



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

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

DATE: JUNE 6, 2002

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

FROM: OFFICE OF THE GENERAL COUNSEL (J. ELLIOTT, W. KNIGHT)
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (BUYS, T
WILLIAMS)

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JAE
LDK
DAB
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RE: DOCKET NO. 011140-TI - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST ORION TELECOMMUNICATIONS CORP. D/B/A
ORION TELECOMMUNICATIONS CORP. OF NEW YORK FOR APPARENT
VIOLATION OF RULE 25-24.910, F.A.C., CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY REQUIRED.

DOCKET NO. 011661-TI - APPLICATION FOR CERTIFICATE TO
PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE BY ORION
TELECOMMUNICATIONS CORP. D/B/A ORION TELECOMMUNICATIONS
CORP. OF NEW YORK.

AGENDA: 06/18/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011140S.RCM

CASE BACKGROUND

- April 24, 2000 - Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York (Orion) submitted an application for a Certificate of Public Convenience and Necessity (certificate) to the Florida Public Service Commission (Commission). Docket No. 000477-TI was opened to address the issue.

DOCUMENT NUMBER DATE

05868 JUN-5 02

FPSC-COMMISSION CLERK

DOCKET NOS. 011140-TI and 011661-TI
DATE: June 6, 2002

- August 9, 2000 - Orion requested that its application in Docket No. 000477-TI be withdrawn without prejudice and staff closed the docket.
- July 9, 2001, through August 21, 2001 - Staff investigated a complaint from a Florida consumer regarding prepaid calling services offered by Orion through the "Florida Supreme" prepaid phone card and determined that Orion was providing prepaid calling services within Florida.
- August 22, 2001 - Staff opened Docket No. 011140-TI to initiate a show cause proceeding against Orion for providing prepaid calling services without a certificate.
- November 06, 2001 - The Commission issued Order No. PSC-01-2181-SC-TI in Docket No. 011140-TI, in which Orion was ordered to show cause why it should not be fined \$25,000 for its apparent violation of Rule 25-24.910, Florida Administrative Code.
- November 07, 2001, through December 07, 2001 - Staff and counsel for Orion negotiated a settlement to resolve the show cause proceeding.
- December 17, 2001 - The Commission received Orion's proposed settlement offer (Attachment A), dated December 13, 2001.
- December 19, 2001 - Orion submitted an application for a certificate to provide interexchange telecommunications company (IXC) services and staff opened Docket No. 011661-TI.
- May 9, 2002 - Orion submitted a copy of its certificate of reinstatement (Attachment B) from the Florida Secretary of State.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.285, 364.33, 364.335, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York's settlement proposal, dated December 13, 2001, including a voluntary payment of \$20,000, to resolve the show cause proceeding in Docket No. 011440-TI for the apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: Yes. The Commission should accept Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York's settlement proposal, dated December 13, 2001, including a voluntary payment of \$20,000, which was submitted with its settlement proposal, to resolve the show cause proceeding in Docket No. 011440-TI for the apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The Commission should forward the voluntary payment to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. **(Buys, W. Knight)**

STAFF ANALYSIS: On December 17, 2001, the Commission received Orion's settlement proposal to resolve the show cause proceeding in Docket No. 011140-TI. In its settlement offer, Orion has proposed to do the following:

- File to obtain a Certificate of Public Convenience and Necessity in the week of December 17, 2001.
- Represent that the "Florida Supreme" brand cards will be fully compliant with the rules and regulations of the Commission upon the Commission's approval of Orion's application for a Certificate.
- Make a voluntary payment to the General Revenue Fund in the amount of \$20,000.

Orion filed its application for a certificate on December 19, 2001, in Docket No. 011661-TI, which is addressed in Issue 2. Orion has represented that the "Florida Supreme" brand prepaid phone cards will be in compliance with the Commission's rules upon the Commission's approval of Orion's application for a certificate.

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Orion submitted a check in the amount of \$20,000 with its settlement proposal.

Orion has completed two of the actions it proposed to resolve the apparent violation of Rule 25-24.910, Florida Administrative Code. Orion represents that cards sold after the Commission approves its application for certification will be fully compliant with the Commission's rules and regulations. If the Commission grants Orion a certificate, Orion's "Florida Supreme" branded prepaid phone cards should then be in compliance.

Based on the aforementioned, staff recommends that the Commission should accept Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York's settlement proposal, dated December 13, 2001, including a voluntary payment of \$20,000, which was submitted with its settlement proposal, to resolve the show cause proceeding in Docket No. 011440-TI for the apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The Commission should forward the voluntary payment to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

DOCKET NOS. 011140-TI and 011661-TI
DATE: June 6, 2002

ISSUE 2: Should the Commission grant Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York a certificate to provide interexchange telecommunications services within the State of Florida in Docket No. 011661-TI?

RECOMMENDATION: Yes. The Commission should grant Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York,

Florida Public Service Commission Certificate No. 8042,

to provide IXC services within the State of Florida in Docket No. 011661-TI. (J. Elliott, T. Williams)

STAFF ANALYSIS: Orion's application for a certificate to provide interexchange telecommunications services (Docket No. 011661-TI) is part of its proposed settlement offer to resolve the show cause proceeding in Docket No. 011140-TI.

