

State of Florida



Public Service Commission

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COMMISSION
CLERK**-M-E-M-O-R-A-N-D-U-M-****DATE:** May 12, 2011**TO:** Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Curry) *KLC*
Office of the General Counsel (McKay, Evans) *jsm AT PERE*

RE: Docket No. 100468-TI – Acknowledgment of registration as intrastate interexchange telecommunications company by Netline Communications Corp. d/b/a clubip.com.

AGENDA: 05/24/11 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners**PREHEARING OFFICER:** Administrative**CRITICAL DATES:** None**SPECIAL INSTRUCTIONS:** None**FILE NAME AND LOCATION:** S:\PSC\RAD\WP\100468.RCM.DOC

Case Background

On December 10, 2010, Netline Communications Corp. d/b/a clubip.com (Netline) filed an interexchange telecommunications company (IXC) registration form and tariff with the Commission. After receiving the application, staff determined that Netline had penalties imposed against the company by this Commission in two prior compliance investigation dockets. This recommendation addresses Netline's IXC Registration and settlement offer to resolve all outstanding issues associated with previous dockets involving the company.

Staff notes that an IXC Registration is normally processed administratively in accordance with the Commission's Administrative Procedures Manual. However, in this case Netline

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previously operated as a competitive local exchange telecommunications company (CLEC) (CLEC Certificate No. 8559) and as an IXC (IXC Registration No. TK096). Netline's CLEC Certificate and its IXC Registration were both cancelled in Docket Nos. 060065-TX, and 070522-TI, respectively, for failure to pay penalties imposed as a result of rule violations. Thus, staff presents this recommendation for the Commission's consideration.

By Proposed Agency Action (PAA) Order Nos. PSC-06-0342-PAA-TX,¹ and PSC-07-0666-PAA-TI,² the Commission cancelled Netline's CLEC Certificate and its IXC Registration and tariff. The company's CLEC Certificate was cancelled due to Netline's failure to respond to staff's request seeking data for the 2005 local competition report required by Section 364.386, Florida Statutes (F.S.). Netline's IXC Registration and tariff were cancelled because the company failed to pay its 2006 regulatory assessment fees. After Netline's IXC Registration was cancelled, the company ultimately paid its 2006 regulatory assessment fees, as ordered by the Commission, and all statutory late payment charges. However, it failed to pay the \$500 penalty and collection costs that it was ordered to pay.

Upon determining that Netline had unresolved issues associated with two prior dockets, staff contacted Netline and informed the company that it needed to resolve the previous matters before a new IXC Registration could be acknowledged. On March 14, 2011, Netline submitted a proposed settlement offer in which the company offered to submit a payment in the amount of \$3,500 to resolve the outstanding issues in Docket Nos. 060065-TX, and 070522-TI.

Staff discussed with Netline's legal counsel the possibility of IXCs no longer falling under the regulatory jurisdiction of the Commission due to pending law changes. Netline's legal counsel spoke with the company's owner regarding the matter and advised staff that the owner preferred to resolve all of Netline's outstanding issues with the Commission.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.04, 364.285, 364.336, and 364.337, F.S. Accordingly, staff believes the following recommendations are appropriate.

¹ PAA Order No. PSC-06-0342-PAA-TX, issued on April 24, 2006, in Docket No. 060065-TX, In Re: Compliance investigation of NETLINE COMMUNICATIONS CORP. for apparent violation of Section 364.183(1), F.S., Access to Company Records. The Order was made final and effective on May 18, 2006, upon issuance of Consummating Order No. PSC-06-0414-CO-TX.

² PAA Order No. PSC-07-0666-PAA-TI, issued on August 20, 2007, in Docket No. 070522-TI, In re: Compliance investigation of IXC Registration No. TK096, issued to Netline Communications Corp., for apparent first-time violation of Section 364.336, F.S. The Order was made final and effective on September 14, 2007, and October 4, 2007, upon issuance of Consummating Order No. PSC-07-0738-CO-TI and the issuance of Amending Consummating Order No. PSC-07-0738A-CO-TI.

