

YOUNG, VAN ASSENDERP & VARNADOE, P. A.  
ATTORNEYS AT LAW

REPLY TO:

R. BRUCE ANDERSON  
TASHA O. BUFORD  
DAVID L. COOK\*  
DAVID B. ERWIN  
C. LAURENCE KEESEY  
ANDREW I. SOLIS  
KENZA VAN ASSENDERP  
GEORGE L. VARNADOE  
ROY C. YOUNG

August 5, 1996

GALLIE'S HALL  
225 SOUTH ADAMS STREET, SUITE 200  
POST OFFICE BOX 1833  
TALLAHASSEE, FLORIDA 32302-1833  
TELEPHONE (904) 222-7206  
TELECOPIER (904) 561-6834

SUNTRUST BUILDING  
801 LAUREL OAK DRIVE  
SUITE 300  
POST OFFICE BOX 7907  
NAPLES, FLORIDA 33941-7907  
TELEPHONE (941) 597-2814  
TELECOPIER (941) 597-1060

\*BOARD CERTIFIED REAL ESTATE LAWYER

960886-TL

ACK \_\_\_\_\_ Ms. Blanca S. Bayo, Director  
AFA \_\_\_\_\_ Division of Records and Reporting  
APP \_\_\_\_\_ Florida Public Service Commission  
CAF \_\_\_\_\_ 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

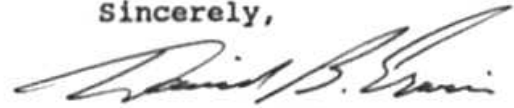
CMU \_\_\_\_\_  
CTR \_\_\_\_\_ In re: Joint Petition for the Approval of the Transfer of  
EAC \_\_\_\_\_ Controlling Stock Interest in Northeast Florida  
Telephone Company, Inc. and Motion for Waiver of Rule

LET \_\_\_\_\_ Dear Ms. Bayo:

Enclosed please find an original and 15 copies of the Joint  
Petition for the Approval of the Transfer of Controlling Stock  
Interest in Northeast Florida Telephone Company, Inc. and Motion  
for Waiver of Rule. Copies have been provided to persons listed on  
the certificate of service.

WAS \_\_\_\_\_  
OTH \_\_\_\_\_

Sincerely,



David B. Erwin

DBE:akh  
Enclosures  
cc: Leon Conner

RECEIVED & FILED  
  
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER - DATE  
08178 AUG-5 96  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition for )  
the approval of the transfer )  
of controlling stock interest )  
in Northeast Florida Telephone )  
Company, Inc. )  
\_\_\_\_\_ )

Docket No.

Filed: August 5, 1996

JOINT PETITION FOR THE APPROVAL OF THE  
TRANSFER OF CONTROLLING STOCK INTEREST IN  
NORTHEAST FLORIDA TELEPHONE COMPANY, INC.  
AND MOTION FOR WAIVER OF RULE

Pursuant to Section 364.33, Florida Statutes, Northeast Florida Telephone Company (Northeast) and NEFCOM, Inc. hereby jointly petition for approval of the transfer of all of the issued and outstanding stock of Northeast to NEFCOM, Inc. and, in support of their joint petition, state as follows:

1. The names and addresses of Petitioners are:

NEFCOM, Inc.	Northeast Florida Telephone Company
130 North Fourth Street	130 North Fourth Street
Macclenny, Florida 32063	Macclenny, Florida 32063

All notices, orders and correspondence to either of the Joint Petitioners should be addressed to: David B. Erwin, Young, van Assenderp & Varnadoe, P.A., 225 S. Adams Street, Suite 200, Tallahassee, Florida 32301.

2. Northeast is a small local exchange telephone company which has not elected price regulation. Northeast is a rate base, rate of return regulated company. The company provides local exchange service in most of Baker County, Florida, including service to the city of Macclenny. Northeast holds Certificate of Public Convenience and Necessity #20, issued by the Florida Public Service Commission (FPSC). Northeast has issued and outstanding

2,135 shares of common stock of a par value of \$10.00 per share.  
The following individuals own all of the shares of Northeast:

Gladys R. Walker  
Leon Conner  
Linda S. Combs  
Fred Paul Conner

3. NEFCOM, Inc. is a Florida Corporation that was incorporated by Gladys R. Walker on February 14, 1996, for the purpose of acting as a holding company to own Northeast, the regulated local exchange company, and to facilitate taking advantage of business opportunities in the unregulated telecommunications field and in related industries. A copy of the Articles of Incorporation of NEFCOM, Inc. is attached hereto as Attachment A.

