



Public Service Commission

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CLERK

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DATE: JULY 2, 2003

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

FROM: OFFICE OF THE GENERAL COUNSEL (FORDHAM) *C.S.T. WK*
DIVISION OF COMPETITIVE MARKETS AND ENFORCEMENT (SIMMONS) *SAS*

RE: DOCKET NO. 011172-TP - PETITION BY GLOBAL NAPS, INC. FOR ARBITRATION OF UNRESOLVED ISSUES ARISING OUT OF INTERCONNECTION NEGOTIATIONS WITH SPRINT-FLORIDA, INCORPORATED.

AGENDA: 07/15/03 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\011172.RCM

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CASE BACKGROUND

On August 31, 2001, Global NAPS, Inc. (GNAPS) filed its Petition for Arbitration of Unresolved Issues Arising Out of Interconnection Negotiations with Sprint-Florida, Incorporated (Sprint). Sprint filed its Response to that Petition on September 25, 2001.

On March 5, 2002, the parties advised staff that they believed our pending generic reciprocal compensation docket (Docket No. 000075-TP) would resolve the issues in the present arbitration, and requested that action in this Docket be suspended pending final action in the generic Docket. Pursuant to that request, all pending procedural dates were suspended.

During the subsequent 15 months, staff contacted the parties on a regular basis requesting updates on the progress in this

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matter. At no time following those contacts did either party request action by this Commission. On March 17, 2003, staff contacted both parties, suggesting that the Petition be withdrawn if no further action was required by the Commission. Additionally, staff advised the parties that if we had heard nothing to the contrary by March 21, 2003, staff would initiate action for the dismissal of the Petition. GNAPs never responded in any manner to that communication.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission dismiss GNAPs' Petition for Arbitration of Unresolved Issues Arising Out of Interconnection Negotiations with Sprint-Florida, Incorporated for lack of prosecution?

RECOMMENDATION: Yes. GNAPs has failed to diligently pursue its Petition. Thus, the Petition should be dismissed. (FORDHAM)

STAFF ANALYSIS: Pursuant to Rule 1.42(e), Florida Rules of Civil Procedure, if there have been no pleadings, orders, or other activity filed in an action for a period of one year, that action may be dismissed. Staff notes that the last pleading filed in this Docket was the Response to the Petition, filed on September 25, 2001. That is more than 21 months prior to the filing of this recommendation.

Additionally, the parties were advised that staff would seek dismissal of the Petition if the parties did not notify the Commission to the contrary by March 21, 2003. Staff believes that failure of GNAPs to respond to that message in any manner can only be construed as acquiescence to the dismissal.

In view of GNAPs' failure to pursue its Petition with any diligence, and GNAPs' apparent implied consent to a dismissal, staff recommends that GNAPs' Petition for Arbitration of Unresolved Issues Arising Out of Interconnection Negotiations with Sprint-Florida, Incorporated be dismissed.

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ISSUE 2: Should this Docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this Docket will require no further action, and should be closed. (FORDHAM)

STAFF ANALYSIS: If the Commission approves staff's recommendations in Issue 1, this Docket will require no further action, and should be closed.