

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-M-

DATE: SEPTEMBER 19, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT) *y* *DD*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *AT* *SLC*

RE: DOCKET NO. 020319-TX - APPLICATION FOR CERTIFICATE TO PROVIDE ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE BY COMMODITY PARTNERS INC.

AGENDA: 10/01/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020319.RCM

CASE BACKGROUND

On April 8, 2002, Commodity Partners Inc. (Commodity) filed an application to provide alternative local exchange telecommunications service (ALEC) in Florida. The ALEC application requires an ALEC to state whether any officer or director currently or previously served as an officer or director of any company certificated as a telecommunications provider. Commodity responded that this question was not applicable to the company. During staff's review it was discovered that one of the incorporators, who is also serving as the Vice President and Secretary, was the President and Commission Liaison for Worldlink Long Distance Corp. (Worldlink).

According to Commission records Worldlink's ALEC Certificate was canceled in Docket No. 000219-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.

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Worldlink's IXC certificate was canceled in Docket No. 001301-TI, Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5350 issued to Worldlink Long Distance Corp. for violation of Rule 25-4,0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

In April, May and July, staff called Commodity's number listed in the application and left messages requesting a return call to discuss staff's concerns. On September 4, 2002, staff again called the company's number and reached a recording that the number was no longer in service. That same day staff sent a certified letter to the company liaison informing her of staff's concerns and attempts to contact her company. Staff requested a response by September 16, 2002. No response was received.

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

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Commodity Partners Inc. a certificate to provide alternative local exchange telecommunications service within the State of Florida as provided by Section 364.337, Florida Statutes?

RECOMMENDATION: No. Commodity Partners Inc. should not be granted an alternative local exchange telecommunications service certificate to operate in Florida. (Pruitt)

STAFF ANALYSIS: Section 364.337, Florida Statutes, requires an applicant to show that it "...has sufficient technical, financial, and managerial capability to provide such service...". Staff's letter of September 4, 2002, read in part:

If we do not hear from you by September 16, 2002, we will assume you no longer want to pursue certification and we will recommend that the certificate be denied, the application fee be forfeited, and the docket closed.

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To date, the company has not responded. Furthermore as explained in the Case Background, it appears that the company failed to accurately complete its application for the certificate. Staff does not believe the company has sufficient managerial capability to provide alternative local exchange telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Teitzman)

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.