4. On April 8, 1996, Northeast and NEFCOM, Inc. and the stockholders of Northeast executed an "Agreement and Plan of Reorganization." The "Agreement and Plan of Reorganization" is attached hereto as Attachment B. The intent of and purpose for the plan of reorganization is to qualify as a tax-free reorganization under Section 368(a)(1)(B) of the Internal Revenue Code of 1986. The affected parties sought a private letter ruling from the IRS that would confirm the tax free nature of the reorganization. The IRS refused, since the IRS recently adopted a procedure that precludes rulings in cases where the law and regulations are well defined. In lieu of an IRS ruling, the parties have obtained an opinion letter from the C.P.A. firm of Frederick & Warriner. A copy of the opinion letter is attached as Attachment C. It

indicates that the reorganization should qualify as a tax-free reorganization.

5. Under the plan of reorganization, all of the issued and outstanding stock of Northeast shall be acquired by NEFCOM, Inc. in exchange solely for voting stock of NEFCOM, Inc. Pursuant to the plan of reorganization, the stock of Northeast may not be transferred unless approval for such transfer is granted by the FPSC, pursuant to Section 364.33, Florida Statutes, as reflected by an FPSC order duly issued or by an administrative determination by FPSC staff, if authorized.

6. NEFCOM, Inc. does not propose any change to the name of Northeast, to the tariffs of Northeast or to the scope of service offered. No change in key operating personnel or management is anticipated, although management will be centralized in NEFCOM, Inc. NEFCOM, Inc. anticipates continued successful operation and management of the local exchange telephone business of Northeast in a manner that is transparent to the customers of Northeast.

7. NEFCOM, Inc. will not purchase any assets of Northeast, and there will be no request for any acquisition adjustment. There will be no transfer of Northeast's Certificate #20. This petition constitutes request for approval of a corporate reorganization of the sort allowed by Section 207(c)(3) of the FPSC Administrative Procedures Manual to be approved by the Director of the Division of Records and Reporting in coordination with the Division of Communications and the Division of Legal Services.

8. The Joint Petitioners do not believe that Rule 25-4.005,

F.A.C., applies to this case because there is no proposed change in the geographic service area or the customers served, nor is there any transfer of the certificate of Northeast. Nevertheless, in an attempt to substantially comply with the rule, NEFCOM, Inc. will give notice of the proposed stock exchange, as follows:

a. Advertisements in a newspaper of general circulation in Baker County will be published twice during the month of August, 1996, as soon as possible after the filing of this Petition. A copy of the proposed advertisement is attached as Attachment D. Proof of publication will be filed when available.

b. Notice will be sent to each municipality in the Northeast service territory in the month of August, 1996, as soon as possible after the filing of this Petition, and an affidavit that the notice was sent will be supplied, along with a copy of the notice, after notice has been given.

c. Notice to customers will be mailed to each customer as soon as possible after the filing of this petition. A copy of the proposed notice is attached as Attachment E, and an affidavit that the notice was mailed will be supplied after the mailing has been accomplished.

d. Notice has been given to Public Counsel through service of a copy of this Joint Petition.

9. The joint petitioners believe that furnishing notice as described above in paragraph 8 will achieve substantial compliance with the provisions of Rule 25-4.005, F.A.C., and that compliance

with that portion of the rule that would require providing the Commission with the name and address of each subscriber to whom notice was mailed would serve no useful purpose and would be burdensome and expensive. Consequently, the Joint Petitioners move that the Commission waive that portion of Rule 25-4.005(1)(c) that requires furnishing a list of names and addresses to the Commission.

