

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

APRIL 20, 1999

RE: DOCKET NO. 990306-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5236 issued to New Concept Communications, LLC. for violation of Rules 25-4.043, F.A.C., Response to Commission Staff Inquiries, and 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

Issue 1: Should the Commission impose a \$10,000 fine or cancel NCC's Interexchange Telecommunications Certificate No. 5236 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

Recommendation: Yes. The Commission should impose a \$10,000 fine for failure to respond to the Commission or cancel certificate number 5236 issued to NCC within 5 business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the Commission's Order is not protested and the fine is not received, certificate number 5236 should be canceled.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures in majority column]

[Empty lines for dissenting signatures]

REMARKS/DISSENTING COMMENTS:

[Handwritten marks/initials under remarks section]

DOCUMENT NUMBER-DATE

05049 APR 21 99

FPSC-RECORDS/REPORTING

VOTE SHEET

APRIL 20, 1999

DOCKET NO. 990306-TI - Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5236 issued to New Concept Communications, LLC. for violation of Rules 25-4.043, F.A.C., Response to Commission Staff Inquiries, and 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Issue 2: Should the Commission impose a \$500 fine or cancel NCC's Interexchange Telecommunications Certificate No. 5236 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

Recommendation: Yes. The Commission should impose a \$500 fine or cancel NCC's certificate number 5236 if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the Commission's Order is not protested and the fine and the regulatory assessment fees, including statutory penalties and interest are not received, certificate number 5236 should be canceled.

APPROVED

Issue 3: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of NCC's certificate, this docket should be closed.

APPROVED



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-

RECORDS AND
REPORTING

59 APR -2 PM 4:06

RECEIVED-FPSC

DATE: April 8, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (MCCOY) *mm*
DIVISION OF LEGAL SERVICES (PEÑA) *mmf MCB*

RE: DOCKET NO. 990306-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5236 ISSUED TO NEW CONCEPT COMMUNICATIONS, LLC FOR VIOLATION OF RULES 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES, AND 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 04/20/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: I:\PSC\CMU\WP\990306TI.RCM

CASE BACKGROUND

- New Concept Communications, LLC.(NCC) was granted a Florida Public Service Commission Interexchange Telecommunications certificate number 5236 on October 7, 1997.
- The Division of Communications received a request from the Division of Consumer Affairs to research a complaint registered against NCC for non-response to Commission inquiries.
- The Division of Communications was provided a copy of a certified letter sent November 30, 1998 by the Division of Consumer Affairs and the certified letter was signed for by NCC. Staff letter did not receive a response from NCC. (Attachment A)

DOCUMENT NUMBER-DATE

04311 APR-29

FPSC-RECORDS/REPORTING

- Staff attempted unsuccessfully to reach NCC by calling the telephone number listed for NCC in the Master Commission Directory. This number had a recorded message stating, "This Company was put into receivership by the Federal Trade Commission on November 20, 1998. It is not known if this company will reopen." Staff attempted to fax a letter to NCC at the fax number listed for NCC in the Master Commission Directory. The fax number had been disconnected.
- On March 10, 1999, staff was notified by the Division of Administration that NCC had not submitted its regulatory assessment fees for 1997 or 1998.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$10,000 fine or cancel NCC's Interexchange Telecommunications Certificate No. 5236 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should impose a \$10,000 fine for failure to respond to the Commission or cancel certificate number 5236 issued to NCC within 5 business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the Commission's Order is not protested and the fine is not received, certificate number 5236 should be canceled. (McCoy)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, requires a reply to an inquiry by the Commission to be furnished in writing within (15) days of the Commission inquiry. The United States Post Office returned the receipt which showed the mail was signed for and received. The Company's telephone number is still in service, but has a recorded message indicating "receivership status" and the company fax number has been disconnected. Staff is unaware of another existing telephone number or forwarding address for NCC. Accordingly, staff recommends the Commission assess a \$10,000 fine for failure to comply with Commission rules or cancel certificate number 5236 if the fine is not paid within the specified time.

DOCKET NO. 990306-TI
DATE: APRIL 8, 1999

ISSUE 2: Should the Commission impose a \$500 fine or cancel NCC's Interexchange Telecommunications Certificate No. 5236 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel NCC's certificate number 5236 if the fine and the regulatory assessment fees, including statutory penalties and interest are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the Commission's Order is not protested and the fine and the regulatory assessment fees, including statutory penalties and interest are not received, certificate number 5236 should be canceled. (McCoy)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

On March 10, 1999, staff learned that NCC had not submitted the regulatory assessment fees for the years 1997 and 1998, along with the statutory penalties and interest charges. NCC has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Staff recommends the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 5236 if the fine and the regulatory assessment fees, along with the statutory penalties and interest, are not paid within the specified time.

DOCKET NO. 990306-TI
DATE: APRIL 8, 1999

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of NCC's certificate, this docket should be closed. (Pefia)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue's 1 and 2, then NCC will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and receipt of the required information or upon cancellation of NCC's certificate.

Thank you for using Return Receipt Service.

SENDER:
-Complete items 1 and/or 2 for additional services.
-Complete items 3, 4a, and 4b.
-Print your name and address on the reverse of this form so that we can return this card to you.
-Attach this form to the front of the mailpiece, or on the back if space does not permit.
-Write "Return Receipt Requester" on the mailpiece below the article number.
-This Return Receipt will allow you to return the article was returned and the date delivered.

3. Article Addressed to:
Ms. Christian Hunter
New Concept Communications, LLC
Suite 'C'
1421 State Street
Santa Barbara, CA 93101

4a. Article Number
425 629 863

4b. Service Type
 Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery

5. Received By: (Print Name)
X BY: *Wayne Schmitt*

6. Signature: (Print Name)
X BY: *Wayne Schmitt*

8. Addressee's Address (Only if requested and fee is paid)

1. Addressee's Address
2. Restricted Delivery
Consult postmaster for fee.

I also wish to receive the following services (for an extra fee):

PS Form 3811, December 1994

Domestic Return Receipt

Is your RETURN ADDRESS completed on the reverse side?