

# ORIGINAL

## REQUEST FOR CHANGE TO AGENDA CONFERENCE HAND DELIVER

Date of Request: June 18, 2004 Date of Agenda Conference: June 29, 2004 Item No. 15

Docket No.: 040062-TI Brief Title: Compliance Investigation of New Century Telecom, Inc. for apparent violation of Rule 25-4.118, F.A.C. (Slamming).

Requested by:  Staff  Other New Century Telecom, Inc.

Please attach a copy of the written documentation filed (if other) (Name)

STAFF's Recommendation to Executive Suite (IF OTHER)  Approve Request

Deny Request

ACTION REQUESTED [see APM 2.11]

- Defer Item to Agenda Scheduled Date: August 3, 2004
- Change Order of Item or Take Up at Time Certain
- Withdraw Item
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) A copy of the front page of the recommendation must be provided to CCA by 12 noon on the regular filing date for use as a place-holder during agenda preparation.
- Add Item to Published Agenda [ see Section 120.525(2), F.S.] - Issue an ADDENDUM and give Legal NOTICE
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] - Issue an ADDENDUM and Give Fair NOTICE

Concise explanation, justification or comments (attach additional sheet if necessary):

New Century Telecom, Inc., submits that it must be allowed the opportunity to review staff's recommendation in another docket (040289-TI; Compliance Investigation of Optical Telephone Corp. for slamming) before the Commission can consider staff's recommendation in Item No. 15. The recommendation for Docket No. 040289-TI is scheduled to be filed on July 22, 2004. Also, the company submits that the Commission must consider the two dockets simultaneously because there may be information contained in staff's recommendation in Docket No. 040289-TI that would be relevant to staff's recommendation in this item.

Staff does not recommend deferral of Item No. 15. The issues under consideration are for apparent slamming violations committed by New Century Telecom, Inc. and all the information currently available to staff and pertinent to the issues in this item are included in staff's recommendation. Further, the company has not provided any additional information that would alter staff's recommendation or change the facts in this case.

Signature (OPR Staff): Deer Bump Initials (OPR Division Director or Designee): DB

Signature (Legal Staff): Joe Finkel Initials (Legal Division Director or Designee): RF

CMP  
COM  
EXECUTIVE DIRECTOR:

Recommendation to the Chairman's Office  Approve Request  Deny Request

Initials: MATB Date: 6/21/04

Comments: CL support staff's recommendation to deny the request by New Century Telecom for deferral. While staff originally grouped the 4 companies into one req, there are new 4 stand alone reqs which address the interrelationships 3 of the 4 on the 6/29 agenda

CHAIRMAN'S OFFICE:  Approve Request  Deny Request

Initials: Blaw Date: 6-21-04

Executive Suite will send the original to the Division of Commission Clerk & Administrative Services and return a copy to the requesting staff after the Chairman's Office takes action on this request. Requesting staff should distribute copies to the Division Directors (OPR & OCR) and Attorney assigned to the docket.

DOCUMENT NUMBER: 06836 DATE: JUN 21 04

OTH Blanca Rose  
PSC/EXD-1 (10/02)

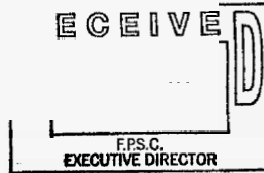
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June 18, 2004

## Via Facsimile (850-413-6067) and US Mail

Dr. Mary Bane, Executive Director  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**Re: Request for Deferral of Agenda Conference  
Docket Nos. 020645-TI, 031031-TI, 040062-TI and 040289-TI**

Dear Dr. Bane:

In connection with the above-referenced docketed matter, on behalf of New Century Telecom, Inc. ("NCT") (Docket No. 040062-TI), it is respectfully requested that the Commission's consideration of Staff's Recommendation, scheduled for June 29, 2004, be deferred.

Pursuant to a May 14, 2004 request of Optical Telephone Corporation ("Optical") in Docket No. 040289-TI, the Commission deferred the consideration of all of the above-referenced dockets from its May 18, 2004 Agenda to its June 29, 2004. Consistent with that deferral, Staff's Recommendation is all dockets was deferred to June 17, 2004. On June 17, 2004, Staff issued its Recommendation in NCT's docket. However, according to the electronic docket information available on the Commission's website, the date for Staff's Recommendation in Optical's docket has been delayed again to July 22, 2004 and the Agenda deferred until August 3, 2004.

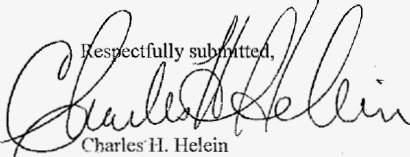
Throughout these entire proceedings, Staff has dealt with the above-dockets as one interrelated matter. In fact, the reason Staff initially gave to NCT's counsel for its inability to negotiate a settlement with NCT was the involvement of these other companies and dockets. Moreover, because Staff's recommendation is based on some perceived "consortium" between NCT, Optical and several other companies. NCT submits that the Commission must consider these dockets together and that NCT must be allowed the opportunity to review Staff's Recommendation in

the Optical proceeding, not scheduled until July 22<sup>nd</sup>, and any facts and conclusions relied upon by Staff therein, before the Commission can consideration the recommendation on NCT.

Therefore, NCT requests that the Commission defer its consideration of Staff's Recommendation from June 29, 2004 until August 3, 2004.

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Respectfully submitted,



Charles H. Helein