



Public Service Commission  
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COMMISSIONER  
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**DATE:** NOVEMBER 7, 2001

**TO:** DIRECTOR, DIVISION OF THE COMMISSION ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** DIVISION OF LEGAL SERVICES (KNIGHT) *WJK*  
DIVISION OF COMPETITIVE SERVICES (M. WATTS) *RK*

**RE:** DOCKET NO. 001109-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST WEBNET COMMUNICATIONS, INC. FOR APPARENT VIOLATION OF RULE 25-4.118, F.A.C., LOCAL, LOCAL TOLL, AND TOLL PROVIDER SELECTION.

**AGENDA:** 11/19/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\001109AS.RCM

CASE BACKGROUND

- November 12, 1999 - WebNet Communications, Inc. (WebNet) obtained Interexchange Company (IXC) Telecommunications certificate number 7220.
- April 21, 2000 to February 16, 2001 - Staff received 128 complaints from customers claiming they were slammed by WebNet.
- August 11, 2000 - Staff opened this docket to investigate whether WebNet should be ordered to show cause why it should not be fined or have its certificate canceled for apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection.

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14116 NOV-70

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- September 26, 2000 - This docket was deferred from the Agenda Conference pending a settlement offer from the company.
- January 29, 2001 - WebNet paid Regulatory Assessment Fees of \$761.06 with \$507,373.07 reported intrastate revenue for 2000.
- April 3, 2001 - The Commission approved staff's recommendation to reject the settlement proposal submitted by WebNet's counsel because the proposal was not a commitment and, therefore, not a bona fide settlement offer.
- April 26, 2001 - Order No. PSC-01-1027-SC-TI was issued rejecting the settlement offer submitted by WebNet's counsel and ordering WebNet to show cause why it should not be fined or have its certificate canceled for apparent violation of Rule 25-4.118, Florida Administrative Code.
- May 2, 2001 - WebNet requested that this matter be set for hearing.
- October 29, 2001 - WebNet submitted a proposal to settle this docket. (Attachment A)
- November 5, 2001 - WebNet submitted a letter, Attachment B, to clarify its responses in Attachment A, including the correction of the company's certificate number and identification of a date on which the company will discontinue providing telecommunications services in Florida.

The Florida Public Service Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.183, 364.285 and 364.603, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by WebNet Communications, Inc. to resolve the apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

**RECOMMENDATION:** Yes. Staff recommends that the Commission accept the company's settlement offer to resolve the apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. WebNet should be required to file a report with the Commission within 90 days of the issuance of the Commission's Order expounding how WebNet has complied with the provisions of its settlement offer and resolved all of the complaints filed against the company, up to and including the date of issuance of the Commission's Order. According to its settlement offer, WebNet's Certificate No. 7220 should be canceled, effective February 8, 2002. If WebNet fails to file a report with the Commission within 90 days of the issuance of the Commission's Order, and demonstrate that it has complied with its settlement offer and resolved all of the complaints filed against the company up to and including the date of issuance of the Commission's Order, further proceedings should be initiated. **(M. WATTS/KNIGHT)**

**STAFF ANALYSIS:** Between April 21, 2000, and February 16, 2001, the Commission's Division of Consumer Affairs (CAF) logged 128 complaint cases from consumers claiming they were slammed by WebNet. As of February 16, 2001, staff has determined that 58 of those complaints were apparent unauthorized changes of the primary interexchange carrier by WebNet.

Staff recommended to the Commission at the April 3, 2001, Agenda Conference that WebNet be fined \$10,000 per violation, for a total of \$580,000, for apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. The Commission approved staff's recommendation in Order No. PSC-01-1027-SC-TI, issued on April 26, 2001.

On May 2, 2001, WebNet protested the Commission's Order and requested that this matter be set for hearing. The hearing was set for November 7, 2001.

