

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

RECEIVED-FPSC
FEB - 6 AM 11 01
COMMISSION CLERK

DATE: FEBRUARY 7, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF GENERAL COUNSEL (W. KNIGHT) *WOK*

RE: DOCKET NO. 011065-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 7580 ISSUED TO NEXT COMMUNICATIONS, INC. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480(2)(A) AND (B), F.A.C., RECORDS & REPORTS; RULES INCORPORATED.

AGENDA: 02/19/02 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011065.RCM

CASE BACKGROUND

- 10/19/00 - This company obtained Florida Public Service Commission Interexchange Company (IXC) Certificate No. 7580.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) notice. The due date was January 30, 2001. The notice was subsequently returned by the US Postal Service (USPS) marked "forward order expired."
- 02/09/01 - Staff called the telephone number for the company listed in the Master Commission Directory but was unsuccessful

DOCUMENT NUMBER-DATE

01423 FEB-6 8

FPSC-COMMISSION CLERK

in reaching the company. Staff then called Directory Assistance, but was told there was no new listing.

- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice. The delinquent notice was also returned by the USPS.
- **08/22/01** - Mr. Gil Cohen, Controller, called staff and stated that the address on file with the Commission is the correct address and could not explain why the USPS would return mail to the Commission. Mr. Cohen did state that the company's telephone numbers had changed and updated those numbers, along with the new president's name. Mr. Cohen requested that the RAF form, along with the company's options, be faxed to him. Staff wrote the company the next day, August 23, 2001.
- **09/06/01** - The Commission received the company's payment for the 2000 RAF, along with the partial penalty and interest charges due. The company reported revenues in the amount of \$114,487 for the period ended December 31, 2000. In addition, the company proposed a settlement.
- **09/20/01** - Staff wrote the company and explained that staff could not recommend acceptance of its settlement offer with the outstanding penalty and interest balance. Staff requested a response by October 5, 2001. A response was not received.
- **11/21/01** - Order No. PSC-01-2288-PAA-TI was issued, which denied the company's settlement proposal and imposed a \$500 fine. The company had until December 12, 2001, to respond to the Order.
- **11/29/01** - The Commission received the past due penalty and interest balance in full and a proposed settlement, along with the company's new address.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Next Communications, Inc. to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) 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. 7580 should be canceled administratively. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Pursuant to Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, each company is allowed ten days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission.

The Division of the Commission Clerk & Administrative Services' records showed that the company had not paid its 2000 RAF, plus statutory penalty and interest charges. In addition, the USPS returned mail addressed to the company as undeliverable; therefore, this docket was established. The company subsequently paid the 2000 RAF, including a portion of the penalty and interest charges. In addition, the company proposed to pay a \$100 contribution and future RAFs on a timely basis. Staff wrote the company and explained that staff could not recommend acceptance of its settlement proposal until the past due penalty and interest

DOCKET NO. 011065-TI
DATE: FEBRUARY 7, 2002

charges were paid in full. The company did not pay the past due amount.

On November 21, 2001, Order No. PSC-01-2288-PAA-TI was issued which denied the company's settlement proposal and imposed a \$500 fine. The company filed a timely response to the Order by paying the past due amount in full and proposing a \$250 settlement. In addition, the company provided staff with its new address. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

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 fourteen (14) 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. 7580 should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$250 contribution or cancellation of the certificate. (W. Knight)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$250 contribution or cancellation of the certificate.