

Section 1 - Bureau of Records Completes

Docket No. 050363-TP Date Docketed: 05/19/2005 Title: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.

Company: Southeastern Services, Inc.
 Southeastern Services, Inc.
 Southeastern Services, Inc.

Official Filing Date: _____ Expiration: _____
 Last Day to Suspend: _____

Referred to: _____

CCA	(CMP)	ECR	FLL	GCL	MMS	PIF	RCA	SCR
	X			X				

("O") indicates OPR)

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module A18(a); B10(a)

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff	Staff Assignments	0 Current CASR revision level	Due Dates	
			Previous	Current
	1.			
	2.			
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Staff Counsel	8.			
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Full Commission _____ Commission Panel _____	33.			
Hearing _____ Staff _____	34.			
	35.			
Date filed with CCA: _____	36.			
	37.			
Initials OPR _____	38.			
Staff Counsel _____	39.			
	40.			

Section 3 - Chairman Completes Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	DV	ED		

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	DV	ED	

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: 11897 DEC 29 08
 Date: _____

FPSC-COMMISSION CLERK

Section 1 - Bureau of Records Complete

Docket No. 050363-TP Date Docketed: 05/19/2005 Title: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.

Company: Southeastern Services, Inc.
Southeastern Services, Inc.
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Official Filing Date: _____ Expiration: _____
Last Day to Suspend: _____
Referred to: _____
("O" indicates OPR)

CCA	(CMP)	ECR	FLL	GCL	MMS	PIF	RCA	SCR
	X			X				

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

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FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff	D Buys	0	Current CASR revision level	Due Dates	
				Previous	Current
		1.	Staff Recommendation	NONE	06/23/2005
		2.	Agenda	NONE	07/05/2005
		3.	PAA Order	NONE	07/25/2005
		4.	Close Docket or Revise CASR	NONE	09/30/2005
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Staff Counsel	L Fordham	8.			
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Recommended assignments for hearing and/or deciding this case:		30.			
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		32.			
Full Commission <input checked="" type="checkbox"/> Commission Panel <input type="checkbox"/>		33.			
Hearing <input type="checkbox"/> Staff <input type="checkbox"/>		34.			
		35.			
Date filed with CCA: <u>05/27/2005</u>		36.			
		37.			
Initials OPR _____		38.			
Staff Counsel _____		39.			
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	DV	ED		
X							

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	DV	ED	
					X

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BBA
Date: 05/27/2005

Section 1 - Bureau of Records Completes

Docket No. 050363-TP Date Docketed: 05/19/2005 Title: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.

Company: Southeastern Services, Inc.
Southeastern Services, Inc.
Southeastern Services, Inc.

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to:

CCA (CMP) ECR GCL PIF RCA SCR SGA

("O") indicates OPR

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module A18(a); B10(a)

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
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FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770

Staff Assignments

OPR Staff	D Buys	1	Current CASR revision level	Due Dates	
				Previous	Current
		1.	Staff Recommendation (Motion to Dismiss)	SAME	10/20/2005
		2.	Agenda	SAME	11/01/2005
		3.	Standard Order	SAME	11/21/2005
		4.	Close Docket or Revise CASR	09/30/2005	12/29/2005
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Staff Counsel	L Fordham	8.			
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Recommended assignments for hearing and/or deciding this case:

Full Commission Commission Panel
Hearing Staff

Date filed with CCA: 09/23/2005

Initials OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	ED	--		
X							

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	ED	--	
	X				

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Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: 1313/ [Signature]
Date: 09/23/2005

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Company: Southeastern Services, Inc.
Southeastern Services, Inc.
Southeastern Services, Inc.