WHEREFORE and in consideration of the above, Northeast Florida Telephone Company and NEFCOM, Inc. request that the Commission find that the stock exchange proposed by the parties, which would place the controlling stock interest of Northeast Florida Telephone Company in NEFCOM, Inc., instead of individual shareholders, is not inconsistent with the public interest, and the Joint Petitioners request that the Commission approve the plan of reorganization and transfer of controlling stock interest, pursuant to Section 364.33, Florida Statutes.

Respectfully submitted,



David B. Erwin  
Young, van Assenderp & Varnadoe, P.A.  
P. O. Box 1833  
Tallahassee, Florida 32302

Attorney for the Joint Petitioners

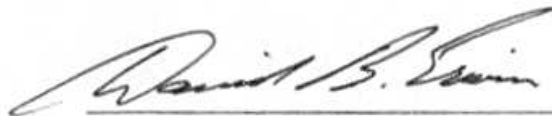
CERTIFICATE OF SERVICE  
DOCKET NO.

I HEREBY CERTIFY that a true copy of the foregoing Joint Petition for the Approval of the Transfer of Controlling Stock Interest in Northeast Florida Telephone Company, Inc. and Motion for Waiver or Rule has been furnished by U.S. Mail or by hand delivery this 5th day of August, 1996 to the following:

Jack Shreve  
Office of Public Counsel  
111 West Madison Street  
Suite 812  
Tallahassee, Florida 32301

Rob Vandiver, General Counsel  
Florida Public  
Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Walter D'Haeseleer, Director  
Division of Communications  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850



David B. Erwin

tih\nefcom\petition



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

February 14, 1996

YOUNG LAW FIRM  
222-7206  
TALLAHASSEE, FL

The Articles of Incorporation for NEFCOM, INC. were filed on February 14, 1996 and assigned document number P96000014016. Please refer to this number whenever corresponding with this office regarding the above corporation. The certification you requested is enclosed.

**PLEASE NOTE: COMPLIANCE WITH THE FOLLOWING PROCEDURES IS ESSENTIAL TO MAINTAINING YOUR CORPORATE STATUS. FAILURE TO DO SO MAY RESULT IN DISSOLUTION OF YOUR CORPORATION.**

**A CORPORATION ANNUAL REPORT MUST BE FILED WITH THIS OFFICE BETWEEN JANUARY 1 AND MAY 1 OF EACH YEAR BEGINNING WITH THE CALENDAR YEAR FOLLOWING THE YEAR OF THE FILING DATE NOTED ABOVE AND EACH YEAR THEREAFTER. FAILURE TO FILE THE ANNUAL REPORT ON TIME MAY RESULT IN ADMINISTRATIVE DISSOLUTION OF YOUR CORPORATION.**

**A FEDERAL EMPLOYER IDENTIFICATION (FEI) NUMBER MUST BE SHOWN ON THE ANNUAL REPORT FORM PRIOR TO ITS FILING WITH THIS OFFICE. CONTACT THE INTERNAL REVENUE SERVICE TO RECEIVE THE FEI NUMBER IN TIME TO FILE THE ANNUAL REPORT AT 1-800-829-3676 AND REQUEST FORM SS-4.**

**SHOULD YOUR CORPORATE MAILING ADDRESS CHANGE, YOU MUST NOTIFY THIS OFFICE IN WRITING, TO INSURE IMPORTANT MAILINGS SUCH AS THE ANNUAL REPORT NOTICES REACH YOU.**

Should you have any questions regarding corporations, please contact this office at the address given below.

Dana Farmer, Document Specialist  
New Filings Section

Letter Number: 696A00006562

Division of Corporations - P.O. BOX 6327 -Tallahassee, Florida 32314

ATTACHMENT A



# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of NEFCOM, INC., a Florida corporation, filed on February 14, 1996, as shown by the records of this office.

The document number of this corporation is P96000014016.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capitol, this the  
Fourteenth day of February, 1996



CR2EO22 (2-95)

*Sandra B. Northam*

Sandra B. Northam  
Secretary of State

ARTICLES OF INCORPORATION  
OF  
NEFCOM, Inc.

\* \* \* \*

FILED  
96 FEB -14 PM 3:31  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ARTICLE I

CORPORATE NAME AND PRINCIPAL OFFICE ADDRESS

The name of this corporation is NEFCOM, Inc. The address of the principal office of this Corporation shall be 130 North Fourth Street, Macclenny, Florida 32063-0485.

