

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

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COMMISSION  
CLERK

**DATE:** September 6, 2012

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of Telecommunications (Earnhart, Casey) *re PC*  
Office of the General Counsel (Robinson) *PER AT BMS*

**RE:** Docket No. 120147-TX – Request for cancellation of Certificate of Necessity No. 8252 by Midwestern Telecommunications, Incorporated, effective April 27, 2012.

**AGENDA:** 09/18/12 - 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\TEL\WP\120147.RCM.DOC

### Case Background

By Order PSC-02-1683-PAA-TX, issued December 3, 2002, the Florida Public Service Commission (PSC or Commission) granted Competitive Local Exchange Company (CLEC) certificate No. 8252 to Midwestern Telecommunications Inc. (MTI).<sup>1</sup> By Order PSC-06-0750-PAA-TX, issued September 5, 2006, the PSC designated MTI as an Eligible Telecommunications Carrier (ETC) in the State of Florida.<sup>2</sup> On April 27, 2012, MTI filed a notice of cancellation of its CLEC Certificate in the State of Florida. On May 4, 2012, MTI filed

<sup>1</sup> Docket No. 020323-TX, In Re: Application for certificate to provide alternative local exchange telecommunications service by Midwestern Telecommunications, Incorporated.

<sup>2</sup> Docket No. 060399-TX, In Re: Petition for designation as eligible telecommunications carrier (ETC) by Midwestern Telecommunications Inc.

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a notice of relinquishment of its designation as an ETC in the state of Florida. MTI noted that it is no longer providing telephone service in Florida. This recommendation addresses MTI's two notices.

The Commission is vested with jurisdiction in this matter pursuant to Section 364.336, Florida Statutes and 47 CFR §54.205.

### **Discussion of Issues**

**Issue 1:** Should the Commission acknowledge MTI's notice of cancellation of its CLEC Certificate No. 8252 and relinquish its ETC designation?

**Recommendation:** Yes, the Commission should acknowledge MTI's notice of cancellation of its CLEC Certificate No. 8252 and relinquish its ETC designation in Florida. (Earnhart, Casey, Robinson)

**Staff Analysis:** Section 364.335(3), Florida Statutes, provides that a certificate of authority may be terminated by a telecommunications company by submitting notice to the Commission. On April 27, 2012, MTI filed its notice of cancellation of its Florida CLEC Certificate with the Commission.

Section 364.336(1), Florida Statutes, requires that each telecommunications company licensed or operating for any part of a year shall pay regulatory assessment fees to the Commission. Since MTI's request was filed April 27, 2012, MTI is responsible for paying regulatory assessment fees for April 2012. MTI paid the minimum \$600 regulatory assessment fee for 2012 on August 8, 2012, to fulfill this requirement.

Federal rules allow an ETC to relinquish its ETC designation. 47 CFR §54.205 provides that:

A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission of such relinquishment.

The PSC designated MTI as an ETC in AT&T's non-rural wire centers. Multiple ETCs serve this area at the present time. On May 4, 2012, MTI filed its request to relinquish its designation as an ETC in the state of Florida.

47 CFR §54.205(b) provides that:

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

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The requirement in 47 CFR §54.205(b) to protect existing customers is moot in this instance since MTI has indicated it has no customers. Therefore, staff recommends that the Commission acknowledge MTI's notice of cancellation of its CLEC Certificate No. 8252 and relinquish its ETC designation in Florida.

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**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Robinson)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.