

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 940145-TI
certificate to provide) ORDER NO. PSC-94-1219-FOF-TI
interexchange telecommunications) ISSUED: October 5, 1994
service as multi-location)
discount aggregator by NATIONAL)
800 EXPRESS, INC.)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING APPLICATION FOR A CERTIFICATE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On February 8, 1994, National 800 Express, Inc. (NEI) applied for a Certificate of Public Convenience and Necessity to operate in Florida as an interexchange telephone company providing multi-location discount aggregator services. Pursuant to Section 364.33, Florida Statutes, and Rule 25-24.470, Florida Administrative Code, all interexchange telephone companies operating in Florida must have a certificate.

NEI's application does not meet our standard filing requirements as found in Rule 25-24.485, Florida Administrative Code, Tariffs. We have given NEI ample time to file an appropriate tariff and comply with our Rules. NEI has not responded to our correspondence.

Furthermore, NEI is a foreign corporation but it has not registered with the Secretary of State, Division of Corporations, to transact business in Florida. Our application requires companies to provide proof of authorization to conduct business in

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Florida. Rule 25-24.471, Florida Administrative Code, Application for a Certificate, requires applicants to submit an application to be considered for a certificate. NEI has not completed the application and has failed to comply with that Rule.

Based on NEI's failure to comply with our Rules, we find it would not be in the public interest to grant NEI a certificate. Accordingly, NEI's application is denied.

This docket will be closed following the expiration of the period specified in the Notice of Further Proceedings or Judicial Review section of this Order unless an appropriate petition is filed by one whose substantial interests may or will be affected by this proposed agency action, as provided in Rules 25-22.029 and 25-22.036(7)(a), Florida Administrative Code.

It is, therefore,

ORDERED by the Florida Public Service Commission that National 800 Express, Inc.'s application for a Certificate of Public Convenience and Necessity to provide interexchange telecommunications service is denied. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this order shall become effective and this docket shall be closed on the following date.

By ORDER of the Florida Public Service Commission, this 5th day of October, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay DeLeon
Chief, Bureau of Records

(S E A L)

LMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 26, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.