

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: September 21, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler) *Pji*
Office of the General Counsel (McKay) *VSM Pkw* *BMX*

RE: Docket No. 060516-TP – Request for cancellation of CLEC Certificate No. 8184 by OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel, and for acknowledgment of cancellation of IXC Registration No. TJ668 held by OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel, effective July 20, 2006.

AGENDA: 10/03/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\060516.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission cancel OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel's Competitive Local Exchange Telecommunications Company (CLEC) Certificate No. 8184 and OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel's Intrastate Interexchange

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Telecommunications (IXC) tariff and remove its name from the register on its own motion effective July 20, 2006; notify the Division of the Commission Clerk & Administrative Services that any unpaid Regulatory Assessment Fees should not be sent to the Florida Department of Financial Services and request permission to write-off the uncollectible amount?

Recommendation: Yes, the company's CLEC certificate, IXC tariff and registration should be cancelled on the Commission's own motion. (Isler, McKay)

Staff Analysis: See attached proposed Order.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the 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 should be deemed stipulated. If any entity fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. The company's CLEC certificate and IXC tariff should be cancelled administratively, the company's name should be removed from the register, and the collection of the unpaid Regulatory Assessment Fees, including statutory late payment charges, should not be referred to the Florida Department of Financial Services for further collection efforts. If the company's CLEC certificate and IXC tariff are cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange and intrastate interexchange telecommunications services in Florida. This docket should be closed administratively upon cancellation of the company's CLEC certificate and IXC tariff and removal from the register. (McKay)

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for cancellation of CLEC Certificate No. 8184 by OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel, and for acknowledgment of cancellation of IXC Registration No. TJ668 held by OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel, effective July 20, 2006.

DOCKET NO. 060516-TP
ORDER NO.
ISSUED:

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO R. ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION ORDER
CANCELLING COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS
CERTIFICATE AND INTRASTATE INTEREXCHANGE TELECOMMUNICATIONS
TARIFF AND REGISTRATION ON THE COMMISSION'S OWN MOTION

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.

OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel (OCMC) currently holds Competitive Local Exchange Telecommunications Company (CLEC) Certificate No. 8184, issued by the Commission on September 3, 2002.

OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel (OCMC) currently

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holds Registration No. TJ668, issued by the Commission on September 3, 2002, authorizing the provision of intrastate interexchange telecommunications company (IXC) service.

Pursuant to Section 364.336, Florida Statutes, telecommunications companies must pay a minimum annual Regulatory Assessment Fee of \$50 by January 30 of the subsequent year and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts. Pursuant to Rule 25-24.474, Florida Administrative Code, intrastate interexchange companies must pay any current and past due Regulatory Assessment Fees with its request for cancellation. All entities that apply for registration receive a copy of our rules governing intrastate interexchange telecommunications services.

On June 12, 2006, this Commission received a letter from Ms. Margaret Good, President of The Meridian Group, which advised that OCMC no longer provided service in Florida and wished to cancel all certificates. The Meridian Group was appointed as the Receiver over OCMC by the US District Court for the Southern District of Indiana in the case of PNC Bank, N.A. versus OCMC, Inc., Case No. 1:06-CV-0755-JET-TAB. On July 20, 2006, Ms. Pamela Mock, on behalf of the Receiver, advised staff that all of OCMC's customers were transferred to other carriers and the company no longer operates or has any assets. Ms. Mock followed up the telephone conversation with an e-mail requesting that any unpaid Regulatory Assessment Fees be written-off as there were no funds to pay the fees. This is not a bankruptcy case, but a case of forced liquidation.

In a case such as this one, secured creditors are given the highest priority in the distribution of assets and normally receive all of the distributed assets. Regulatory Assessment Fees, late payment charges, and penalties owed by a company to the Florida Public Service Commission, as well as monetary settlements of cases resolving issues of failure to pay such fees, are not secured debts and, as a practical matter, are uncollectible.

This Commission cannot grant a voluntary cancellation unless all outstanding fees have been paid. Therefore, we find it appropriate to cancel OCMC's certificate and registration. Accordingly, we shall cancel OCMC's CLEC certificate and IXC tariff and remove its name from the register on this Commission's own motion, effective July 20, 2006. In addition, the Division of the Commission Clerk and Administrative Services shall be notified that the 2006 Regulatory Assessment Fees shall not be sent to the Florida Department of Financial Services for collection, and permission for the Commission to write-off the uncollectible amount will be requested. OCMC shall immediately cease and desist providing competitive local exchange telecommunications service and intrastate interexchange telecommunications service in Florida. If the company has its CLEC certificate and IXC tariff cancelled and its name removed from the register, and subsequently decides to reapply for certification as a competitive local exchange company or registration as an intrastate interexchange telecommunications company, that company shall be required to first pay any outstanding fees, including accrued statutory late payment charges. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.337, 364.02, and 364.285, Florida Statutes.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel's CLEC Certificate No. 8184 is cancelled, effective July 20, 2006. It is further

ORDERED by the Florida Public Service Commission that OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel's IXC tariff is cancelled and its name removed from the register, effective July 20, 2006. It is further

ORDERED that the unpaid Regulatory Assessment Fees shall not be sent to the Department of Financial Services for collection. The Division of the Commission Clerk and Administrative Services, instead, shall request permission to write-off the uncollectible amount. It is further

ORDERED that if OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel's CLEC Certificate No. 8184 is cancelled and subsequently decides to reapply for certification as a competitive local exchange telecommunications company, that company shall be required to first pay any outstanding fees, including accrued statutory late payment charges. It is further

ORDERED that if OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company shall be required to first pay any outstanding fees, including accrued statutory late payment charges. It is further

ORDERED that if OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel, RegionTel, LiveTel, and SuperTel's CLEC Certificate is cancelled in accordance with this Order, the company shall immediately cease and desist providing competitive local exchange telecommunications service in Florida. It is further

ORDERED that if OCMC, Inc. d/b/a One Call Communications, Inc. d/b/a OPTICOM, d/b/a 1-800-MAX-SAVE, d/b/a Advanttel, d/b/a RegionTel, d/b/a LiveTel, and d/b/a SuperTel's IXC tariff is cancelled and its name removed from the register in accordance with this Order, the company shall immediately cease and desist providing intrastate interexchange telecommunications services in Florida. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is 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 the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this _____ day of _____, _____.

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

(S E A L)

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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 _____.

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.