ARTICLE II

NATURE OF BUSINESS AND POWERS

The general nature of the business to be transacted by this Corporation is to engage in the telecommunications business, including the ownership of companies that provide radio or telecommunications services of any kind, and to engage in any and all business permitted under the laws of the State of Florida.

ARTICLE III

CAPITAL STOCK

This Corporation is authorized to issue and have outstanding at any one time 3000 shares of common stock, having a par value of \$10.00 per share.

ARTICLE IV

TERM OF EXISTENCE

This Corporation shall have perpetual existence commencing upon filing of these Articles.

ARTICLE V

REGISTERED AGENT AND INITIAL REGISTERED OFFICE

The Registered Agent and the street address of the initial registered office of this Corporation in the State of Florida shall be:

Leon Conner  
130 North Fourth Street  
Macclenny, FL 32063-0485

ARTICLE VI

BOARD OF DIRECTORS

This Corporation shall have one (1) Director initially. The number of Directors may be increased or diminished from time to time by Bylaws adopted by the Stockholders, but shall never be less than one.

ARTICLE VII

INITIAL DIRECTOR

The name and street address of the initial Director of this Corporation is:

Gladys R. Walker  
130 North Fourth Street  
Macclenny, FL 32063-0485

The person named as initial Director shall hold office for the first year of existence of this Corporation, or until the successor is elected and appointed and has qualified, whichever occurs first.

ARTICLE VIII

INCORPORATOR

The name and street address of the person signing these Articles of Incorporation as the Incorporator is:

Gladys R. Walker  
130 North Fourth Street  
Macclenny, FL 32063-0485

ARTICLE IX

AMENDMENT


These Articles of Incorporation may be amended in the manner provided by law. Every amendment shall be approved by the Board of Directors, proposed by them to the Stockholders and approved at a Stockholders' meeting by at least a majority of the stock entitled to vote, unless all of the Directors and all of the Stockholders sign a written statement manifesting their intention that a certain amendment of these Articles of Incorporation be made.

ARTICLE X

PREEMPTIVE RIGHTS

Every shareholder, upon the sale for cash or any new stock of this Corporation of the same kind, class or series as that which he already holds, shall have the right to purchase his pro rata share (as nearly as may be done without issuance of fractional shares) at the price at which it is offered to others.

IN WITNESS WHEREOF, the undersigned has executed the foregoing Articles of Incorporation this 12th day of February, 1996.

  
\_\_\_\_\_  
Gladys R. Walker, Incorporator

**ACCEPTANCE OF REGISTERED AGENT  
DESIGNATED IN ARTICLES OF INCORPORATION**

Leon Conner, an individual residing in this state having a business office identical with the registered office of the corporation named below, and having been designated as the Registered Agent in the above and foregoing Articles of Incorporation of NEFCOM, Inc. is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

  
Leon Conner  
Registered Agent

swp\NEFCOM.aol

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96 FEB -14 PM 3:31  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

AGREEMENT AND PLAN OF REORGANIZATION

AGREEMENT AND PLAN OF REORGANIZATION, dated as of April 8, \_\_\_\_\_, 1996, among NEFCOM, Inc., a Florida corporation, hereinafter called NEFCOM, Northeast Florida Telephone Co., Inc., a Florida corporation, hereinafter called Northeast; and Gladys R. Walker, Leon Conner, Linda S. Combs and Fred Paul Conner, hereinafter called the Shareholders.

1. Business purpose of reorganization. Northeast is a local exchange telephone company. Northeast is regulated by both the Federal Communications Commission and the Florida Public Service Commission. In order to take advantage of business opportunities in the regulated local exchange environment and in unregulated related industries, the Shareholders of Northeast recognized that separate corporations to conduct unregulated business needed to be formed, along with a holding company for these corporations and for the corporation that will continue to conduct regulated local exchange business. Consequently, on or about February 12, 1996, NEFCOM was formed by the Shareholders of Northeast to serve as a holding company.

2. Plan of reorganization. The Shareholders are owners of all of the issued and outstanding stock of Northeast, which consists of 2,135 shares of common stock of the par value of \$10.00 per share. It is the intention of the parties hereto that all of the issued and outstanding capital stock of Northeast shall be acquired by NEFCOM in exchange solely for its voting stock.