Official Filing Date: _____ Expiration: _____
Last Day to Suspend: _____

Referred to: _____
("C") indicates OPR

CCA	(CMP)	ECR	GCL	PIF	RCA	SCR	SGA
	X		X				

Section 2 - OPR Completes and returns to CCA in 10 workdays. Time Schedule

Program Module A18(a); B10(a)

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff	D Buys	2	Current CASR revision level	Due Dates	
				Previous	Current
		1.	Staff Recommendation (Motion to Dismiss)	10/20/2005	10/06/2005
		2.	Agenda	11/01/2005	10/18/2005
		3.	Standard Order	11/21/2005	11/07/2005
		4.	Close Docket or Revise CASR	09/30/2005	12/29/2005
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Staff Counsel	L Fordham	8.			
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Recommended assignments for hearing and/or deciding this case:

Full Commission Commission Panel
Hearing Staff

Date filed with CCA: 10/03/2005

Initials OPR _____
Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg Exam	Staff
ALL	BZ	DS	BD	ED	--		
X							

Prehearing Officer

Commissioners					ADM
BZ	DS	BD	ED	--	
	X				

Where panels are assigned the senior Commissioner is Panel Chairman: the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: BB/Amr
Date: 10/03/2005

Matilda Sanders

0944-PCD

From: Jackie Schindler
Sent: Tuesday, September 27, 2005 10:34 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

3

Date and Time: 9/27/2005 10:33:00 AM
Docket Number: 050363
Filename / Path: orderSSilate.doc
Order Type: Signed / Hand Deliver

Okay, let's try this again today...

An ORDER GRANTING SSI'S MOTION TO ACCEPT LATE-FILED MOTION TO DISMISS NEFCOM'S PROTEST has been SIGNED and moved to GC Orders for issuance.

Thanks.

js

5/0

RECEIVED-FPSC
SEP 27 AM 10:37
COMMISSION
CLERK

DOCUMENT NO
11897-06

Matilda Sanders

1027 - FOF

From: Jackie Schindler
Sent: Thursday, October 20, 2005 1:52 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

6

Date and Time: 10/20/2005 1:52:00 PM
Docket Number: 050363-tp
Filename / Path: finalorder.doc

An ORDER GRANTING MOTION TO DISMISS PROTEST has been moved to GC Orders for issuance.
Thanks
js

5/0.

State of Florida



RECEIVED-PTSC
05 NOV 21 PM 1:29
Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850
COMMISSION
-M-E-M-O-R-A-N-D-U-M-CLERK

DATE: November 21, 2005

TO: ~~Kay B. Flynn~~, Chief of Records, Division of the Commission Clerk & Administrative Services
Hong Wang, Management Review Specialist, Division of the Commission Clerk & Administrative Services
Cecelia R. Diskerud, Deputy Clerk, Office of the General Counsel

FROM: Wanda L. Terrell, Administrative Assistant, Office of the General Counsel
David E. Smith, Attorney Supervisor, Office of the General Counsel *DES*

RE: Northeast Florida Telephone Company v. Florida Public Service Commission, Docket No. 050363-TP, Florida Supreme Court

Please note that Marlene Stern is handling the above appeal. The Notice of Administrative Appeal was filed on November 16, 2005. The schedule is as follows:

<u>Date</u>	<u>Item</u>
From day of filing:	
<u>12/22/05</u>	Draft of Index of Record from CCA to Appeals Attorney.
<u>01/05/06</u>	Index of Record served on Parties.
<u>01/15/06</u>	Copy of Record to Appeals.
<u>01/25/06</u>	Appellant's Initial Brief Due.
<u>02/09/06</u>	Draft Commission Answer Brief Due.
<u>02/14/06</u>	Commission's Answer Brief Due.
<u>03/05/06</u>	Appellant's Reply Brief Due.

DES:wlt

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR
ISILIO ARRIAGA



DIVISION OF THE COMMISSION
CLERK AND ADMINISTRATIVE
SERVICES
CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

November 17, 2005

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

Re: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate. (Docket No. 050363-TP)

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Administrative Appeal, filed in this office on November 16, 2005, on behalf of Northeast Florida Telephone Company. Also enclosed is a copy of Order No. PSC-05-1027-FOF-TP, the order on appeal.

