

**Diamond Williams**

**From:** Kim Hancock [khancock@kagmlaw.com]  
**Sent:** Wednesday, October 26, 2011 1:57 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Pauline Robinson; Adam Teitzman; Toni Earnhart; Beth Salak; Vicki Gordon Kaufman  
**Subject:** Docket No. 100373-TX, Settlement Offer  
**Attachments:** Settlement Offer 10.26.11.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

Vicki Gordon Kaufman  
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[vkaufman@kagmlaw.com](mailto:vkaufman@kagmlaw.com)

b. This filing is made in Docket No. 100373-TX.

c. The document is filed on behalf of New Talk, Inc.

d. The total pages in the document are 5 pages.

e. The attached document is Settlement Offer.

Kim Hancock  
[khancock@kagmlaw.com](mailto:khancock@kagmlaw.com)



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**DOCUMENT NO.    DATE**  
 07893-11    10/26/11  
**FPSC - COMMISSION CLERK**

10/26/2011



Keefe, Anchors  
Gordon & Moyle

VIA ELECTRONIC MAIL

October 26, 2011

Ms. Ann Cole, Commission Clerk  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Request for transfer of and name Change on CLEC Certificate 8467 held by New Talk, Inc., to Telecom Ventures, LLC d/b/a Dialtone Ventures, LLC, effective August 9, 2010, Docket No. 100373-TX

Dear Ms. Cole:

The following proposed settlement offer is filed in response to the issues Staff raised in its recommendation in this docket dated September 8, 2011. This settlement offer is made in good faith in an attempt to settle this matter. The Commission has often commented that settlement of disputes is a valuable and efficient way in which to handle contested matters. The Commission has encouraged parties to engage in settlement or mediation as an efficient, cost-effective way to settle disputes.

**Background**

New Talk, Inc. (New Talk) is a CLEC which holds Certificate No. 8467. On August 9, 2010, New Talk filed a request to transfer Certificate No. 8467 to Telecom Ventures, LLC d/b/a Dialtone Ventures, LLC (Telecom Ventures). The transfer request was originally placed on the Consent Agenda for January 25, 2011. One day before the Agenda Conference, AT&T filed an objection to the request and the item was deferred.

New Talk responded to AT&T's objection. The item was then deferred several times and on September 8, 2011, Staff filed a recommendation recommending that the transfer not be approved and that New Talk's certificate be cancelled.

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New Talk was very surprised at the recommendation and requested that it be deferred so that New Talk could meet with Staff and discuss the recommendation. The meeting with Staff occurred on September 28, 2011. At this meeting, New Talk explained its concerns with the recommendation. New Talk further noted that cancellation of a certificate is the harshest remedy available to the Commission; in New Talk's view, such action is not warranted in the circumstances of this case. Nonetheless, New Talk recognizes the importance of compliance with all regulatory requirements and does not attempt to minimize Staff's concerns. It is further recognized that failure to comply with Commission rules and statutes can ultimately result in certificate cancellation. Via this settlement offer, New Talk hopes to reach a reasonable resolution of all issues.

### **Staff Recommendation**

Many of the issues Staff has raised have to do with confusion and errors related to the names of the three brothers who have had involvement with several telecommunications companies. These errors were simply clerical mistakes. There are three Young brothers – Brandon, Brian and Byron.<sup>1</sup> Unfortunately, the similarity of the names has resulted in errors at times. As discussed below, New Talk<sup>2</sup> (and Telecom Ventures) have personnel and consultants engaged who will ensure that no further confusion ensues when applications or other filings are made. In addition, on October 5, 2011, New Talk updated all contact information at the Commission to be sure it was accurate.

Staff also alleges that ET Telephone, Inc. (ET) failed to respond to notices regarding its regulatory assessment fee. Ultimately ET's certificate was cancelled. During the time that the Commission received no response to its inquiries, ET was not owned by any of the Youngs. Rather, Brandon Young sold the company to Nelda Burger on July 19, 2001.<sup>3</sup> And in fact, the docket entries in Docket No. 011294-TX show that correspondence regarding the past due fee was sent to the new President of ET, Ms. Nelda Berger. Thus, no responsibility rested with Brandon Young at the time of cancellation.

The most serious matter Staff alleges is that Seven Bridges Communications, LLC (Seven Bridges), owned in part by Byron Young at the time, failed to respond to the Commission's competitive data request. Seven Bridges' certificate was cancelled and it was fined \$10,000 for its failure to respond. During this time, Byron Young was involved with the company and was listed as its president; however, as explained to Staff, Byron Young was in an investor position only and

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<sup>1</sup> There is no Bryon Young. This appears to be a misspelling.

<sup>2</sup> New Talk is owned by Ambient Ventures, LLC. The owners of Ambient Ventures, LLC are Brian Young, Byron Young and Brandon Young.

