

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BLVD. LEVEL 8
TALLAHASSEE, FLORIDA 32399-0850

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

COMMISSION
CLERK

DATE: September 8, 2011
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Kiwanis L. Curry, Regulatory Analyst III, Division of Regulatory Analysis
RE: Docket No. 110100-TX

KLC

Please add the attached to the docket file.

DOCUMENT NUMBER-DATE
06439 SEP-8 =
FPSC-COMMISSION CLERK

May 9th, 2011

Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

To Whom It May Concern:

As you are aware, North County Communications has been an approved CLEC in Florida since 2000; however, we are not in operation because of anti-competitive behavior on the part of Verizon. Specifically, Verizon has refused to interconnect with North County under the same terms and conditions that they interconnect with other CLECs in Florida. Unfortunately, due to the high cost of current and previous lawsuits we have been forced to file against Verizon in order to compel Verizon to meet its legal and regulatory obligations, the company cannot afford to fight Verizon in Florida at this time.

Recently we sent in a form saying we were not in operation in Florida, but we failed to submit a check with the form. Subsequently, the Commission required us to pay the fee and resubmit another application to restore us to good standing.

The purpose of this e-mail is to correct inadvertent non-disclosures on that resubmitted form. While NCC believes the few issues concerned are immaterial to NCC's continual ability to operate as a CLEC in Florida, I felt it was important to disclose the company's omissions to the Commission, and thus, contacted staff as soon as I discovered the mistakes.

When we resubmitted the application, we simply copied the applications from 2000. Because of this, the application didn't include all our accomplishments since that time.

First, we only listed a subset of all the states in which we operate and/or are approved to operate as a CLEC.

The re-application didn't include, on the list provided, that we also operate as a CLEC in Illinois, West Virginia and Utah, nor did it disclose that we are also approved to operate as a CLEC in Missouri, New York, New Jersey, Pennsylvania and Virginia.

Second, sadly, John Moore passed away and his resume was inadvertently included in the list. John's duties were outsourced several years ago, so his absence has not effected our operations in any of the states where we operate.

Finally, we didn't include a list that of actions in which we have been forced to sue other carriers for non-payment of reciprocal compensation and access fees.

DOCUMENT NUMBER-DATE

06439 SEP-8 =

FPSC-COMMISSION CLERK

I would like to take this opportunity to explain the reasons for the inadvertent non-disclosures. Unfortunately, we are in litigation with companies that have hundreds of thousands of employees and virtually unlimited resources. So far we have received two judgments against Verizon in the past decade. In West Virginia and Illinois, the State Commissions ruled that Verizon used its monopoly status to delay our entry into the respective markets. Verizon has literally told us to "T-Up" and take them to court in every jurisdiction that we want to enter. This is a very time consuming and expensive proposition.

I am including a copy of the judgment we received in Illinois and a few e-mails to show you the type of anti-competitive behaviors we are dealing with.

We plan on filing a complaint against Verizon with the Florida Commission after our Federal Court date.

Staff has forwarded to me three cases where other carriers in Florida failed to disclose information to the Commission. In all three of those cases, the carriers' intent to mislead the Commission was clear. If the applicant had disclosed this information to staff, I suspect they wouldn't have been approved. This doesn't appear to be the case concerning North County Communications. If anything, we understated our ability to operate.

Clearly, we were not taking the necessary steps, as we do in states we are operational, to ensure compliance in States that we were non-operational but still had authority to operate. I take full responsibility for these non-disclosures on the resubmitted application and have taken steps to insure that it doesn't happen again. For instance, we have retained the Law Offices of Dale Dixon to ensure future compliance. While this is not an excuse, I would like to point out that we have been operating as a CLEC for over twelve years. In the states we are operational, we have never had a formal complaint filed against with any Commission by any customer or another carrier. This track record clearly shows we have the technical and managerial experience to operate as a CLEC in Florida.

Thank you for your courtesy and cooperation.

