

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: March 4, 2004

TO: Director, Division of the Commission Clerk & Administrative Services *ayob*

FROM: Division of Competitive Markets & Enforcement (Isler) *pi*
Office of the General Counsel (McKay) *vs in DK*

RE: Docket No. 031014-TX – Cancellation by Florida Public Service Commission of CLEC Certificate No. 7839 issued to National Telecom, LLC, for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

AGENDA: 03/16/04 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\031014.RCM.DOC

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Discussion of Issues

Issue 1: Should the Commission grant National Telecom, LLC a voluntary cancellation of CLEC Certificate No. 7839 with an effective date of July 17, 2003, and require National Telecom, LLC to immediately cease and desist providing competitive local exchange service in Florida if the company's certificate is cancelled in accordance with the Commission's Order from this recommendation?

Recommendation: Yes. (Isler; McKay)

Staff Analysis: Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission rules and Orders. 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

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companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

On July 17, 2003, the Commission received a letter from Ms. Mildred Jones dated July 15, 2003, requesting cancellation of the company's certificate. The letter stated that the company had never done business in the state and had no customers. Staff faxed the company a note on July 23, 2003, and advised it to either pay the 2003 Regulatory Assessment Fee or provide a date certain it would be paid. Ms. Jones called staff on July 24, 2003, and stated that she had mailed a check for \$50, along with an application to withdraw. As of October 28, 2003, the Commission had not received the Regulatory Assessment Fee; therefore, this docket was established.

On January 27, 2004, Order No. PSC-04-0093-PAA-TX was issued, which denied the company a voluntary cancellation. The company had until February 17, 2004, to protest the Proposed Agency Action Order or its certificate would be cancelled on the Commission's own motion. On January 28, 2004, Ms. Jones called staff and advised that she had received the Order and did not understand it since she had done what she thought she was supposed to do. After further checking, Ms. Jones advised staff that she had sent the \$50 check and application for withdrawal to the Florida Department of State, Division of Corporations, instead of the Florida Public Service Commission. On January 29, 2004, staff faxed Ms. Jones a sample protest letter and the 2003 Regulatory Assessment Fee return form. On February 4, 2004, the Commission received the company's payment of the 2003 Regulatory Assessment Fee (postmarked January 29, 2004). The company reported no revenues for the period ended December 31, 2003. On February 20, 2004, the Commission received the company's timely filed protest to Order No. PSC-04-0093-PAA-TX, which requested voluntary cancellation of National Telecom, LLC's certificate.

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Issue 2: Should this docket be closed?

Recommendation: No. (McKay)

Staff Analysis: The Order issued from this recommendation will become final 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. The docket should then be closed upon issuance of a Consummating Order.