

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of T-NETIX Telecommunications Services, Inc., PATS Certificate No. 5102; T-NETIX Telecommunications Services, Inc., IXC Registration No. TJ804; and T-Netix, Inc., IXC Registration No. TI158, for apparent violation of Rule 25-22.032(6)(b), F.A.C., Customer Complaints; Section 364.02, F.S., Definitions; and Section 364.604, F.S., Billing Practices.

DOCKET NO. 050379-TP
ORDER NO. PSC-05-0924-PAA-TP
ISSUED: September 19, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING SETTLEMENT OFFER TO RESOLVE APPARENT
VIOLATIONS OF RULE 25-22.032(6)(b), F.A.C., SECTIONS 364.02 AND 364.604, F.S.

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

From July 23, 2003 through December 5, 2003, T-Netix Telecommunications Services, Inc., holder of Pay Telephone Services (PATS) Certificate No. 5102 and Intrastate Interexchange Telecommunications Company (IXC) Registration No. TJ804, and T-Netix, Inc., holder of IXC Registration No. TI158, (collectively as T-Netix), failed to respond to eight customer complaints. During this timeframe, our staff made numerous attempts to obtain responses to the complaints, but T-Netix did not respond.

Between January 14, 2004 and March 1, 2004, the Office of the General Counsel and our technical staff, after not receiving responses to the customer complaints, contacted T-Netix and obtained responses to the customer complaints. T-Netix advised our staff that it had implemented procedures to ensure that all future Commission complaint inquiries would be

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answered in the most expeditious manner. Our staff informed T-Netix that it may be subject to penalties if it failed to respond to customer complaints in the future.

From January 18, 2005 through March 28, 2005, this Commission received thirteen customer complaints regarding improper billing against T-Netix. Of the thirteen complaints that were filed against the company, our staff determined that T-Netix failed to provide timely responses to ten of those complaints.

On May 27, 2005, our staff opened this Docket to address T-Netix's apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code (F.A.C.), and Sections 364.02 and 364.604, Florida Statutes (F.S.).

Between July 11, 2005 and August 3, 2005, our staff contacted T-Netix to discuss a settlement in this Docket. On August 8, 2005, T-Netix's proposed settlement offer (Attachment A) was filed.

Analysis

Pursuant to Section 364.285, F.S., this Commission may impose a penalty or cancel a certificate if a company refuses to comply with Commission rules. According to Rule 25-22.032(6)(b), F.A.C., a company shall provide Commission staff with a written response to a customer complaint within 15 working days after Commission staff sends the complaint to the company. Section 364.02(13), F.S., states in relevant part:

Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a), and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company....

Section 364.604(2), Florida Statutes states:

A customer shall not be liable for any charges for telecommunications or information services that the customer did not order or that were not provided to the customer.

As outlined in the case background, T-Netix has in the past failed to timely respond to our staff's complaint inquiries. According to T-Netix's March 1, 2004 response to our staff, the company implemented procedures to ensure that all future Commission compliant inquiries would be answered in the most expeditious manner. However, despite the implementation of the company's corrective procedures and our staff's warning of the potential consequences of failing to timely respond to customer complaints, T-Netix continued to respond in an untimely fashion.

After this Docket was established, T-Netix provided our staff with responses to the customer complaints. However, the responses were not submitted to this Commission within fifteen working days as required by Rule 25-22.032(6)(b), F.A.C. According to T-Netix's responses to

the complaints, the company issued credits to the customers for the calls in question. However, several of the customers later informed our staff that they did not receive a credit to their account as indicated in T-Netix's responses.

Our staff later contacted the company, via telephone, to discuss the apparent violations addressed in this Docket. In an effort to resolve T-Netix's apparent violations, the company has proposed to make a voluntary contribution of \$15,000 to this Commission to be deposited into the General Revenue Fund. This reflects a contribution of \$1,500 for each of the ten customer complaints. T-Netix has also provided our staff with written verification that each of the ten customer complaints have been resolved and that each of the customers have been issued the appropriate credit to their accounts.

Prior to submitting its settlement offer, T-Netix informed our staff that it has adopted and implemented a number of improvements in the way the company processes its customer complaints. Some of the changes include new supervision to oversee the processing of customer complaints and the implementation of new billing system enhancements. According to T-Netix, the company's customer complaints will be under the supervision of more experienced individuals who are more familiar with this Commission's requirements regarding customer complaints.

The monetary amount of T-Netix's proposed settlement offer is consistent with settlement offers that this Commission has previously accepted for similar violations. Furthermore, the company has resolved the ten customer complaints that initiated the establishment of this Docket and has adopted and implemented preventative measures that should result in more timely responses to future complaints. Accordingly, we hereby accept T-Netix's proposed settlement offer of \$15,000 to resolve the apparent violations of Rule 25-22.032(6)(b), F.A.C. and Sections 364.02 and 364.604, F.S.

Conclusion

T-Netix's \$15,000 voluntary contribution shall be received by this Commission no later than October 27, 2005. The contribution shall be made payable to the Florida Public Service Commission and shall identify the Docket number and the company's name. Upon receipt of the payment, this Commission shall forward the contribution to the Division of Financial Services to be deposited into the General Revenue Fund. If T-Netix fails to submit the contribution by October 27, 2005, the company's PATS Certificate No. 5102 and tariffs shall be cancelled, and its IXC Registration Nos. TI158 and TJ804 shall be removed from the register. If the company's PATS certificate and tariffs are cancelled and its IXC registration numbers are removed from the register in accordance with this Order, the company shall be required to immediately cease and desist providing telecommunications services in Florida. This Docket shall be closed administratively upon either receipt of the \$15,000 voluntary contribution or upon the cancellation of the company's PATS certificate and tariffs, and the removal of the company's IXC registration numbers from the register.