On October 29, 2001, WebNet submitted an offer of settlement, followed by a clarification on November 5, 2001. WebNet has

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offered to cease providing IXC services in Florida by February 8, 2002, in lieu of paying a fine for its apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. In its settlement offer, WebNet proposed the following:

- To forfeit its certificate in an involuntary cancellation of Certificate No. 7220, without objection;
- To send the letter (included in Attachment B), upon Commission approval of its settlement offer, to each of its customers in the State of Florida notifying its customers that the company is exiting the market and that they must choose another local toll and/or long distance provider prior to the cessation date in order to avoid discontinuation of their service. WebNet will not make any suggestions or references to its customers regarding alternate providers in the notification letter.
- Provide staff with a list of its existing Florida customer base. This list will include information relating to each customer's name, address, telephone number and date of service initiation.
- Provide staff with the certificated name and contact information of its underlying carrier in Florida.
- To resolve all outstanding complaints submitted to the Commission prior to the date of the Commission's Order approving this settlement offer within 30 days of the Commission's Order.
- Provide staff with a complete report detailing the company's compliance with the final terms and conditions of this Settlement within 90 days of the Commission's Order approving the terms and conditions of its settlement proposal.

Staff has reviewed WebNet's offer and its proposed letter of notification to its customers and believes that they are satisfactory. At the time of this filing, WebNet has approximately 114 consumer complaints that require action by the company.

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This recommendation is consistent with the previous decision in Docket Number 980165-TI, Initiation of Show Cause Proceedings Against Amer-I-Net Services Corp. For Violation Of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, and Rule 25-4.043, Florida Administrative Code, Response To Commission Staff Inquiries.

Based on the foregoing, staff recommends that the Commission accept the company's settlement offer to resolve the apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. WebNet should be required to file a report with the Commission within 90 days of the issuance of the Commission's Order expounding how WebNet has complied with the provisions of its settlement offer and resolved all of the complaints filed against the company, up to and including the date of issuance of the Commission's Order. According to its settlement offer, WebNet's Certificate No. 7220 should be canceled, effective February 8, 2002. If WebNet fails to file a report with the Commission within 90 days of the issuance of the Commission's Order, and demonstrate that it has complied with its settlement offer and resolved all of the complaints filed against the company up to and including the date of issuance of the Commission's Order, further proceedings should be initiated.

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DATE: November 7, 2001

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

**RECOMMENDATION:** If no person, whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and WebNet complies with its settlement offer, this docket should be closed administratively. If WebNet fails to show that it has complied with its settlement offer within 90 days of the issuance of the Commission's Order, this docket should remain open pending further proceedings. **(KNIGHT)**

**STAFF ANALYSIS:** If no person, whose substantial interests are affected by the proposed actions files a protest of the Commission's decision on Issue 1 within the 21 day protest period, the Commission's Order will become final upon issuance of a Consummating Order. If the Commission's Order is not protested and WebNet complies with its settlement offer, this docket should be closed administratively. If WebNet fails to show that it has complied with its settlement offer within 90 days of the issuance of the Commission's Order, this docket should remain open pending further proceedings.

ORIGINAL

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Writer's E-mail Address

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lhaddad@helein.com

October 26, 2001

## VIA OVERNIGHT MAIL

Blanco Bayó  
Division of Commission Clerk &  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Final Settlement Proposal of WebNet Communications, Inc.  
**Docket No. 001109-T1**

Dear Ms. Bayó:

WebNet Communications, Inc. ("WNC") hereby respectfully tenders the following settlement offer to terminate the initiation of show cause proceedings in Docket No. 001109-T1 relating to 58 alleged slamming complaints. WNC makes this offer in the interest of resolving this matter with the Commission amicably and makes no admission of liability.

This is the first time in WNC's history that the Commission has sought to initiate show cause proceedings with respect to the company's operations in Florida. Based on WNC's history, its proven proactive efforts, both internally and with the Commission, and considering the current economic environment in the residential long distance market, WNC hereby submits the following settlement proposal:

1. WNC will forfeit its certificate of authority to provide interexchange services in the State of Florida in lieu of a fine. WNC understands that this forfeiture will result in the involuntary cancellation of its interexchange certificate # 7720 and has no objection to this cancellation.

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2. WNC agrees to send a letter to each of its customers in the State of Florida notifying its customers that the company is exiting the market and that they must choose another local toll and/or long distance provider prior to the cessation date in order to avoid discontinuation of their service. WNC will not make any suggestions or references to its customers regarding alternate providers in the notification letter. A copy of the letter WNC proposes to send to its customers is attached hereto for review and approval by the Commission.

3. WNC will provide the Commission with a list of its existing Florida customer base. This list will include information relating to each customer's name, address, telephone number and date of service initiation.

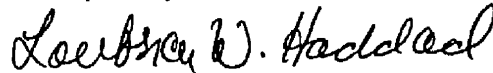
4. WNC will provide the Commission with the certificated name and contact information of its underlying carrier in Florida. This list is attached hereto.

