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State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: March 24, 2004

TO: Braulio L. Baez, Chairman
J. Terry Deason, Commissioner
Lila A. Jaber, Commissioner
Rudy Bradley, Commissioner
Charles M. Davidson, Commissioner

FROM: Lee Fordham, Senior Attorney, General Counsel *CFE. DC*
Paula J. Isler, Research Assistant, Division of Competitive Markets & Enforcement *AJC*

RE: Docket No. 030629-TX – Cancellation by Florida Public Service Commission of CLEC Certificate No. 7770 issued to Delta Phones, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and compliance investigation for apparent violation of Rule 25-22.032(5)(a), F.A.C., Customer Complaints. *BMS*

At the March 16, 2004 Agenda Conference, the Commission approved the staff recommendation to accept a settlement offer made by Delta Phones, Inc. The settlement offer included a monetary offer by Delta in the amount of \$250, and penalties in the amount of \$20,000. In the event of non-payment of those amounts, the certificate of Delta Phones, Inc. would be canceled.

On March 23, 2004, we received a notice from the US Bankruptcy Court, Northern District of Illinois, that Delta Phones, Inc. had filed for bankruptcy under Chapter 7 of the US Bankruptcy Code. Such filing invokes the automatic stay provisions of the bankruptcy code, which would prohibit the collection of the monies owed or the cancellation of the certificate for non-payment of the monies owed.

Based on the fact that the filing under Chapter 7 of the bankruptcy code indicates liquidation of the company, staff intends to seek permission of the Trustee to cancel the certificate of Delta Phones, Inc. Meantime, issuance of the scheduled Order would be contrary to the provisions of the automatic stay and, therefore, it should not be entered at this time.

Should you have any questions concerning this memorandum, please contact Lee Fordham or Paula Isler.

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