3. Exchange of shares. NEFCOM and the Shareholders agree that all of the 2,135 shares of Northeast shall be exchanged with

ATTACHMENT B

NEFCOM for 2,135 shares of the common stock of NEFCOM. The following numbers of NEFCOM shares will, on the closing date, as hereinafter defined, be delivered to the individual Shareholders in exchange for their Northeast shares as hereinafter set forth:

<u>Stockholder</u>	<u>No. of Shares of Northeast</u>	<u>No. of NEFCOM Shares to be Issued</u>
Gladys R. Walker	1,238	1,238
Leon Conner	299	299
Linda S. Combs	299	299
Fred Paul Conner	299	299
	<u>2,135</u>	<u>2,135</u>

Such shares shall be issued in certificates to the respective Shareholders. The Shareholders represent and warrant that they will hold such shares of common stock of NEFCOM for investment.

4. Delivery of shares. On the closing date, the Shareholders will deliver certificates for the shares of Northeast duly endorsed with signatures guaranteed and with documentary stamps affixed at the Shareholders' expense so as to make NEFCOM the sole owner thereof, free and clear of all claims and encumbrances; and on such closing date delivery of the NEFCOM shares, on which documentary stamp taxes will have been paid by NEFCOM, will be made to the Shareholders as above set forth. Delivery will be made at 130 N. Fourth Street, Macclenny, Florida.

5. Representations of Shareholders. The Shareholders represent and warrant as follows:

(a) As of the closing date they will be the sole owners of the shares appearing of record in their names; such shares will be free from claims, liens, or other encumbrances; and pursuant to

approval of the transfer of such shares by the Florida Public Service Commission, as required by Section 364.33, Florida Statutes, as reflected by an FPSC order duly issued or by an administrative determination by FPSC staff, if so authorized, they will have the unqualified right to transfer such shares.

(b) The shares constitute validly issued shares of Northeast, fully paid and nonassessable.

(c) As of the closing date, Northeast will be in good standing as a Florida corporation.

6. Representations of acquiring corporation. NEFCOM represents and warrants as follows:

(a) As of the closing date, the NEFCOM shares to be delivered to the Shareholders will constitute the valid and legally issued shares of NEFCOM, fully paid and nonassessable, and will constitute the majority of the voting common stock of NEFCOM issued and outstanding as of the date hereof.

(b) The officers of NEFCOM are duly authorized to execute this agreement pursuant to authorization of its Shareholders.

(c) NEFCOM is not involved in any pending litigation or governmental investigation or proceeding not reflected in such financial statements or otherwise disclosed in writing to the Shareholders.

(d) As of the closing date, NEFCOM will be in good standing as a Florida corporation.

(e) The shares of Northeast are being acquired by NEFCOM



as an investment, and there is no present intention on the part of NEFCOM to dispose of such shares.

7. Conditions to closing. The stock of Northeast may not be transferred unless approval for such transfer is granted by the Florida Public Service Commission pursuant to Section 364.33, Florida Statutes. Northeast and NEFCOM agree that they will file a Joint Petition for Approval of Transfer of Controlling Stock Interest in Northeast.

The closing date herein referred to shall be the next business day following approval of the Joint Petition for Transfer pursuant to an Order of the FPSC or an administrative determination by FPSC staff, if authorized, or such other later date as the parties hereto may mutually agree upon. All representations and covenants herein made shall survive the closing. At the closing the Shareholders hereby designate, nominate, constitute, and appoint Leon Conner as their agent and attorney in fact to accept delivery of the certificates of NEFCOM to be issued in their respective names, and to give a good and sufficient receipt and acquittance for the same, and in connection therewith to make delivery of their stock in Northeast to NEFCOM. The obligations of NEFCOM hereunder are conditioned upon the approval by the FPSC of the transfer of Northeast's stock to NEFCOM. The obligations of both Northeast and NEFCOM are further conditioned upon the receipt of a favorable tax ruling regarding the tax-free character of the reorganization under I.R.C. § 368(a)(1)(B).