<sup>3</sup> The docket entries in Docket No. 011294-TX show that the docket was opened on September 27, 2001. The proposed agency action (PAA) order was issued on December 12, 2001. The final order was entered on January 1, 2002. All of these events occurred *after* the company was sold.

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was not actually involved in the day-to-day running of the company. All Commission inquiries and forms were forwarded to the other owner to complete. That owner (not one of the Young brothers) failed to do so.

Byron Young understands that the situation should have been handled differently and that these regulatory duties should not have been delegated. This situation will not occur again due to the regulatory team now in place at New Talk.

New Talk recognizes the critical nature of promptly and accurately responding to all Florida Commission requirements and inquiries as well as to other state and federal regulatory agencies. Therefore, it engaged Judith Riley on March 10, 2010 to assist New Talk in this regard. Ms. Riley has substantial experience in telecommunications regulatory matters. Ms. Riley will continue in that role with Telecom Ventures. Ms. Riley's business address is:

Judith A. Riley, Esq.  
Telecom Professionals, Inc. (TCI)  
5909 Northwest Expressway, Suite 403  
Oklahoma, OK 73132

TCI prepares all tax and regulatory reports for New Talk in all states in which New Talk is licensed to do business. TCI's responsibilities include filing the following types of reports: state and local sales, use, utility, telecommunications, excise, gross receipts and other similar taxes remitted to the revenue departments and imposed upon the usage of telecommunications services by end users; federal excise tax deposits and reports; and reports to governmental and quasi-governmental agencies assigned administration of the various telecommunications surcharge and assessment funds, including High Cost Funds, Universal Service Funds, Carrier Fee Reports, State 911 Surcharges, Telecom Relay System Surcharges, Telecom Infrastructure Funds and various other state commission surcharges and assessments.

New Talk also uses the consulting services of Bobbi Ferguson and her firm. Ms. Ferguson's business address is:

Visi Consulting Services, LLC  
1130 University Boulevard, Suite B9, # 253  
Tuscaloosa, AL 35401

New Talk has worked with Ms. Ferguson and her firm since 2008. Visi Consulting assists New Talk with the preparation and filing of federal and state Lifeline reimbursement filings, including all USAC filings. Ms. Ferguson will continue in that role with Telecom Ventures.

In addition, Mr. Brian Steeg is the current New Talk Chief Financial Officer. Mr. Steeg prepares all financials for the company and works closely with Ms. Riley, Ms. Ferguson and

Whitley Penn, a mid-sized accounting firm. Mr. Steeg will perform similar functions for Telecom Ventures.

All regulatory matters are calendared by Ms. Riley and by Ms. Ferguson. In addition, New Talk is advised by its outside counsel, Mark Foster. Finally, and most importantly, Mr. Brian Young will have the ultimate responsibility for ensuring that all regulatory obligations are met.

Last, Staff appears to draw a negative inference from the fact that New Talk withdrew its application for ETC certification. As explained to Staff, when the first ETC application was filed, New Talk had only a resale agreement. New Talk needed a full interconnection agreement to become an ETC and thus withdrew its application.

The second ETC application was filed in November 2008. New Talk subsequently fully responded to Staff's 44 data requests, including data requests related to Seven Bridges and ET. No action was taken on the application for many months. By the time a recommendation was issued, the market had changed and New Talk withdrew the application to focus its resources elsewhere. Withdrawal of the application was done with permission of the Commission and there should be no negative inference attached to it. Thus, New Talk takes strenuous exception to Staff's statement that New Talk has not been forthcoming with information. New Talk fully responded to all Staff data requests.

#### **Future Plans**

It is currently Telecom Ventures' intention to implement a facilities-based wireline offering in Florida that would be marketed to low income consumers and to seek ETC designation. Telecom Ventures hopes to work closely with Staff to accomplish this.

#### **Settlement Offer**

Nonetheless, and without admitting any liability or wrong doing, and in an attempt to amicably resolve this matter, the following settlement offer is made. The amounts involved are \$983.66 for the ET matters and \$11,991.82 for the Seven Bridges matters. These amounts represent all fees outstanding for ET and Seven Bridges, including penalties and interest. New Talk will ensure that these amounts are paid within whatever time period is directed by the Commission if this settlement is approved in its entirety.

These amounts are offered in full and complete settlement of this matter. Within whatever time period is directed by the Commission following issuance of a final non-appealable order in this docket, a voluntary contribution will be made to the General Revenue Fund in the amount of \$12,975.48. Such voluntary payment is conditioned upon the Commission's agreement to not cancel New Talk's certificate and to approve the transfer of that certificate to Telecom Ventures.

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Thank you for your assistance and for your consideration of this offer.

Sincerely,

  
Vicki Gordon Kaufman

Counsel for New Talk

cc: Pauline Robinson  
Adam Teitzman  
Beth Salak  
Toni Earnhart  
Mark Foster  
Brian Young