

State of Florida



Public Service Commission

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DATE: April 10, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Competitive Markets & Enforcement (Curry) *KLC*
Office of the General Counsel (McKay, Poblete) *of VSM AT [signature]*

RE: Docket No. 080162-TI – Acknowledgment of registration as intrastate interexchange telecommunications company, effective March 18, 2008, by NCOM Networks, LLC.

AGENDA: 04/22/08 – 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\080162.RCM.DOC

Case Background

After receiving a customer complaint, staff determined that NCOM Networks, LLC (NCOM) was providing prepaid calling services in Florida and had not registered as an intrastate interexchange telecommunications company (IXC) or filed a tariff with the Commission. Staff made several attempts to contact the company; however, NCOM failed to respond. On December 14, 2007, Docket No. 070711-TI, was established to address the company's failure to register and file a tariff.

By Order No. PSC-08-0082-PAA-TI, issued February 12, 2008, the Commission imposed a penalty against NCOM Networks, LLC in the amount of \$25,000 for its apparent

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violation of Rule 25-24.470, Florida Administrative Code (F.A.C.). After the order was issued, NCOM contacted staff to discuss the matter. At that time, staff informed the company of its option to protest the order.

On March 7, 2008, NCOM protested the order. However, the protest was received after the 21 day protest period. In addition to the protest, NCOM also proposed a settlement offer to resolve the company's apparent violation of Rule 25-24.470, F.A.C. After receiving the protest and proposed settlement offer, staff contacted NCOM and informed the company that since the protest was received after the protest period had ended that the Consummating Order would be issued as scheduled. On March 10, 2008, Order No. PSC-08-0147-CO-TI, was issued making Order No. PSC-08-0082-PAA-TI, final and effective.

NCOM was notified of its requirement to register and file a tariff with the Commission, if the company planned to continue providing prepaid calling services in Florida. Staff also informed the company that its proposed settlement offer was not consistent with offers that the Commission has previously accepted in similar dockets and requested that the company revise the offer. On March 18, 2008, the company registered and filed a tariff with the Commission and on April 1, 2008, the company submitted a revised settlement offer. The customer complaint was also resolved.

The Commission is vested with jurisdiction over these matters pursuant to Sections 364.02, 364.04, and 364.285, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission accept NCOM Networks, LLC's proposed settlement offer to make a voluntary contribution in the amount of \$7,500 to resolve the apparent violation of Rule 25-24.470, F.A.C., and acknowledge the company's registration as an intrastate interexchange telecommunications company, effective March 18, 2008?

Recommendation: Yes, the Commission should accept NCOM Networks, LLC's proposed settlement offer to make a voluntary contribution in the amount of \$7,500 to resolve the apparent violation of Rule 25-24.470, F.A.C., and acknowledge the company's registration as an intrastate interexchange telecommunications company, effective March 18, 2008. **(Curry, McKay, Poblete)**

Staff Analysis: As mentioned in the case background, after receiving NCOM's protest of Order No. PSC-08-0082-PAA-TI, issued February 12, 2008, staff contacted the company. At that time, staff notified the company that the protest would not be accepted because it was received after the protest period. Staff also informed the company of its requirement to register and file a tariff with the Commission and requested that the company submit a revised settlement offer to resolve the apparent rule violation.

On March 18, 2008, NCOM registered as an IXC and filed a tariff with the Commission. After reviewing the information, staff determined that the documents received met the requirements of Section 364.02(13), Florida Statutes, and assigned NCOM IXC Registration No. TK196. On April 1, 2008, staff received a proposed settlement offer from NCOM to resolve the company's apparent violation of Rule 25-24.470, F.A.C.

To resolve the matter, NCOM has proposed to make a voluntary contribution in the amount of \$7,500 to be made in four equal monthly payments of \$1,875 each. NCOM Networks, LLC shall submit the first payment of \$1,875 no later than May 1, 2008. Each subsequent payment shall be due on the 1st day of each month thereafter until the balance is paid in full. The company has also resolved the customer complaint and has agreed to timely respond to all future Commission inquiries.

NCOM's proposed settlement offer is consistent with settlement offers that the Commission has approved in similar dockets. In Docket No. 020664-TI, Re: Compliance investigation of bigredwire.com, Inc. for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, the Commission approved a settlement offer of \$7,500 to resolve the company's apparent violation of Rule 25-24.470, F.A.C.

Therefore, staff recommends that the Commission accept NCOM Networks, LLC's proposed settlement offer to make a voluntary contribution in the amount of \$7,500 to resolve the apparent violation of Rule 25-24.470, F.A.C., and acknowledge the company's registration as an intrastate interexchange telecommunications company, effective March 18, 2008.

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Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation in Issue 1, this docket should remain open pending the receipt by the Commission of the four monthly payments of \$1,875, for a total of \$7,500. The payments should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of each payment, the Commission shall forward the contribution to the Division of Financial Services to be deposited into the General Revenue Fund. NCOM Networks, LLC shall submit the first payment of \$1,875 no later than May 1, 2008. Each subsequent payment shall be due on the 1st day of each month thereafter until the balance is paid in full. If the 1st of a given month is on a weekend or holiday, the payment shall be due on the next business day. If the company fails to submit one of its payments, the company's IXC Registration No. TK196 shall be removed from the registry and the company's tariff shall be cancelled. If the company's IXC Registration No. TK196 is removed from the registry and the company's tariff is cancelled the company should be required to immediately cease and desist providing telecommunications services in Florida. This docket should be closed administratively if NCOM Networks, LLC timely submits all payments and pays the \$7,500 settlement in full or upon the removal of the company's registration and cancellation of its tariff. **(McKay, Poblete)**

Staff Analysis: Staff recommends that the Commission take actions as set forth in the above staff recommendation.