

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, Certificate No. 3950 should be canceled administratively.

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 \$1,000 contribution or cancellation of the certificate. (Banks)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$1,000 contribution or cancellation of the certificate.