Sincerely,

Todd Lesser
President
North County Communications Corporation

FLORIDA PUBLIC SERVICE COMMISSION

DIVISION OF REGULATORY ANALYSIS

APPLICATION FORM

for

**AUTHORITY TO PROVIDE COMPETITIVE LOCAL EXCHANGE
TELECOMMUNICATIONS COMPANY SERVICE
WITHIN THE STATE OF FLORIDA**

Instructions

- A. This form is used as an application for an original certificate and for approval of sale, assignment or transfer of an existing certificate. In the case of a sale, assignment or transfer, the information provided shall be for the purchaser, assignee or transferee (See Page 8).
- B. Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
- C. Use a separate sheet for each answer which will not fit the allotted space.
- D. Once completed, submit the original and one copy of this form along with a non-refundable application fee of **\$400.00** to:

**Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770**
- E. A filing fee of **\$400.00** is required for the sale, assignment or transfer of an existing certificate to another company (Chapter 25-24.815, F.A.C.).
- F. If you have questions about completing the form, contact:

**Florida Public Service Commission
Division of Regulatory Analysis
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6600**

1. This is an application for (check one):

Original certificate (new company).

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority rather than apply for a new certificate.

Approval of assignment of existing Certificate: Example, a certificated company purchases an existing company and desires to retain the existing certificate of authority and tariff.

2. Name of company: North County Communications Corporation

3. Name under which applicant will do business (fictitious name, etc.):

4. Official mailing address:

Street/Post Office Box: 3802 Rosecrans Street #485
City: San Diego
State: Ca
Zip: 92110

5. Florida address:

Street/Post Office Box: 17888 67th Court North
City: Loxahatchee
State: Florida
Zip: 33470

6. Structure of organization:

Individual
 Foreign Corporation
 General Partnership
 Other,

Corporation
 Foreign Partnership
 Limited Partnership

7. **If individual**, provide:

Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

8. **If incorporated in Florida**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:

9. **If foreign corporation**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is: S00000005747

10. **If using fictitious name (d/b/a)**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida. The Florida Secretary of State fictitious name registration number is:

11. **If a limited liability partnership**, please proof of registration to operate in Florida. The Florida Secretary of State registration number is:

12. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.

Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

13. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable. The Florida registration number is:

14. Provide **F.E.I. Number**(if applicable):

15. Who will serve as liaison to the Commission in regard to the following?

(a) The application:

Name: Todd Lesser
Title: President
Street name & number: 3802 Rosecrans Street #485
Post office box:
City: San Diego
State: Ca
Zip: 92110
Telephone No.: +1 619-364-4750
Fax No.: +1 619-364-4710
E-Mail Address: todd@nccom.com
Website Address: www.nccom.com

(b) Official point of contact for the ongoing operations of the company:

Name: Todd Lesser
Title: President
Street name & number: 3802 Rosecrans Street #485
Post office box:
City: San Diego
State: Ca
Zip: 92110
Telephone No.: +1 619-364-4750
Fax No.: +1 619-364-4710
E-Mail Address: todd@nccom.com
Website Address: www.nccom.com

(c) Complaints/Inquiries from customers:

Name: Todd Lesser
Title: President
Street/Post Office Box: 3802 Rosecrans Street #485
City: San Diego
State: Ca
Zip: 92110
Telephone No.: +1 619-364-6933
Fax No.: +1 619-364-4710
E-Mail Address: support@nccom.com
Website Address: www.nccom.com

16. List the states in which the applicant:

(a) has operated as a Competitive Local Exchange Telecommunications Company.

California since 1998
Oregon since 1998
Washington 1998
Arizona 1999
Illinois since 2001
West Virginia 2000
Utah 2005

(b) has applications pending to be certificated as a Competitive Local Exchange Telecommunications Company.

N/A

(c) is certificated to operate as a Competitive Local Exchange Telecommunications Company.

NCC is approved but non-operational due to Verizon's refusal to interconnect under the same terms and conditions they are interconnected with other CLEC's in the respective states:

Florida
Texas
Missouri
New York
New Jersey
Pennsylvania
Iowa
Virginia

Currently operational:

California since 1998
Oregon since 1998
Washington 1998
Arizona 1999
Illinois since 2001
West Virginia 2000
Utah 2005

(d) has been denied authority to operate as a Competitive Local Exchange Telecommunications Company and the circumstances involved.

N/A

(e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

N/A

(f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

See attached

17. Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent (and not had his or her competency restored), or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation.

N/A

(b) granted or denied a competitive local exchange certificate in the State of Florida (this includes active and canceled competitive local exchange certificates). If yes, provide explanation and list the certificate holder and certificate number.

N/A

(c) an officer, director, partner or stockholder in any other Florida certificated or registered telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

N/A

18. Submit the following:

(a) Managerial capability: resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.

(b) Technical capability: resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.

(c) Financial Capability: applicant's audited financial statements for the most recent three (3) years. If the applicant does not have audited financial statements, it shall so be stated. Unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

1. the balance sheet,
2. income statement, and
3. statement of retained earnings.