8. Delivery of records. The Shareholders agree that on or

before the closing date they will cause to be delivered to NEFCOM such corporate records or other documents of Northeast as NEFCOM may request.

9. Notices. Any notice which any of the parties hereto may desire to serve upon any of the other parties hereto shall be in writing and shall be conclusively deemed to have been received by the party to whom addressed, if mailed, postage prepaid, United States Registered Mail, to the following addresses:

NEFCOM, Inc.  
130 N. Fourth Street  
Macclenny, Florida 32063

Shareholders:  
c/o Mr. Leon Conner  
Northeast Florida Telephone Co., Inc.  
130 N. Fourth Street  
Macclenny, Florida 32063

10. Successors. This agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the parties.

Executed in multiple counterparts, each of which shall be deemed a duplicate original, as of the date first above written.

NEFCOM, Inc.

(CORPORATE SEAL)

Attest:

Evelyn H. Holland  
Secretary

By: H. L. R. Walpin  
President

(CORPORATE SEAL)

NORTHEAST FLORIDA TELEPHONE  
COMPANY, INC.

Attest:

E. H. Holland  
Secretary

By: Gladys R Walker  
President

SHAREHOLDERS:

Gladys R Walker  
Gladys R. Walker

Leon Conner  
Leon Conner

Linda S Combs  
Linda S. Combs

Fred Paul Conner  
Fred Paul Conner

I:\users\tlh\nefcom\agreement

**FREDERICK & WARINNER**  
 CERTIFIED PUBLIC ACCOUNTANTS, L.L.C.



July 17, 1996

Board of Directors  
 Northeast Florida Telephone Co., Inc.  
 130 North Fourth Street  
 Macclenny, Florida 32063

You have requested that we provide you with a "comfort letter" on the income tax consequences associated with the proposed transaction pursuant to which NEFCOM, Inc. ("NEFCOM") will acquire all the stock of Northeast Florida Telephone Company.

First, with regard to the Internal Revenue Service refusal to rule on this transaction, we discussed this matter at length with Mr. Michael Danbury, an IRS official in Washington D.C. who is the principal author of the procedure that apparently precludes the IRS from ruling on our request. He stated that the underlying reason for the IRS refusal to rule is that the law and regulations in this area are well defined. Thus, in order to minimize IRS workload and staffing requirements, the IRS simply refuses to rule on transactions that are deemed to be adequately addressed by existing statutes and their related regulations.

We agree with Mr. Danbury that the rules and regulations associated with the proposed tax-free reorganization between NEFCOM and Northeast are well defined. What follows is a concise analysis of these technical requirements that are necessary to qualify your transaction as tax-free.

This analysis serves as the basis for our *comfort with the recommendation that you restructure your organization in a transaction designed to qualify as a tax-free reorganization under Section 368(a)(1)(B) of the Internal Revenue Code of 1986.*

**General Principles**

In order for a transaction to qualify as a tax-free reorganization, it must meet the requirements specified in Section 368, which sets forth a number of alternative forms of tax-free reorganizations and the technical requirements applicable to each. In this instance, a tax-free reorganization under Section 368(a)(1)(B) is the selected form. Section 368(a)(1)(B) defines a class of reorganization in which an amount of stock of the target (Northeast Florida Telephone) which constitutes "control" (as defined) is acquired in exchange for voting stock of the acquiring corporation (NEFCOM).

MIDWEST: 8400 W. 110TH STREET, SUITE 450 • OVERLAND PARK, KS 66210

VOICE: 913/469-1040 • FAX: 913/469-0729  
 E-MAIL: fandw\_cpa@msn.com • fandwcpa@aol.com

WEST: 11340 N. 11TH PLACE • PHOENIX, AZ 85020

VOICE: 602/944-6968 • FAX: 602/944-6636

E-MAIL: clint@frederick@msn.com clintfred@aol.com

*G. Walker*  
*R. Conner* } *D. Brewer*  
*D. Eruen*

ATTACHMENT C

Board of Directors  
July 17, 1996  
Page two

This form of tax-free reorganization is commonly referred to as a "B" reorganization.

