

**Marguerite McLean**

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**From:** Dale Dixon [dale@daledixonlaw.com]  
**Sent:** Monday, October 10, 2011 3:09 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Kiwanis Curry; cecilia.bradley@myfloridalegal.com; Pauline Robinson; bcasey@pas.state.fl.us; kelly.jr@leg.state.fl.us  
**Subject:** Electronic Filing - Docket No. 110100-TX  
**Attachments:** FLPSC\_Petition.pdf; ATT128092.txt



*FLPSC\_PeATT128092.pdf (119 K) | txt (276 B)*

*a. Person responsible for filing:*

*R. Dale Dixon, Jr.  
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*b. Docket No. 110100-TX*

*In re: Compliance investigation of North County Communications Corporation for apparent failure to accurately disclose information on application*

*c. Document filed on behalf of North County Communications Corporation ("NCC").*

*d. The document consists of a total of three (3) pages.*

*e. The document is a Petition for Formal Proceeding and Hearing, and seeks a formal proceeding and hearing to avoid a consummating order related to Order No. PSC-11-0405-PAA-TX, which would revoke NCC's certificate in Florida. In addition, the Petition includes a settlement proposal for resolution of the matter.*

*Thank you for your attention to this matter.*

DOCUMENT NUMBER-DATE

07404 OCT 10 =

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Compliance investigation of North ) DOCKET NO. 110100-TX  
County Communications Corporation for ) ORDER NO. PSC-11-0405-PAA-TX  
apparent failure to accurately disclose ) ISSUED: September 23,2011  
information on application. )

**PETITION OF NORTH COUNTY COMMUNICATIONS CORPORATION  
FOR FORMAL PROCEEDING AND HEARING**

**I. INTRODUCTION AND SUMMARY**

Pursuant to Rule 28-106.201, Florida Admin. Code, North County Communications Corp. ("NCC" or "Petitioner") hereby objects to the action proposed by the Commission in Order No. PSC-11-0405-PAA-TX ("Proposed Order") issued September 23, 2011. NCC requests a formal proceeding and hearing pursuant to Section 120.57, Florida Stat. NCC is also open to mediating the matter and submits the settlement proposal explained herein.

**II. PETITIONER IDENTIFICATION AND AFFECTED AGENCY**

Petitioner NCC, a California corporation, with principal offices at 3802 Rosecrans Avenue, Suite 485, San Diego, California 92110 (tel: 619.364.4750), operates as a competitive local exchange carrier ("CLEC") pursuant to state certifications granted in, among other states, California, Oregon, Washington, Arizona, and Illinois. NCC's corporate contact is Todd Lesser, President & CEO. In addition, NCC's representative and regulatory/legal counsel is R. Dale Dixon, Jr., Law Offices of Dale Dixon, 7316 Esfera Street, Carlsbad, California 92009 (tel: 760.452.6661).

The agency affected by this matter is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

**III. PETITIONER'S INTEREST & NOTICE OF PROPOSED ORDER**

NCC's substantial interests will be affected by consummation of the Proposed Order because the Proposed Order revokes NCC's carrier certification in Florida. NCC received notice of the Commission's Proposed Order via email after the Proposed Order was issued.

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**IV. DISPUTED MATERIAL FACTS & NCC'S CONTENTIONS**

While Petitioner does not dispute certain facts (e.g., delayed regulatory assessment fee payments and inclusion of incorrect information with its application renewal materials), NCC contends that the errors were ministerial and inadvertent, and were not intended to conceal information from or mislead the Commission or Staff. In addition, NCC inadvertently omitted cites to pending litigation because the litigation consists of collection matters in which NCC is attempting, as Plaintiff, to collect call termination fees owed by other carriers.

NCC was in the process of negotiating a resolution of the matter and was surprised to receive a Proposed Order. When NCC last spoke to Staff, Mr. Lesser was under the impression that a final proposal would be agreed to, under which NCC would (i) make a one-time payment to the State's General Fund in the amount of \$2,500 and (ii) implement a more reliable system of calendar checks and ticklers to ensure future compliance with Commission filing and payment deadlines.

**V. REQUESTED RELIEF: REVERSAL OF THE PROPOSED ORDER**

NCC does not deny that it missed the Commission's payment deadlines, and NCC sincerely regrets its lack of oversight with respect to those obligations. The omissions and inadvertent inclusions were a result of submitting attachments from previous Florida filings. The previously submitted attachments were reattached because NCC, which has not begun operations in Florida (in large part due to the nationwide anti-competitive behaviors of Verizon), did not immediately recognize that any changes were warranted. NCC immediately corrected its filing when the problems were brought to its attention.

Based on cases provided to NCC by Staff, more egregious examples of noncompliance have resulted in approved applications, and NCC respectfully requests that the Commission allow NCC the same opportunity to improve its filing compliance.

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**VI. SETTLEMENT PROPOSAL**

NCC is committing financial and human resources to ensure future compliance with the Commission's filing and payment deadlines. NCC has retained regulatory counsel (see above Sec. II) with 16+ years of telecom corporate, regulatory and litigation experience. Counsel will monitor closely NCC's calendar system and create a triple calendar system that consists of paper calendars, electronic calendar reminder systems, and a third-party calendar to be maintained and monitored by NCC's counsel.

In addition, NCC proposes to make a one-time voluntary payment to the State General Fund in the amount of \$2,500. Prior to the release of the Proposed Order, Staff indicated that such an amount would be appropriate in light of the circumstances in this case.

**VII. CONCLUSION**

NCC looks forward to launching successful CLEC operations in Florida and maintaining an excellent relationship with the Commission and Staff, and to that end, NCC requests that the Commission not consummate the Proposed Order, and instead, reinstate NCC's certification and accept NCC's proposed settlement and assurances of future compliance.

Respectfully submitted,

s/R. Dale Dixon, Jr.  
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Counsel for North County Communications Corp.

s/Todd Lesser  
Todd Lesser, President & CEO  
North County Communications Corp.

Dated: October 10, 2011

DOCKET NO. 110100-TX  
ORDER NO. PSC-11-0405-PAA-TX  
PETITION OF NCC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery this 10<sup>th</sup> day of October, 2011, to the following:

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