It is our understanding that the index of record is due to be served on the parties to this proceeding on or before January 5, 2006.

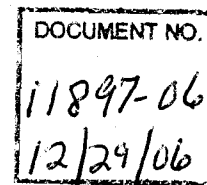
Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records

KF/mhl
Enclosure

cc: Kenneth A. Hoffman, Esquire
Martin P. McDonnell, Esquire
Benjamin H. Dickens, Jr., Esquire
David Smith, Esquire
Suzanne Fannon Summerlin, Esquire



ORIGINAL

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
RICHARD M. ELLIS
KENNETH A. HOFFMAN
LORENA A. HOLLEY
MICHAEL G. MAIDA
MARTIN P. McDONNELL
J. STEPHEN MENTON

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R. DAVID PRESCOTT
HAROLD F. X. PURNELL
MARSHA E. RULE
GARY R. RUTLEDGE
MAGGIE M. SCHULTZ
GOVERNMENTAL CONSULTANTS
MARGARET A. MENDUNI
M. LANE STEPHENS

November 16, 2005

HAND DELIVERY

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-PPSC
05 NOV 16 PM 2:16
COMMISSION
CLERK

Re: Docket No. 050363-TP

Dear Ms. Bayó:

Enclosed herewith for filing in the above-referenced docket on behalf of Northeast Florida Telephone Company ("Northeast Florida") are the original and one copy of Northeast Florida's Notice of Administrative Appeal.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

CMP _____

COM _____

CTR _____

ECR _____

GCL _____ KAH/rl

OPC _____ Enclosures

RCA _____

SCR _____

SGA _____

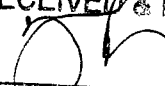
SEC 1

OTH Lockard

Sincerely,



Kenneth A. Hoffman

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
11022 NOV 16 05

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-PPSC

NOV 16 PM 2:17

In re: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.

Docket No. 050363-TP

COMMISSION CLERK

Filed: November 16, 2005

NORTHEAST FLORIDA TELEPHONE COMPANY'S NOTICE OF ADMINISTRATIVE APPEAL

NOTICE IS GIVEN that Northeast Florida Telephone Company ("Northeast Florida") appeals to the Florida Supreme Court the Order of the Florida Public Service Commission rendered October 20, 2005 in the above-referenced docket. The Order granted Southeastern Services, Inc.'s ("SSI") Motion to Dismiss the Petition filed by Northeast Florida protesting proposed agency action of the Florida Public Service Commission approving: (1) a payment offered by SSI to settle Commission action taken in response to SSI's failure to disclose the prior felony conviction of its president in three applications for certificates to provide various types of telecommunications services; and (2) SSI's amended applications to operate in Florida as a competitive local exchange company, interexchange company, and alternative access vendor. A true and correct copy of said Order is attached hereto.

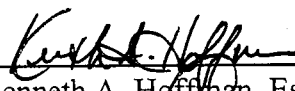
A TRUE COPY
ATTEST

Kary Flynn
Chief Bureau of Records

DOCUMENT NUMBER-DATE

11000 NOV 16 05

Respectfully submitted this 16th day of November, 2005.


Kenneth A. Hoffman, Esq.
Florida Bar No. 307718
Martin P. McDonnell, Esq.
Florida Bar No. 301728
Rutledge, Ecenia, Purnell & Hoffman, P.A.
215 S. Monroe Street, Ste. 420
P.O. Box 551
Tallahassee, FL 32301
850-681-6788 (Telephone)
860-681-6515 (Telecopier)

-- and --

Benjamin H. Dickens, Jr., Esq.
Florida Bar No. 242764
Blooston, Mordkofsky, Jackson & Dickens
2120 L Street, Northwest
Washington, DC 20037
(202) 828-5510 (Telephone)
(202) 828-5568 (Telecopier)

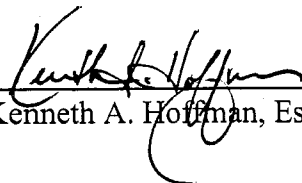
Attorneys for Northeast Florida Telephone Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by United States
Mail this 16th day of November, 2005 to:

C. Lee Fordham, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Suzanne Fannon Summerlin, Esq.
Suzanne Fannon Summerlin, P.A.
2536 Capital Medical Boulevard
Tallahassee, FL 32309



Kenneth A. Hoffman, Esq.