5. WNC agrees to resolve all outstanding complaints submitted to the Commission prior to the date of the Commission's Order approving this settlement offer within 30 days of the Commission's Order. WNC will obtain the list of all outstanding complaints from the Commission's Staff and will work with Staff to resolve these complaints.

6. Finally, WNC will provide the Commission with a complete report detailing its compliance with the final terms and conditions of this Settlement within 90 days of the Commission's Order approving the terms and conditions of this settlement proposal.

We trust that the above proposal will meet the Commission's approval and we look forward to resolving this matter amicably and expeditiously.

Respectfully submitted,



Loubna W. Haddad  
Regulatory Counsel to WNC

cc: Wayne Knight  
Melinda Watts



**PROPOSED NOTICE LETTER TO CUSTOMERS**

November XX, 2001

Customer Name  
Customer Address  
City, State ZIP Code

**Re: CESSATION OF OPERATION IN FLORIDA**

Dear Customer:

As you may be aware, residential long distance companies across the country are experiencing difficulties. These difficulties are a result of various influences, including an incredibly competitive market, increased operating costs and marketing and economy of scale advantages of large incumbent carriers. Even the large carriers are experiencing difficulties and many are on the verge of insolvency. Understandably, under these influences, smaller carriers like **WebNet Communications, Inc. ("WNC")** are often unable to generate the necessary profit margins needed to continue operations. Thus, WNC reluctantly has decided to exit the long distance market in Florida.

WNC will cease its operations in Florida on **Month xx, 2001**. What this means for you as a customer is simply this: You will need to find a new long distance or local toll provider before that date if you wish to avoid a break in your service. **WE ESPECIALLY WANT YOU TO KNOW, HOWEVER, THAT IF WNC IS YOUR LONG DISTANCE PROVIDER, THIS WILL NOT AFFECT YOUR LOCAL PHONE SERVICE.**

If you have any questions, please feel free to contact us at 1-XXX-XXX-XXXX.

We thank you for your patronage and it has been our privilege to have you as a customer.

Sincerely,

M. Howard Lewis  
President  
WebNet Communications, Inc.

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ATTACHMENT A

**WebNet Communications, Inc. Underlying Carrier in Florida**

Qwest Communications Corporation  
Contact Information:  
James Michaud  
195 Lee Road 735  
Opelika, AL 36804  
Telephone: 334-749-3271

### The Helein Law Group, P.C.

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November 2, 2001

DISTRIBUTION CENTER  
01 NOV -5 AM 9:23

#### VIA OVERNIGHT MAIL

Blanco Bayó  
Division of Commission Clerk &  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: WebNet Communications, Inc. Docket No. 001109-T1

Dear Ms. Bayó:

This filing is in follow up to WebNet Communications, Inc. ("WNC") October 26, 2001 Final Settlement Proposal relating to Docket No. 001109-T1.

This letter serves to correct a typographical error in paragraph 1 of the October 26, 2001 filing, which incorrectly referenced WNC's interexchange certificate # as 7720. The correct interexchange certificate number is 7220.

This letter also serves to confirm that WNC will cease operations in Florida effective February 8, 2002 and that the number customers with questions may call is 1- 888-443-5346. Attached is an amended Notice Letter to be sent to WNC's Florida customers reflecting this information.

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DATE: NOVEMBER 7, 2001

ATTACHMENT B

An extra copy of this filing is enclosed. Please date stamp this copy and return to the undersigned in the enclosed postage-prepaid envelope.

Respectfully submitted,

*Loubna W. Haddad/cag*

Loubna W. Haddad  
Regulatory Counsel to WNC

cc: Wayne Knight  
Melinda Watts

*PROPOSED NOTICE LETTER TO CUSTOMERS*

Date

Customer Name  
Customer Address  
City, State ZIP Code

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WNC will cease its operations in Florida on **February 8, 2002**. What this means for you as a customer is simply this: You will need to find a new long distance or local toll provider before that date if you wish to avoid a break in your service. **WE ESPECIALLY WANT YOU TO KNOW, HOWEVER, THAT IF WNC IS YOUR LONG DISTANCE PROVIDER, THIS WILL NOT AFFECT YOUR LOCAL PHONE SERVICE.**

If you have any questions, please feel free to contact us at 1-877-550-3006.

We thank you for your patronage and it has been our privilege to have you as a customer.

Sincerely,

M. Howard Lewis  
President  
WebNet Communications, Inc.