

State of Rhode Island and Providence Plantations

Public Utilities Commission

Minutes of Open Meeting Held December 2, 2004

Attendees: Chairman Elia Germani, Commissioner Kate Racine, Commissioner Robert Holbrook, Steve Frias, Cindy Wilson, Thomas Massaro, Alan Nault, Douglas Hartley and Luly Massaro.

Chairman Germani called the open meeting to order at 2:00 PM in the first-floor hearing room of the Public Utilities Commission.

Minutes of Open Meetings held on November 23, 2004: After review, Chairman Germani moved to approve the minutes. The motion was seconded by Commissioner Holbrook and passed. **Vote 2-0.** Commissioner Racine abstained because she did participate at this open meeting.

Competitive Telecommunications Service Providers:

The following company registered for authority to operate as telecommunications service provider in RI. The Division has reviewed the registration and recommends approval of: 2262(R19) – AccessLine Communications Corp.

After review, Chairman Germani asked for a motion and Commissioner Racine moved to approve the registration. The motion was seconded by Commissioner Holbrook and unanimously passed. **Vote 3-0.**

The following companies submitted tariff filings. The Division has reviewed the tariff filings and does not recommend suspension of:

2618 – AT&T Communications of NE (tariffs filed 11/15, 11/18 & 11/19/04)

2472 – Sprint Communications (tariffs filed 11/17/04)

3059 – Broadview Networks, Inc. (tariffs filed 11/15/04)

2262(L) – AmeriVision Communications (tariffs filed 11/19/04)

After review, the Commission followed the Division's recommendation that the tariff filings be allowed to go into effect without suspension.

The following company notified that it has ceased operations and requested that its authority to operate be cancelled:

2449 – Brooks Fiber Communications of RI, Inc.

After review, Chairman Germani asked for a motion and Commissioner Racine moved to cancel and rescind the authority of the company. The motion was seconded by Commissioner Holbrook and unanimously passed. **Vote 3-0.**

Cancellation of Authority to Provide Telecommunications Services in RI:

"Regulations and Fee Schedules for Telecommunications Providers" sets forth annual assessment fees for telecommunications providers for costs incurred by the Commission and Division in docketing, investigation, and decision-making. These annual fees are due each July 1. Failure to comply with these regulations results in the revocation of

authority to operate in this state. The Division filed a recommendation that the authority to operate of the following telecommunication carriers be cancelled and rescinded for non-payment of annual registration fee:

2872 – ACC Telecommunications, LLC

3170 – CityNet Telecom, Inc.

3322 – Dark Air Corp.

3143 – Essex Communications

3572 – EZ Talk Communications, Inc.

3450 – ICG Telecom Group, Inc.

3449 – NOW Communications, Inc.

3184 – Premiere Network Services, Inc.

3133 – Transbeam, Inc.

2262(O16) – 1 COM Inc.

2262(Y11) – Blackstone Communications Co.

2262(H17) – Choice Telco, LLC

2262(K9) – Communications Billing, Inc.

2262(Z15) – Direct ONE, LLC

2262(D10) – HJN Telecom, Inc.

2262(J14) – JirehCom, Inc.

2262(C15) – Long Distance Billing Services, Inc.,

2262(Z1) – QAI, Inc.

2262(E3) – RCN Long Distance Co.

2262(H9) – Telephone Co. of Central Florida, Inc.

2262(N11) – The Free Network, LLC

2262(L13) – WebNet Communications, Inc.

2262(Y15) – World Communications Satellite Systems, Inc.

After review, Chairman Germani asked for a motion and Commissioner Racine moved to cancel and rescind the authority for the companies for non-payment of their annual telecommunications service provider registration fee. The motion was seconded by Commissioner Holbrook and unanimously passed. **Vote 3-0.**

3651 - Narragansett Bay Commission (NBC): Commissioner Holbrook noted that when he became aware that the NBC Board would be considering adoption of a proposed defined benefit pension plan for its non-union employees, he indicated at a hearing, that the NBC Board defer action until the PUC has reviewed and is satisfied that the new plan will not cause a burden on the ratepayers. The Division transmitted a similar request to Board. Regardless of the two requests, on November 17, 2004 the NBC Board adopted the plan effective January 1, 2005. Commissioner Holbrook opined that his request to the NBC Board was fair and reasonable on this significant change. Commissioner Racine opined that out of concern for our position, NBC should have postponed action on the plan.

Commissioner Holbrook expressed concerns with the following issues relating to the proposed plan:

- The necessity of enhancing the pension plan for its non-union employees (approximately 120).

- The affordability of the proposed defined benefit plan. Recent examples strongly indicates that such plans can be unaffordable and exceed retirement benefits typically provided.
- Approval of the plan created at least a \$2.9 million unfunded liability, while NBC's ratepayers are faced with the tremendous increases necessary to pay for the CSO project.
- The risk on ratepayers, and the extent to which improved benefits in the future would increase the cost of the program, although NBC maintains that the proposed plan will not impact rates the first year.

Commissioner Holbrook stated more information should be obtained on the plan and on the process used by the NBC board to review and implement the plan. He stated that additional information on the plan should be obtained through data requests to NBC.

After discussion, Commissioner Holbrook moved to: 1) open a docket to initiate an investigation into the reasonableness, necessity, and prudence of NBC's adoption of a defined benefit pension plan for its non-union employees; 2) retain a consultant with a background in pension benefits and possibly an actuary to assist the Commission in its review of the pension plan; and 3) schedule a hearing to review the information and assess the reasonableness and necessity for the proposed pension plan. Commissioner Racine concurred and seconded the motion. Chairman Germani abstained, opining that the implementation of the plan is a management prerogative and that the Commission can investigate the plan when NBC comes in for a rate increase and asks for increased pension costs. **Vote 2-0.**

Commissioners Racine and Holbrook agreed to transmit correspondence to the Board Members requesting that they reconsider their decision and not go forward with the new plan until the PUC has examined the plan. Additionally, the PUC will seek a legal opinion from the Attorney General about seeking an injunction to stay the Board's decision.

The open meeting adjourned at 3:20 P.M.