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2005

TO: Blanca S. Bayó, Director, Division of the Commission Clerk and Administrative Services

FROM: Jane Faurot, Chief, Office of Hearing Reporter Services, Division of the Commission Clerk and Administrative Services

RE: DOCKET NO. 050363-TP, AGENDA HELD 10/18/05.

Re: COMPLIANCE INVESTIGATION OF SOUTHEASTERN SERVICES, INC. FOR APPARENT FAILURE TO DISCLOSE REQUIRED INFORMATION ON EACH OF ITS APPLICATIONS FOR ALTERNATIVE ACCESS VENDOR CERTIFICATE, COMPETITIVE LOCAL EXCHANGE COMPANY CERTIFICATE, AND INTEREXCHANGE COMPANY CERTIFICATE.

DOCUMENT No: 10357-05, 10/25/05

The transcript for the above proceedings has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

LEGAL, CMP

Acknowledged BY:

A handwritten signature in black ink, appearing to be "JF", written over a horizontal line.

JF/rlm

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Southeastern Services, Inc. for apparent failure to disclose required information on each of its applications for alternative access vendor certificate, competitive local exchange company certificate, and interexchange company certificate.	DOCKET NO. 050363-TP ORDER NO. PSC-05-1027-FOF-TP ISSUED: October 20, 2005
--	--

The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING MOTION TO DISMISS PROTEST

BY THE COMMISSION:

On June 16, 1999, we granted Southeastern Services, Inc. (SSI) a certificate of public convenience and necessity (certificate) to provide Competitive Local Exchange Company (CLEC) services (Certificate No. 7018), and on March 23, 2001, we granted a certificate to provide Alternative Access Vendor (AAV) services (Certificate No. 7767). On December 28, 2001, we granted SSI a certificate to provide Interexchange Company (IXC) services (Certificate No. 7988).

On March 31, 2005, Northeast Florida Telephone Company (NEFCOM) submitted a letter, dated March 29, 2005, indicating that the applications for certificates filed by SSI failed to disclose that Mr. Mark Woods, President of SSI, was adjudicated guilty of the felony crime of grand theft on December 4, 1979, and requested that this Commission conduct an investigation into the matter. From April 1, 2005 through April 29, 2005, our staff completed its initial investigation into the matter and determined that SSI did not disclose the information as required on the AAV, CLEC, and IXC certificate application forms. We sent SSI a letter on April 12, 2005, requesting a written response explaining SSI's position and the company's proposal to resolve the issue.

On May 4, 2005, SSI submitted a letter in which the company explained the circumstances of Mr. Woods' felony adjudication. Thereafter, on May 19, 2005, SSI offered to make a \$2,500 contribution to the Florida General Revenue Fund to settle the matter.

ORDER NO. PSC-05-1027-FOF-TP
DOCKET NO. 050363-TP
PAGE 2

Additionally, on June 7, 2005, SSI, submitted a letter in which the company provided amendments to the company's original applications addressing Mr. Wood's felony adjudication.

Proposed Agency Action Order No. PSC-05-0734-PAA-TP was issued on July 8, 2005, accepting the settlement offered by SSI. However, on August 2, 2005, NEFCOM filed its Protest of that Order. On August 30, 2005, SSI filed its Motion to Dismiss NEFCOM's Protest, and on September 12, 2005, NEFCOM filed its Response to SSI's Motion to Dismiss and Request for Oral Argument.

