

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: November 18, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler)
Office of the General Counsel (Rockette-Gray)

RE: Docket No. 040985-TI – Compliance investigation of EO Telecom of Florida, LLC for apparent violation of Section 364.336, F.S.

AGENDA: 11/30/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040985.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission accept the settlement offer proposed by EO Telecom of Florida, LLC to resolve the apparent violation of Section 364.336, Florida Statutes?

Recommendation: Yes. (Isler; Rockette-Gray)

Staff Analysis: See attached proposed Order.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission. **(Rockette-Gray)**

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of EO Telecom of Florida, LLC for apparent violation of Section 364.336, Florida Statutes.	DOCKET NO. 040985-TI ORDER NO. ISSUED:
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The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

The Division of the Commission Clerk & Administrative Services advised our staff that EO Telecom of Florida, LLC had not paid the Regulatory Assessment Fee required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2003. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for 2003 had not been paid. The company was scheduled to remit its 2003 Regulatory Assessment Fees by January 30, 2004. In addition, on June 10, 2004, our staff wrote the company and advised that payment of the 2003 Regulatory Assessment Fees should be paid by July 2, 2004, to avoid a docket from being established.

Pursuant to Section 364.336, Florida Statutes, intrastate interexchange telecommunications companies (IXCs) must pay a minimum annual Regulatory Assessment Fee (RAF) of \$50 if the registration was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for registration receive a copy of our rules governing intrastate interexchange telecommunications company (IXC) service.

After the docket was established, EO Telecom of Florida, LLC contacted our staff and advised that the 2003 Regulatory Assessment Fee return form was never received for its IXC registration. The company did, however, receive the 2003 Regulatory Assessment Fee return form for its competitive local exchange certificate (CLEC) and subsequently paid it. In addition, the company has since paid the 2003 fee, along with statutory late payment charges, for its IXC

registration. Further, it appears that it is possible a 2003 return form was not sent to the company for its IXC registration. EO Telecom of Florida, LLC received its IXC registration on December 29, 2003, and its CLEC certification on November 10, 2003. Staff believes that there is a reasonable doubt a notice may not have been mailed to the company for its IXC registration.

Due to the extenuating circumstances, we believe that EO Telecom of Florida, LLC should be allowed to comply with Commission rules, Florida Statutes, and Commission Orders on a going-forward basis and that it would serve no purpose to penalize EO Telecom of Florida, LLC. The company proposed to pay future fees on a timely basis.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.02, and 364.285, Florida Statutes. We believe that the terms of the settlement agreement represent a fair and reasonable resolution of this docket. Accordingly, we hereby accept the settlement offer.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that EO Telecom of Florida, LLC's settlement proposal summarized in the body of this Order is hereby approved. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this _____ day of _____, _____.

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

(S E A L)

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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.