This Order shall become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this Commission's decision files a

protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of this Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute shall be deemed stipulated.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that T-Netix Telecommunications Services, Inc. and T-Netix, Inc.'s proposed settlement offer of \$15,000 to resolve the apparent violations of Rule 25-22.032(6)(b), Florida Administrative Code, and Sections 364.02 and 364.604, Florida Statutes, is hereby accepted. It is further

ORDERED that this Order shall become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. It is further

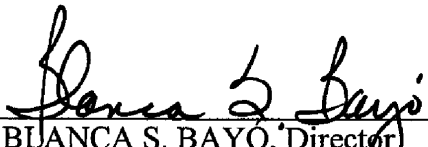
ORDERED that T-Netix Telecommunications Services, Inc. and T-Netix, Inc.'s \$15,000 voluntary contribution shall be received by this Commission no later than October 27, 2005. The contribution shall be made payable to the Florida Public Service Commission and shall identify the Docket number and the company's name. Upon receipt of the payment, this Commission shall forward the contribution to the Division of Financial Services to be deposited into the General Revenue Fund. It is further

ORDERED that should T-Netix Telecommunications Services, Inc. and T-Netix, Inc. fail to submit payment by October 27, 2005, its Pay Telephone Services Certificate No. 5102 and tariffs shall be cancelled, and its Intrastate Interexchange Telecommunications Company Registration Nos. TI158 and TJ804 shall be removed from the register. It is further

ORDERED that if T-Netix Telecommunications Services, Inc. and T-Netix, Inc.'s Pay Telephone Services certificate and tariffs are cancelled, and its Intrastate Interexchange Telecommunications Company registrations are removed from the register in accordance with this Order, T-Netix Telecommunications Services, Inc. and T-Netix, Inc. shall be required to immediately cease and desist providing telecommunications services in Florida. It is further

ORDERED that this Docket shall be closed administratively upon either receipt of the \$15,000 voluntary contribution or upon the cancellation of T-Netix Telecommunications Services, Inc. and T-Netix, Inc.'s Pay Telephone Services certificate and tariffs, and the removal of its Intrastate Interexchange Telecommunications Company registration numbers from the register.

By ORDER of the Florida Public Service Commission this 19th day of September, 2005.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 10, 2005.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

ATTACHMENT A

Offer of Settlement

Docket No. 050379-TP

This Offer of Settlement (the "Settlement") is submitted this 3rd day of August 2005 by T-Netix Telecommunications Services, Inc. and T-Netix, Inc., (collectively, the "Company") to the Florida Public Service Commission (the "Commission").

WHEREAS, pursuant to a Request To Establish Docket, dated May 27, 2005, from the Division of Competitive Markets & Enforcement, the Commission opened Docket No. 050379-TP;

WHEREAS, thereafter, the Company's representatives and the Staff engaged in discussions and exchanged certain information relevant to the apparent violations and proposed penalty; and

WHEREAS, based on those discussions the Company is prepared to make the following Offer of Settlement.

NOW THEREFORE, the Company hereby agrees as follows:

This Settlement is in consideration for the termination of Docket No. 050379-TP and upon approval by the Commission shall be incorporated by reference into a Proposed Agency Action Order of the Commission disposing of Docket No. 050379-TP.

This Settlement is for settlement purposes only and its execution by the Company does not constitute an admission by the Company, or its principals,

of any violation of law, rules or policy associated with or arising from its actions or omissions as described in the Staff recommendation that was the basis for the opening of Docket No. 050379-TP.

The Commission will not use the facts developed as part of Docket No. 050379-TP, or the existence of this Settlement, to institute, on its own motion, any new proceedings, formal or informal, or take any actions against the Company. Consistent with the foregoing, nothing in this Settlement limits, *inter alia*, the Commission's authority to consider and adjudicate any complaints that may be filed by third parties pursuant to the F.A.C., as amended, or to take any action in response to such complaints.

For purposes of settling the matters set forth herein, the Company agrees to make a voluntary contribution to the Florida General Revenue Fund in the amount of \$15,000. Upon the Commission's approval of this Settlement, the Company shall make the payment of this voluntary contribution in accordance with written instructions provided by Staff or included in any Commission order approving this Settlement.

This Settlement shall satisfy and resolve all issues against the Company that have been raised in Docket No. 050379-TP.

The Company's decision to enter into this Settlement is expressly contingent upon this Settlement being approved by the Commission without revision, change, addition, or modification.

The Company may withdraw from this Settlement if any revision, change, addition, or modification is made to its terms.

The Effective Date of this Settlement shall be the date that the Commission issues a Consummating Order approving the Settlement by making the Proposed Agency Action Order effective and final. This Settlement shall be attached to and incorporated by reference in any such Commission order.

In the event this Settlement is not accepted by the Commission or is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

The Parties agree that if any provision of the Settlement conflicts with any subsequent rule or order adopted by the Commission, where compliance with the provision would result in a violation, (except an order specifically intended to revise the terms of this Settlement to which the Company and its principals do not consent) that provision will be superseded by such Commission rule or order.

By this Settlement, the Company does not waive or alter its right to assert and seek protection from disclosure of any privileged or otherwise confidential and

protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information. The status of materials prepared for, reviews made and discussions held in the preparation for and implementation of the Company's compliance efforts under the Settlement, which would otherwise be privileged or confidential, are not altered by the execution or implementation of its terms and no waiver of such privileges is made by this Settlement.

The Company will take such other actions as may be reasonably necessary to effectuate the objectives of this settlement.

For T-Netix Telecommunications Services, Inc.
and T-Netix, Inc.

Dennis J. Reinhold

Vice President - General Counsel

August 3, 2005