In a "B" reorganization, certain judicially created requirements relating to *continuity of proprietary interest, business purpose and continuity of business enterprise* must be satisfied in addition to certain *requirements specifically imposed by the Code*. What follows is a discussion and analysis of these judicial and Code created requirements.

### Judicial Requirements

#### *1. Continuity of Interest:*

The continuity of proprietary interest doctrine, set out in Regs. Section 1.368-2(a), codifies the specific judicial requirement for all "B" reorganizations that the former shareholders retain a significant equity participation in the target corporation following completion of the transaction.

Simply stated, a fundamental distinction exists between ordinary sale transactions in which target shareholders (Northeast Florida Telephone) exchange their target stock for a package of consideration which terminates their direct or indirect proprietary interest in the corporate enterprise versus those transactions in which shareholders continue to own an equity interest in the same enterprise. Only the latter class of transaction qualifies for tax-free treatment.

As interpreted by the courts, the continuity of interest requirement focuses primarily on the character of the consideration received in the acquisition by the former shareholders of the target corporation. If a sufficient portion of such consideration consists of instruments which carry the requisite degree of continuing proprietary interest, the requirement is satisfied.

In the case of a "B" reorganization, 100% of the consideration must be in the form of voting stock of the acquirer (NEFCOM). If however, the NEFCOM stock was to be subsequently disposed of pursuant to a pre-arranged plan, continuity of interest would probably not be satisfied, even though the "solely for voting stock" requirement was in form satisfied.

Board of Directors  
July 17, 1996  
Page three

We are not aware of any pre-arranged plan on the part of any existing Northeast shareholder to dispose of the NEFCOM stock that they will acquire. Consequently *we are comfortable stating that, in the proposed transaction, the "continuity of interest" requirement is satisfied.*

### **2. Business Purpose:**

Business purpose is the second of the three major judicial doctrines applicable to acquisitive reorganizations. According to the Regulations, a transaction will qualify as a reorganization only if it is "undertaken for reasons germane to the continuance of the business of a corporation."

The business purpose requirement is probably the most confusing of the three judicial requirements applicable to "B" reorganizations. However, *we believe that a valid "business purpose" exists as stated below.*

Northeast, being a local exchange telephone company, is regulated by the Federal Communications Commission and the Florida Public Service Commission. As the telecommunications industry continues to change, the Stockholders of Northeast have recognized business opportunities within this and related industries that, due to the regulated environment in which Northeast operates, will require the creation of separate nonregulated sister corporations. Again, due to the regulated environment in which Northeast operates, the regulated and deregulated family of corporations should be operated within an established Holding Company structure.

### **3. Continuity of Business Enterprise:**

The third major judicial doctrine applicable to "B" reorganizations is that of continuity of business enterprise. Like continuity of proprietary interest, the theory underlying this doctrine is that tax-free treatment should be limited to cases where the shareholders of the target corporation (Northeast) continue to own an interest in what is fundamentally the same business enterprise.

The Regulations provide that, in order to satisfy this continuity of business enterprise requirement, the target corporation must either (i) continue a line of the target's historic business, or (ii) use a significant portion of the target's historic business assets in any business (whether or not that business was historically conducted by the target) Regs. Section 1.368-1(d)(2).

Board of Directors  
July 17, 1996  
Page four

Simply stated, because Northeast Florida Telephone will continue its historic business, *we are comfortable that, in the proposed transaction, the "continuity of business enterprise" requirement is satisfied.*

#### Requirements Specifically Imposed by the Code

##### *1. Solely for Voting Stock:*

The sole consideration which may be paid in a "B" reorganization is voting stock (whether common or preferred) of the acquirer (NEFCOM). *In the proposed transaction, this requirement is met.*

##### *2. Control:*

In order for a transaction to qualify as a reorganization under Section 368(a)(1)(B), the acquiring corporation (NEFCOM) must be in "control" of the target (Northeast) immediately after the reorganization. For this purpose, control is defined as the ownership of stock possessing (i) at least 80% of the total combined voting power of all classes of Northeast voting stock, and (ii) at least 80% of the total number of shares of all non-voting stock. *In the proposed transaction, this requirement is met.*

##### *3. Narrow Definition of the Plan of Reorganization:*

Unlike other forms of reorganization, which generally permit "securities" (i.e. long-term debt) as well as stock to be exchanged tax-free, the Section 368(a)(1)(B) form *only provides tax-free treatment for exchanges of stock.* As outlined in the proposed transaction, only stock will be exchanged. Therefore the narrower scope of a "B" reorganization should not present a problem.