SSI's Position

SSI argues that this Commission should dismiss NEFCOM's protest because NEFCOM has no standing to file a protest of this PAA Order. Also, according to SSI, the so-called disputed issues of material fact NEFCOM identifies in its protest are either not in dispute or are outside the scope of this docket. Additionally, SSI claims, it is inappropriate to permit a competitor to participate in an enforcement proceeding.

SSI urges that NEFCOM's protest of this Commission's order accepting SSI's offer of settlement in the instant Docket is an attempt, pure and simple, to destroy SSI as a competitor by having SSI's certificates cancelled or suspended, as well as means to improperly shoe-horn policy issues regarding the provision of VoIP services into an enforcement docket.

According to SSI, as a competitor with a purely economic interest in seeing SSI lose its Certificates, NEFCOM has no standing to represent the public or to participate in this matter, and offers no information relevant to our decision on these issues. SSI claims that Agrico Chemical Company v. Department of Environmental Protection, 406 So.2d 478 (2nd DCA 1981) is dispositive of this issue. SSI argues that it is clear that the only interest NEFCOM represents is that of a competitor who believes its profit and loss statement may be affected by SSI's continued existence and operation in NEFCOM's territory. By writing a letter to inform the Commission regarding Mr. Woods' inadvertent error on SSI's application forms, NEFCOM launched yet another attack against SSI in its attempt to destroy the Company for the sole purpose of eliminating its only competitor. According to SSI, Agrico just does not confer standing for that purpose. Simply put, NEFCOM does not have standing to intervene in this matter, nor does NEFCOM, in any way, shape or form, represent the public's interest in this matter. Accordingly, SSI argues that NEFCOM's Protest should be dismissed.

NEFCOM's Position

In response, NEFCOM states that its Protest properly alleges that its substantial interests are affected by our proposed agency action to approve SSI's amended applications for AAV, CLEC, and IXC certificates, thereby establishing that NEFCOM has standing to participate in this proceeding. NEFCOM notes that is the only relevant issue raised by SSI's Motion to Dismiss. NEFCOM adds, however, that the disputed issues of material fact alleged in its Protest are specifically within the scope of the criteria to be considered for amendments to original applications under Sections 364.335 and 364.337, Florida Statutes.

ORDER NO. PSC-05-1027-FOF-TP
DOCKET NO. 050363-TP
PAGE 3

NEFCOM argues that it has standing as an entity whose substantial interests are affected by the Commission's Proposed Agency Action, because each of SSI's amended applications is subject to full Commission review to determine whether SSI meets the statutory criteria to amend and/or maintain its certificates. Section 364.335(2) and (3), Florida Statutes, confirms that if the Commission grants a certificate in response to an application or amendments thereto, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such a certificate, file a written objection requesting a proceeding pursuant to Sections 120.569 and 120.57, Florida Statutes.

NEFCOM claims SSI offers very little in the way of support for its argument, citing only to Agrico and stating that this proceeding was not intended to address NEFCOM's purported injury regarding SSI's nonpayment of access charges on SSI's provision of VoIP services. According to NEFCOM, SSI's contention highlights its misunderstanding of the issues raised by NEFCOM's Protest and the Commission's jurisdiction in this matter. NEFCOM maintains it is not seeking recovery of access charges, noting that remedy is being pursued in circuit court. Rather, NEFCOM urges the relevance of the allegations regarding SSI's failure to pay access charges and the alleged fraudulent conduct of SSI is tied to the review this Commission must undertake in this docket regarding SSI's technical, financial and managerial fitness to provide service.