Orion submitted its application to provide IXC telecommunications services on December 19, 2001. In its application, Orion satisfactorily met all of the Commission's requirements for certification. In addition, Orion signed an affidavit attesting to the fact that it has the technical, financial, and managerial qualifications to provide intrastate telecommunications services in Florida, as required in Section 364.337 (3), Florida Statutes.

Accordingly, staff recommends that Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York should be granted a certificate to provide interexchange telecommunications services within the State of Florida in Docket No. 011661-TI.

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DATE: June 6, 2002

ISSUE 3: Should Docket Nos. 011661-TI and 011140-TI be closed?

RECOMMENDATION: Docket No. 011661-TI should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.

Docket No. 011140-TI should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. If the Commission denies staff's recommendation in Issue 1, Docket No. 011140-TI should remain open pending resolution of the show cause proceeding.

A protest in one docket should not prevent the action in a separate docket from becoming final. **(J. Elliott, W. Knight)**

STAFF ANALYSIS: Docket No. 011661-TI should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.

Docket No. 011140-TI should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. If the Commission denies staff's recommendation in Issue 1, Docket No. 011140-TI should remain open pending resolution of the show cause proceeding.

A protest in one docket should not prevent the action in a separate docket from becoming final.

KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.

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485 MADISON AVENUE
NEW YORK, NEW YORK 10022-5803
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FAX (212) 753-8101
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JANE B. JACOBS
NANCY B SCHESS
DAVID O KLEIN

SEAN A MOYNIHAN
B SIMEON GOLDSTEIN
MARY A MOONEY
MARK G MILONE

FOR SETTLEMENT PURPOSES ONLY

December 13, 2001

*CK 7027
\$20,000.00
MC*

VIA TELECOPIER (850) 413-6233 AND FEDERAL EXPRESS

Wayne Knight, Esq.
Staff Attorney
Florida Public Service Commission
c/o Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

DEPOSIT DATE
D147 DEC 17 2001

Re: Docket No. 011140-TI - Initiation of Show
Cause Proceedings Against Orion Telecommunications Corp.

Dear Mr. Knight:

On behalf of our client, Orion Telecommunications Corp. ("Orion"), I write for purposes of offering a good faith settlement in the above-referenced docket. Orion proposes to settle the alleged violation of Rule 25-24.910, Florida Administrative Code, by: 1) filing to obtain a Certificate of Public Convenience and Necessity ("CPCN") to provide resold interexchange telecommunications services within the State of Florida in the week of December 17, 2001; 2) representation that the "Florida Supreme" brand cards will, after grant of the CPCN, be fully compliant with the Rules and Regulations of the Florida Public Service Commission; and 3) agreeing to pay a voluntary contribution of Twenty Thousand Dollars (\$20,000.00), to be remitted to the State of Florida General Revenue Fund. To that end, I have enclosed one bank check in the amount of Twenty Thousand Dollars (\$20,000.00) made to the order of the Florida General Revenue Fund.

APP _____
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CMP _____
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DOCKET NOS. 011140-TI AND 011661-TI

DATE: JUNE 6, 2002

KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.

Wayne Knight, Esq.

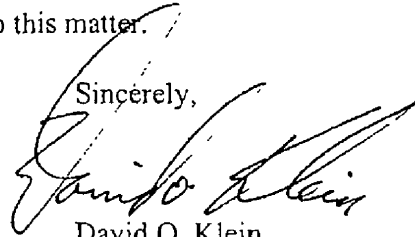
December 13, 2001

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Please advise as to when this good faith settlement offer will be presented to the Commission for its review.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "David O. Klein".

David O. Klein

Enclosure

JLS/2318-00/47661

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AL



TELECOM CERTIFICATION & FILING, INC.
485 MADISON AVENUE
NEW YORK, NEW YORK 10022-5808
TEL (212) 548-0000
FAX (212) 758-8101
e-mail: dkien@telfile.com

RECEIVED - FPSC
MAY - 9 AM 10:52
COMMISSION CLERK

May 8, 2002

VIA FEDERAL EXPRESS

Ms. Blanca S. Bayó
Director
Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 011661-TI - Orion Telecommunications Corp.
d/b/a Orion Telecommunications Corp. of New York

Dear Ms. Bayó:

Enclosed for filing, please find two (2) copies of Orion Telecommunications Corp. d/b/a Orion Telecommunications Corp. of New York's Reinstatement as filed with the Florida Department of State on May 2, 2002, in connection with the above referenced docket.

At your earliest convenience, please date stamp the copy of this cover letter and return to the undersigned in the enclosed postage prepaid self-addressed envelope.

Should you have any questions, or require additional information, please contact the undersigned at your convenience.