#### Conclusion

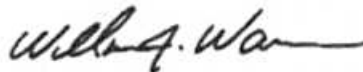
Based upon the above research and analysis, we again state that we are comfortable with the recommendation that you restructure your organization in a transaction designed to qualify as a tax-free reorganization under Section 368(a)(1)(B) of the Internal Revenue Code of 1986.

Board of Directors  
July 17, 1996  
Page five

Please do not hesitate to contact our office should you have questions or comments relating to the issues, assumptions, and conclusions presented.

Sincerely yours,

*FREDERICK & WARINNER, L.L.C.*



William J. Warinner

WJW/mkl  
Enclosure





CHECK NO.

REFERENCE	DESCRIPTION	VOUCHER	GROSS	DISCOUNT	NET AMOUNT
V5618	PRIVATE LETTER RULING	V5618	3,575.00		
	CHECK AMOUNT				3,575.00

**NORTHEAST FLORIDA TELEPHONE COMPANY**  
**MACCLENNY, FLORIDA 32068**



**NORTHEAST  
 FLORIDA  
 TELEPHONE  
 COMPANY, INC.**

130 North 4th Street P.O. Box 485  
 Macclenny, FL 32063-0485  
 (904) 259-2281

BARNETT BANK  
 JACKSONVILLE, FLORIDA

63-4  
 830

No. 002702

VENDOR #  
 [ ]

DATE  
 06/05/96

PAY \*\*\*3,575 DOLLARS AND 00 CENTS\*\*\*\*\*

TO THE  
 ORDER OF INTERNAL REVENUE-SERVICE

NET AMOUNT  
 3,575.00



NOTICE REGARDING  
NORTHEAST FLORIDA TELEPHONE COMPANY

Please be advised that Northeast Florida Telephone Company (Northeast) and NEFCOM, Inc., have filed with the Florida Public Service Commission a Joint Petition for the Approval of the Transfer of Controlling Stock Interest in Northeast. The stock of Northeast is currently owned by certain individuals who operate, manage, and control Northeast. These individuals will exchange their Northeast stock for stock in NEFCOM, Inc., which has been incorporated for the purpose of being a holding company. The individuals who currently own, operate, manage, and control Northeast will own the holding company and will continue to operate, manage, and control Northeast through the holding company.

There will be no change in the name of the company that provides local exchange service. It will still be Northeast Florida Telephone Company. There will be no change in rates or charges or the scope of service offered or the geographical area served.

If any interested person has any questions about this proposed transfer of controlling stock interest, or wishes to communicate any concerns, contact Northeast Florida Telephone Company at (904) 259-2261 or call the Florida Public Service Commission, Director of Consumer Affairs, at 800-342-3552 during regular working hours.

ATTACHMENT D

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NOTICE TO CUSTOMERS  
OF NORTHEAST FLORIDA TELEPHONE COMPANY

Please be advised that Northeast Florida Telephone Company (Northeast) and NEFCOM, Inc., have filed with the Florida Public Service Commission a Joint Petition for the Approval of the Transfer of Controlling Stock Interest in Northeast. The stock of Northeast is currently owned by certain individuals who operate, manage, and control Northeast. These individuals will exchange their Northeast stock for stock in NEFCOM, Inc., which has been incorporated for the purpose of being a holding company. The individuals who currently own, operate, manage, and control Northeast will own the holding company and will continue to operate, manage, and control Northeast through the holding company.

There will be no change in the name of the company that provides your local exchange service. It will still be Northeast Florida Telephone Company. There will be no change in rates or charges or the scope of service offered or the geographical area served.

If you have any questions about this proposed transfer of controlling stock interest, or if you wish to communicate any concerns you may have, you may contact Northeast Florida Telephone Company at (904) 259-2251 or you may call the Florida Public Service Commission, Director of Consumer Affairs, at 800-342-3552 during regular working hours.

ATTACHMENT E

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