NEFCOM argues that its Protest sets forth the requisite allegations demonstrating that it has standing to challenge the Commission's proposed agency action to approve SSI's amended applications under Agrico, which established that in order for a party to have a substantial interest in the outcome of the proceeding, the party must show that: 1) he will suffer injury in fact which is of sufficient immediacy to entitle him to a Chapter 120.57, Florida Statutes hearing, and 2) that his substantial injury is of a type or nature which the proceeding is designed to protect. As alleged in NEFCOM's Protest, each of SSI's amended applications are subject to full Commission review to determine whether the applications meet the requirements of Section 364.337, Florida Statutes. This provision requires an applicant to demonstrate that it has the sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. NEFCOM alleges SSI's lack of managerial capability has been revealed by the various acts and omissions alleged in NEFCOM's Protest. These acts include: (1) SSI's failure to disclose the felony conviction information to the Commission in its applications for CLFC, AAV and IXC certificates; (2) SSI's failure to report revenues and pay appropriate amounts of Regulatory Assessment Fees (RAFs); and (3) SSI's failure to timely apply for and obtain an IXC certificate prior to its advertising and providing long-distance services. Questions regarding SSI's financial capability to provide service have similarly been raised by NEFCOM's Protest.

NEFCOM claims the injuries that it stands to suffer as a result of the approval of SSI's amended applications pertaining to: (1) NEFCOM's status, rights, and obligations under its Resale Agreement with SSI and potential resulting impacts on customers of NEFCOM and SSI; and (2) NEFCOM's ability to compete with SSI in the provision of basic local telecommunications services in the Baker County area. Moreover, NEFCOM, as the carrier of last resort in the Baker County area, and a potential service provider to SSI's

ORDER NO. PSC-05-1027-FOF-TP
DOCKET NO. 050363-TP
PAGE 4

customers, NEFCOM's interests are substantially affected by the outcome of the Commission's Proposed Agency Action. Additionally, this proceeding is the type of proceeding designed to protect NEFCOM's substantial interests. Accordingly, NEFCOM requests that the Commission deny SSI's Motion to Dismiss NEFCOM's Petition and conduct a formal administrative proceeding on SSI's amended applications for CLEC, AAV and IXC certificates.

Discussion

Though there is considerable discussion in the pleadings of both parties on matters other than standing, we believe standing to be both the threshold and dispositive issue for consideration in this proceeding. The controlling case for determining standing remains Agrico Chemical Co. v. Dept. of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2nd DCA 1981). According to the Agrico test, a party must show: (1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, Florida Statutes, hearing; and (2) that his substantial injury is of a type or nature which the proceeding is designed to protect. Id. at 482. NEFCOM has not alleged any direct injury that it will, in fact, incur by virtue of this Commission allowing the amendment of SSI's existing certificates. Instead, NEFCOM argues potential and speculative injury, based on the alleged lack of competence of SSI. Thus, in order to preclude possible future injury resulting from its dealings with such a company, NEFCOM is urging that the amended certificates be disallowed. Furthermore, it is alleging potential competitive harm in that it will have to continue to compete with SSI.

Conjecture about future economic detriment is too remote to establish standing. Commission Order No. PSC-98-0702-FOI-TP, issued May 20, 1998, at p. 15, citing Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997) (threatened viability of plant and possible relocation do not constitute injury in fact of sufficient immediacy to warrant a Section 120.57, Florida Statutes hearing), citing Florida Society of Ophthalmology v. State Board of Optometry, 532 So. 2d 1279, 1285 (Fla. 1st DCA 1988) (some degree of loss due to economic competition is not of sufficient immediacy to establish standing). See also Order No. PSC-96-0755-FOF-EU; citing Order No. PSC-95-0348-FOF-GU, March 13, 1995; International Jai-Alai Players Assoc. v. Florida Pari-Mutuel Commission, 561 So. 2d 1224, at 1225-1226 (Fla. 3rd DCA 1990); and Village Park Mobile Home Association, Inc. v. State, Dept. of Business Regulation, 506 So. 2d 426, 434 (Fla. 1st DCA 1987), rev. denied, 513 So. 2d 1063 (Fla. 1987) (speculations on the possible occurrence of injurious events are too remote to warrant inclusion in the administrative review process). Therefore, we find that NEFCOM fails to meet the standing criteria established by prong one of Agrico.