Note: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

THIS PAGE MUST BE COMPLETED AND SIGNED

REGULATORY ASSESSMENT FEE: I understand that all telephone companies must pay a regulatory assessment fee. Regardless of the gross operating revenue of a company, a minimum annual assessment fee, as defined by the Commission, is required.

RECEIPT AND UNDERSTANDING OF RULES: I acknowledge receipt and understanding of the Florida Public Service Commission's rules and orders relating to the provisioning of competitive local exchange telecommunications company (CLEC) service in Florida.

APPLICANT ACKNOWLEDGEMENT: By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide competitive local exchange telecommunications company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, **"Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."**

Company Owner or Officer

Print Name: Todd Lesser
Title: President
Telephone No.: +1 619-364-4750
E-Mail Address: todd@nccom.com

Signature: _____

Date: _____

CERTIFICATE SALE, TRANSFER,
OR
ASSIGNMENT STATEMENT

As current holder of Florida Public Service Commission Certificate Number _____, I have reviewed this application and join in the petitioner's request for a

- sale
- transfer
- assignment

of the certificate.

Company Owner or Officer

Print Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:

Signature: _____

Date: _____

The following cases have been filed by North County Communications (“NCC”). Each is/was an action to collect unpaid switched access and reciprocal compensation charges.

Federal Court Actions

1. *NCC v. Cal. Catalog & Tech., et al.*, S.D. Cal., Case No. 3:06-cv-01542-LAB-RBB (filed 08/01/06; **closed 11/02/10**)
2. *NCC v. McLeodUSA Telecommunications Svcs., et al.*, D. Ariz., Case No. 2:09-cv-02063-GMS (filed 09/30/09; **closed 05/03/10**)
3. *NCC v. Cricket Communications, Inc. et al.*, D. Ariz., Case No. 2:09-cv-02623-NVW (filed 12/17/09; **closed 06/16/10**)
4. *NCC v. Sprint Spectrum, L.P., et al.*, S.D. Cal., Case No. 3:09-cv-02782-DMS –RBB (filed 12/14/09; **closed 11/01/10**)
5. *NCC v. Allegiance Telecom Int’l, Inc., et al.*, D. Ore., Case No. 3-10-cv-00180-PK (filed 02/18/10; **closed 11/01/10**)
6. *NCC v. United States Cellular Corp., et al.*, D. Ore., Case No. 3-10-cv-00181-PK (filed 02/18/10; **closed 10/27/10**)
7. *NCC v. AT&T Corp.*, S.D. Cal., Case No. 3:10-cv-00200-BEN-WMC (filed 01/26/10; **closed 05/26/10**)
8. *NCC v. Verizon Select Services, Inc., et al.*, S.D. Cal., Case No. 3:08-cv-01518-AJB – WMC (filed 08/18/08; **pending**)
9. *NCC v. Sprint Communications Co., L.P.*, S.D. Cal., Case No. 3:09-cv-02685-AJB-WMC (filed 11/30/09; **pending**)

State Court Actions

1. *NCC v. 360Networks (USA) Inc., et al.*, Circuit Court of Ore., Multnomah County, Case No. 1001-00546 (**pending**)
2. *NCC v. A+ Wireless, Inc., et al.*, Superior Court of Cal., San Diego County, Case No. 37-2008-00075605-CU-BC-CTL (filed 01/11/08; **closed**)
3. *NCC v. AT&T Wireless (OCNS 6010, 6672, and 6340)*, Superior Court of Cal., San Diego County, Case No. 37-2008-00075605-CU-BC-CTL (filed 01/11/08; **closed**)
4. *NCC v. Telscape Communications, Inc., et al.*, Superior Court of Cal., San Diego County, Case No. 37-2009-00099882-CU-BC-CTL (filed 10/06/09; **pending**)
5. *NCC v. Sprint Spectrum LP*, Superior Court of Cal., San Diego County, Case No. 37-2009-00099736-CU-BC-CTL (filed 10/05/09; **closed**)
6. *NCC v. Vaya Telecom, Inc.*, Superior Court of California, San Diego County, Case No. 37-2011-00083845-CU-BC-CTL (filed 01/14/11; **pending**)

Federal Communications Commission Action

1. *NCC v. MetroPCS*, FCC, File No. EB-06-MD-007 (decision released 11/19/09), MetroPCS appeal pending before the USDC, D.D.C.