Sincerely,

Alice Rodriguez
Project Manager

- AJS _____
- CAF _____
- CMP _____
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- ECR _____
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK



FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State

May 2, 2002

ORION TELECOMMUNICATIONS CORP OF NEW YORK
42-40 BELL BLVD
BAYSIDE, NY 11361

Re: Document Number F98000006092

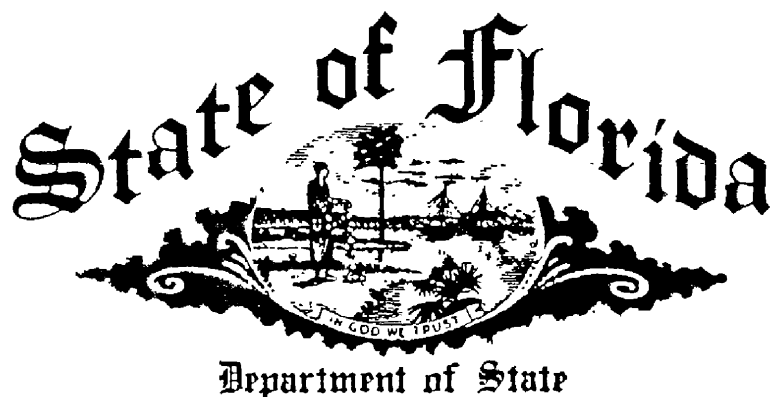
The reinstatement for ORION TELECOMMUNICATIONS CORP doing business in Florida as ORION TELECOMMUNICATIONS CORP OF NEW YORK, a Delaware corporation, was filed on May 1, 2002.

The certificate you requested is enclosed.

Should you have any questions regarding this matter, please telephone (850) 245-6059, Reinstatement Section.

Kathy Ashton
Document Specialist
Division of Corporations

Letter Number: 302A00027372



I certify from the records of this office that ORION TELECOMMUNICATIONS CORP doing business in Florida as ORION TELECOMMUNICATIONS CORP OF NEW YORK is a Delaware corporation authorized to transact business in the State of Florida, qualified on November 2, 1998.

The document number of this corporation is F98000006092.

I further certify that said corporation has filed an application for reinstatement on May 1, 2002, and that the certificate of administrative revocation has been cancelled, and its status is active.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Second day of May, 2002



CR2EO22 (1-99)

- 11 -

Katherine Harris

Katherine Harris
Secretary of State


** TOTAL PAGE 02 **

APR-04-2002 THU 04:30 PM INTERCNTY CLERK ALBANY FAX NO. 15184341521

FILED

02 MAY -1 PM 12:47

PLEASE READ ALL INSTRUCTIONS BEFORE COMPLETING THIS FORM

CORPORATION REINSTATEMENT		 FLORIDA DEPARTMENT OF STATE Katherine Harris Secretary of State DIVISION OF CORPORATIONS	
DOCUMENT # F98000006092			
1. Corporation Name ORION TELECOMMUNICATIONS CORP DBA ORION TELECOMMUNICATIONS CORP OF NEW YORK			
2. Principal Office Address 42-40 Bell Blvd Bayside, NY 11361 USA		3. Mailing Office Address 42-40 Bell Blvd Bayside, NY 11361 USA	
4. Date Incorporated or Qualified To Do Business in Florida NOV 2, 1998		5. FEI Number 06-1507207	
6. CERTIFICATE OF STATUS DESIRED <input type="checkbox"/>		8B.7's Additional Jurisdiction for a Certificate of Status	
7. Name and Address of Current Registered Agent Name: NRAI Services, Inc. Street Address: 526 E. PARK AVENUE City: Tallahassee Florida 32301 State: FL Zip Code: 32301			
8. I, being appointed the registered agent of the above named corporation, am familiar with and accept the obligations of section 607.0605 or 617.0503, F.S. INT 656 Signature of Registered Agent by: Ed Hand - Asst. Sec. REGISTERED AGENT MUST SIGN Date: 5/1/02			
9. Names and Street Addresses of Each Officer and/or Director (Florida nonprofit corporations must list all legal directors)			
Title	Name of Officers and/or Directors	Street Address of Each Officer and/or Director	City / State / Zip
Director	Peter P. Sicilian, Jr.	c/o Orion Telecommunications Corp, 42-40 Bell Blvd, Bayside NY 11361	
Director	John J. Sicilian	c/o Orion Telecommunications Corp	42-40 Bell Blvd, Bayside NY
cfo	Robert Stewart	c/o Orion Telecommunications Corp	42-40 Bell Blvd, Bayside NY
Secretary	James Sutton	c/o Orion Telecommunications Corp	42-40 Bell Blvd, Bayside NY
10. I certify that I am an officer or director of the recipient or trustee empowered to execute this application as provided for in chapter 607 or 617, F.S. I further certify that when filing this reinstatement application, this reason for dissolution has been eliminated, the corporate name satisfies the requirements of section 607.0401 or 617.0401, F.S., that all fees owed by the corporation have been paid and the names of individuals listed on this form do not qualify for an exemption under section 119.07(3)(b), F.S. The information indicated on this application is true and accurate and my signature shall have the same legal effect as if made under oath. SIGNATURE: Robert Stewart SIGNATURE AND TYPE OR PRINTED NAME OF SIGNING OFFICER OR DIRECTOR Date: 04/23/02 718-(31)-5800 Daytime Phone #			