Though NEFCOM's Response references proceedings under both Sections 364.335 and 364.337, Florida Statutes, Section 364.335 is not, in any way, applicable to the discussion of the present issue. Only Section 364.337, F.S., contains the applicable criteria, as well as the standard of review, for the subject certificates. This provision does not appear to contemplate consideration of the type of intercarrier and competitive issues raised by NEFCOM. Thus, arguably, NEFCOM also fails the second prong of the Agrico test. Again, the Agrico test requires that both prongs be met. Thus, failure of either prong is sufficient to deny standing.

ORDER NO. PSC-05-1027-FOF-TP
DOCKET NO. 050363-TP
PAGE 5

Decision

Accordingly, NEFCOM's concerns regarding the future relationship between itself and SSI do not establish NEFCOM's standing to seek relief through this proceeding. Therefore, we grant SSI's Motion to Dismiss Protest, because NEFCOM has failed to demonstrate standing by not identifying certain specific injuries it would suffer as a result of the granting of SSI's amended applications. Additionally, Order No. PSC-05-0734-PAA-TP shall be deemed a final order effective as of the date of our vote on this matter.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Southeastern Services, Inc.'s Motion to Dismiss Protest is hereby granted. It is further

ORDERED that Proposed Agency Action Order No. PSC-05-0734-PAA-TP shall be deemed a final order effective as of the date of our vote on this matter.

By ORDER of the Florida Public Service Commission this 20th day of October, 2005.

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

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. Go to the Commission's Web site,
<http://www.floridapsc.com> or fax a request to 1-850-413-
7118, for a copy of the order with signature.

(SEAL)

LF

ORDER NO. PSC-05-1027-FOF-TP
DOCKET NO. 050363-TP
PAGE 6

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

akt f u h e

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

January 4, 2006

Kenneth A. Hoffman, Esquire
Martin P. McDonnell, Esquire
Rutledge, Ecenia, Purnell & Hoffman, P.A.
215 South Monroe Street, Suite 420
Tallahassee, Florida 32301

**Re: Northeast Florida Telephone Company vs. Lisa Polak Edgar, et al.
Supreme Court Case No. SC05-2138 (Docket No. 050363-TP)**

Dear Mr. Hoffman:

Enclosed is the index to the above-referenced docket on appeal. Please look the index over and let me know if you have any questions concerning the contents of the record.

The record will be filed with the Court on or before March 6, 2006.

Sincerely,

Kay Flynn, Chief
Bureau of Records

KF:mhl

cc: Benjamin H. Dickens, Jr., Esquire
David E. Smith, Esquire
Marlene K. Stern, Esquire
Suzanne Fannon Summerlin, Esquire

I N D E X

**Northeast Florida Telephone Company
vs.
Lisa Polak Edgar, Chairman, et al.
FPSC Docket No. 050363-TP
Supreme Court Case No. SC05-2138**

VOLUME 1

Progress Docket1

Request to establish docket, by Florida Public Service Commission’s (“Commission”) staff,
filed May 19, 20054

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and Enforcement to Commission Clerk and Administrative Services with attached letters
from Deborah Nobles, Northeast Florida Telephone Company (“NEFCOM”); Dale Buys,
Commission; and Suzanne Fannon Summerlin, Southeastern Services, Inc. (“SSI”), filed
June 20, 20055

