

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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DATE: MAY 9, 2002
TO: DIRECTOR, DIVISION OF THE COMMISSION ADMINISTRATIVE SERVICES (BAYO)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT) OFFICE OF THE GENERAL COUNSEL (DODSON)
RE: DOCKET NO. 020146-TI - APPLICATION FOR CERTIFICATE TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE BY NEXTELCOM CORP.
AGENDA: 05/21/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: NONE
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\CMP\WP\020146.RCM

CASE BACKGROUND

On February 21, 2002, the Commission received an application to provide interexchange telecommunications service (IXC) by Nextelcom Corp. In the application review process, staff discovered that an affiliate company, World Access Communications Corp., had previously been certificated as an alternative local exchange provider (ALEC) and had its certificate canceled on April 7, 2001, in Show Cause Docket No. 010137-TX (Initiation of Show Cause Proceedings by Florida Public Service Commission for Apparent Violation of Section 364.183(1), F.S., Access to Company Records) for not responding to staff's request for information for the annual local competition report and for not responding to the Show Cause Order.

After discussions with staff, by letter dated April 9, 2002 Nextelcom Corp. offered a settlement of \$7,500 to be paid within 20 days of the issuance date of the Commission Order, and an agreement

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to establish procedures for complying with Commission filing requirements and data requests.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.285, 364.335 and 364.337, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer submitted by Nextelcom Corp. as resolution of the apparent violation of Section 364.183(1), Florida Statutes?

RECOMMENDATION: Yes. The Commission should accept the settlement offer of \$7,500 by Nextelcom Corp. since it is a reasonable resolution of the matters at issue. The contribution should be received by the Commission within 20 days from the issuance date of the Commission Order and should identify this docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.
(Pruitt)

STAFF ANALYSIS: Nextelcom Corp. proposes a settlement of \$7,500 and commits to establishing procedures to prevent similar incidents from reoccurring which led to the opening of the Show Cause Docket No. 010137-TX and the cancellation of a certificate.

The Commission has approved settlement offers of \$7,500 from companies in similar situations. Therefore, staff believes the terms of the settlement offer as summarized in this recommendation are fair and reasonable, and we support Nextelcom Corp.'s offer of settlement.

The contribution should be received by the Commission within 20 days from the issuance date of the Commission Order and should identify this docket number and company name. The Commission should forward the contribution to the Office of the Comptroller

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for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

ISSUE 2: Should the Commission grant Nextelcom Corp. a certificate to provide interexchange telecommunications service within the State of Florida as provided by Section 364.337(3), Florida Statutes?

RECOMMENDATION: Yes. Nextelcom Corp. should be granted a certificate to provide interexchange telecommunications service, after payment of \$7,500 in accordance with the settlement offer is received:

Florida Public Service Commission Certificate No. 8116.

If the payment is not received within 20 days of the issuance of the Commission Order, the application should be denied. **(Pruitt)**

STAFF ANALYSIS: Section 364.337(3), Florida Statutes, reads:

The Commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

Nextelcom Corp. filed an application with this Commission on February 21, 2002, to offer interexchange telecommunications service in Florida. A review of the application indicates that the company appears to meet the requirements of Section 364.337(3), Florida Statutes.

Even though the Commission canceled the ALEC certificate of an affiliate company in 2001, due to its failure to respond to the data request and the Show Cause Order, staff acknowledges the company's representation that these were oversights which the company represents will not occur again. Therefore, staff recommends that the Commission grant Nextelcom Corp. a certificate to provide interexchange telecommunications service.

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Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee of \$50 if the certificate is active during any portion of the calendar year. A regulatory Assessment Fee Return notice will be mailed each December to Nextelcom Corp. for payment in January.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Upon timely remittance of the \$7,500 voluntary settlement offer, if no person whose substantial interests are affected by the Commission's decision in Issue 2 files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a Consummating Order. **(Dodson)**

STAFF ANALYSIS: If the \$7,500 voluntary settlement offer is received by the Commission within 20 days of the issuance of the order and no timely protest to the proposed agency action in Issue 2 is filed within 21 days of the date of issuance of the order, this docket should be closed upon issuance of the Consummating Order.