

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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MAY 17 AM 11:08
COMMUNICATIONS

DATE: MAY 17, 2001

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

FROM: DIVISION OF LEGAL SERVICES (CHRISTENSEN) *W DC*
DIVISION OF COMPETITIVE SERVICES (K. CRAIG) *(KC) JCS*

RE: DOCKET NO. 010131-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST GOLDEN HARBOR OF FLORIDA, INC. D/B/A HOMETOWN TELEPHONE OF FLORIDA, INC. FOR APPARENT VIOLATION OF SECTION 364.183(1), FS, ACCESS TO COMPANY RECORDS.

AGENDA: 05/29/01 - REGULAR AGENDA - FINAL ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\010131.RCM

CASE BACKGROUND

- September 4, 1997 - Golden Harbor of Florida, Inc. d/b/a Hometown Telephone of Florida, Inc. (Hometown) obtained Florida Public Service Commission Alternative Local Exchange Telecommunications Company (ALEC) Certificate No. 5211.
- July 6, 2000 - Staff mailed a certified letter requesting information necessary for inclusion in the 2000 local competition report required of the Commission by Section 364.386, Florida Statutes. Staff requested a response by August 10, 2000.
- July 10, 2000 - A representative from Hometown signed for and received the certified letter. (Attachment A, page 6)

DOCUMENT NUMBER-DATE

06181 MAY 17 01

FPSC-RECORDS/REPORTING

DOCKET NO. 010131-TX

DATE: MAY 17, 2001

- January 30, 2001 - After receiving no response to its July 6, 2000 certified letter, staff opened this docket to initiate show cause proceedings against Hometown for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.
- February 8, 2001 - Staff filed a recommendation for the February 20, 2001 Agenda Conference.
- February 14, 2001 - Hometown's counsel contacted staff seeking information about this docket and inquiring about the method for resolving issues associated with this docket.
- February 15, 2001 - Staff received a letter from Hometown's counsel requesting deferral from the February 20, 2001 Agenda Conference.
- February 16, 2001 - Hometown's request for deferral of Item No. 27, Docket No. 010131-TX, on the February 20, 2001 Agenda Conference was approved by the Chairman.
- April 10, 2001 - Staff received a letter from Hometown's counsel in which the company stated no objection to the cancellation of its ALEC Certificate No. 5211. (Attachment B, page 7)

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285, 364.337, and 364.386, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission cancel Hometown's ALEC Certificate No. 5211 for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. Staff recommends that the Commission should upon its own motion cancel Hometown's ALEC Certificate No. 5211 for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Hometown has waived its right to object to the cancellation of its certificate, and currently serves no customers in Florida. Therefore, Certificate No. 5211 should be canceled effective on the issuance date of the Order.
(Christensen/K. Craig)

STAFF ANALYSIS: On July 6, 2000, Hometown was mailed a certified letter requesting information necessary for inclusion in the local competition report required of the Commission pursuant to Section 364.386, Florida Statutes. The return receipt card, indicating delivery of the certified letter, was signed for by a representative of Hometown on July 10, 2000 (Attachment A, page 6). On January 30, 2001, after receiving no response to its July 6, 2000, certified letter, staff opened this docket to initiate show cause proceedings against Hometown for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

Section 364.183(1), Florida Statutes, Access to Company Records, states:

The Commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the Commission's jurisdiction. The Commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing. The Commission may require a telecommunications company to file records, reports or other data directly related to matters within the Commission's jurisdiction in the form specified by the Commission and may require such company to retain such information for a designated period of time.

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Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company is found to have refused to comply with or to have willfully violated Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of an alternative local exchange telecommunications company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders. Hometown has waived its right to object to the cancellation of its certificate, and thus, has declined to respond or contest the allegations against it in this proceeding.

Hometown's counsel contacted staff on February 14, 2001, to inquire about methods to settle this docket, and to notify staff that Hometown is not offering telecommunications services in Florida, therefore serving no customers. On April 10, 2001, staff received a letter from Hometown's counsel offering no objection to the cancellation of ALEC Certificate No. 5211 (Attachment B, page 7).

Therefore, staff recommends that the Commission should upon its own motion cancel Hometown's ALEC Certificate No. 5211 for its apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Hometown has waived its right to object to the cancellation of its certificate, and currently serves no customers in Florida. Therefore, Certificate No. 5211 should be canceled effective on the issuance date of the Order.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation on Issue 1, Hometown's ALEC Certificate No. 5211 will be involuntarily canceled upon issuance of the Order and this docket should be closed. **(Christensen)**

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, Hometown's ALEC Certificate No. 5211 will be involuntarily canceled upon issuance of the Order and this docket should be closed.



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Hometown Telephone of Florida, Inc.
401 Carlson Circle
San Marcos, TX 78666-6730

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Georgia Kotzer 7-10

C. Signature

x Georgia Kotzer Agent Addressee

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

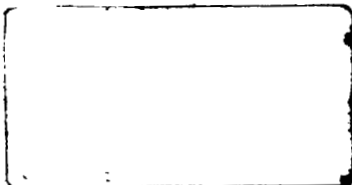
2. Article Number (Copy from service label)

7099 3400 0004 3008 7312

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789



LAW OFFICES
MESSER, CAPARELLO & SELF
A PROFESSIONAL ASSOCIATION

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TALLAHASSEE, FLORIDA 32302-1876
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INTERNET: www.lawfla.com

2001 APR 10 AM 10:44
DIVISION OF
COMPETITIVE SERVICES

April 9, 2001

Mr. Ray Kennedy
Division of Competitive Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 010131-TX

Dear Mr. Kennedy:

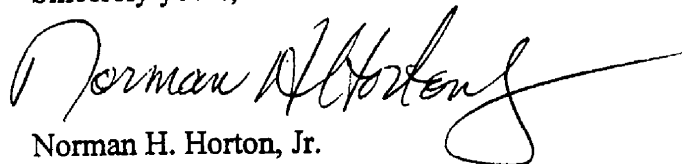
This is in response to our recent conversation with respect to the referenced docket.

At the request of Golden Harbor, this matter was deferred from the February 20, 2001 agenda and no action has since been taken on the original recommendation. This is to advise you that Golden Harbor of Florida, Inc. d/b/a Hometown of Florida, Inc. will not object to the cancellation of Certificate No. 5211.

Should you have any questions, please do not hesitate to contact me.

Thank you for your assistance in this matter.

Sincerely yours,



Norman H. Horton, Jr.

NHH/amb

cc: Docket File
Ms. Kristen Craig
Danny Adams, Esq.