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VOLUME 2

NEFCOM's response in opposition to SSI's motion to dismiss NEFCOM's protest of proposed agency action order and petition for formal administrative hearing, filed September 12, 2005	200
NEFCOM's request for oral argument, filed September 12, 2005	209
Order PSC-05-0944-PCO-TP granting SSI's motion to accept late-filed motion to dismiss NEFCOM's protest, issued September 27, 2005	212
Memorandum dated October 6, 2005 from Commission's Division of Competitive Markets and Enforcement and Office of the General Counsel to Commission Clerk and Administrative Services, filed October 6, 2005.....	215
Order PSC-05-1027-FOF-TP granting motion to dismiss protest, issued October 20, 2005	221
Transcript of agenda conference, Item No. 10, held October 18, 2005 in Tallahassee, filed October 25, 2005	227
Commission's payment record of \$2,500.00 settlement received from SSI, filed November 2, 2005.....	255
NEFCOM's notice of administrative appeal, filed November 16, 2005	257
Supreme Court of Florida acknowledgment of new case, Case No. SC05-2138, filed December 6, 2005	267
Certificate of Director, Division of the Commission Clerk and Administrative Services.....	273

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

March 6, 2006

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

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MAR 6 PM 2:20

**Re: Supreme Court Case No. SC05-2138 – Northeast Florida Telephone Company
vs. Braulio L. Baez, Chairman, et al. (Docket No. 050363-TP)**

Dear Mr. Hall:

The record in the above-referenced case, consisting of two bound volumes, is forwarded for filing in the Court. A copy of the index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt.

Do not hesitate to call me at 413-6744 if you have any questions concerning the contents of this record.

Sincerely,

Handwritten signature of Kay Flynn.

Kay Flynn,
Chief of Records

KF:mhl

Enclosure

cc: Kenneth Hoffman, Esquire
Martin P. McDonnell, Esquire
Benjamin H. Dickens, Jr., Esquire
Suzanne Fannon Summerlin, Esquire
David Smith, Office of the General Counsel
Marlene K. Stern, Office of the General Counsel

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Handwritten signature of the recipient, likely Lisa Polak Edgar.

DATE

3/6/06

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW



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Public Service Commission

March 6, 2006

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215 South Monroe Street, Suite 420
Tallahassee, Florida 32301

**Re: Supreme Court Case No. SC05-2138 – Northeast Florida Telephone Company
vs. Braulio L. Baez, Chairman, et al. (Docket No. 050363-TP)**

Dear Mr. Hoffman:

I have enclosed an invoice reflecting charges for preparation of the above-referenced record. Please forward a check in the amount indicated, made payable to the Florida Public Service Commission, at your earliest convenience.

Do not hesitate to call if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records

KF:mhl
Enclosure

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd. ♦ Tallahassee, Florida 32399-0850

Date: 3/6/06

10206

To: Kenneth A. Hoffman, Esquire
 Rutledge, Ecenia, Purnell & Hoffman, P.A.
 215 South Monroe Street, Suite 420
 Tallahassee, Florida 32301

Date Paid _____

Amount Paid _____

Check # _____

Check Cash

PSC Signature _____

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 This number must appear on
 all checks or correspondence
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QUANTITY	DESCRIPTION	PRICE	AMOUNT
273 pages	Copying and preparation of Docket 050363-TP on appeal to Supreme Court, Case No. SC05-2138.	@ .05¢ per page	\$13.65
1	Certificate of Director		4.00

PSC/CCA 008-C Rev. 10/01

TOTAL	\$17.65
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Kay Flynn,
Chief of Records

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Martin P. McDonnell, Esquire
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Suzanne Fannon Summerlin, Esquire
David Smith, Office of the General Counsel
Marlene K. Stern, Office of the General Counsel

I N D E X

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Certificate of Director, Division of the Commission Clerk and Administrative Services.....273

Marguerite Lockard

From: Marguerite Lockard
Sent: Monday, March 13, 2006 10:14 AM
To: 'sbharvey@suzannesummerlinattorney.com'
Subject: Appeal Index - Docket No. 050363-TP
Attachments: ix050363.doc

Ms. Summerlin,

attached to this e-mail is the appeal index for Docket No. 050363-TP.

If you need any further information, please feel free to contact me.

Marguerite Lockard
850-413-6824

sbharvey@
suzannesummerlin
com
please e-mail
index for 050363
attorney