Discussion of Issues

Issue 1: Should the Commission accept the settlement offer proposed by Netline Communications Corp. d/b/a clubip.com and acknowledge the company as a registered interexchange telecommunications company as provided by Rule 25-24.470, Florida Administrative Code, Registration Required?

Recommendation: Yes, the Commission should accept the settlement offer proposed by Netline Communications Corp. d/b/a clubip.com and acknowledge the company as a registered interexchange telecommunications company as provided by Rule 25-24.470, Florida Administrative Code (F.A.C.), Registration Required. **(Curry, McKay, Evans)**

Staff Analysis: PSC-07-0666-PAA-TI, issued August 20, 2007, provides in part:

ORDERED that the cancellation of the tariff and registration in no way diminishes any of the entities' obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory late payment charges. If any company listed in this Order has its respective tariff and registration cancelled, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company shall be required to first pay any outstanding penalties and cost of collection and fees, including accrued statutory late payment charges. Any unpaid Regulatory Assessment Fees, and accrued statutory late payment charges, shall be referred to the Florida Department of Financial Services for further collection efforts.

On December 10, 2011, Netline submitted an IXC Registration form and tariff, seeking acknowledgement from this Commission to operate as a registered IXC in Florida. After being notified by staff that the company had unresolved issues associated with two prior dockets that needed to be resolved before a new IXC Registration could be acknowledged, Netline submitted a proposed settlement offer on March 14, 2011. To resolve the outstanding issues in Docket Nos. 060065-TX, and 070522-TI, Netline has proposed to submit a payment in the amount of \$3,500.

In Docket No. 060065-TX, by Order No. 06-0342-PAA-TX, Netline was ordered to pay a penalty in the amount of \$10,000 for the company's apparent violation of Section 364.183(1), F.S., for failure to provide access to the company's records. Netline failed to pay the penalty and its CLEC certificate was cancelled. To resolve this issue Netline has proposed to submit a payment in the amount of \$3,000. In Docket No. 070522-TI, by Order No. PSC-07-0666-PAA-TI, the company's IXC Registration and tariff were cancelled for failure to pay its 2006 regulatory assessment fees. Netline eventually paid its 2006 regulatory assessment fees, as ordered by the Commission, and all statutory late payment charges. However, it failed to pay the \$500 penalty and collection costs that it was ordered to pay. To resolve this matter, Netline has proposed to submit a payment in the amount of \$500, the amount of the penalty and collection costs that it previously failed to pay.

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Since the revocation of its previous CLEC certification and IXC registration, Netline has re-evaluated the way in which it conducts business and has restructured its operations in order to prevent untimely responses to the Commission and future violations and cancellations. The company has also decided that it will not offer CLEC services at this time, thus it has not applied for CLEC authority.

Netline's proposed settlement offer is consistent with settlement offers that the Commission has previously accepted for similar violations. For instance, the Commission approved a similar settlement in Docket No. 080451-TX, In Re: Compliance investigation of Tele Circuit Network Corporation for apparent violation of Section 364.183(1), F.S., Access to Company Records. In Order No. PSC-08-0804-PAA-TX, the Commission accepted the company's settlement offer of \$3,500 to resolve the company's apparent violation of Section 364.183(1), F.S.

Based on the aforementioned, staff recommends that the Commission accept the settlement offer proposed by Netline Communications Corp. d/b/a clubip.com and acknowledge the company as a registered interexchange telecommunications company as provided by Rule 25-24.470, F.A.C., Registration Required.

Issue 2: Should this docket be closed?

Recommendation: The Order issued from this recommendation will become final and effective upon issuance of a Consummating order, unless a person whose substantial interest are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute shall be deemed stipulated.

Netline Communications Corp. d/b/a clubip.com shall submit the settlement payment in the amount of \$3,500 within 14 calendar days after the issuance of the Consummating Order. The payment should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of the payment, the Commission shall forward it to the Division of Financial Services for \$3,300, in penalties, to be deposited into the General Revenue Fund and \$200, in collection costs, to be deposited into the Public Service Commission Regulatory Trust Fund.

This docket should remain open until staff has verified that the company has fully complied with the settlement offer. If Netline Communications Corp. d/b/a clubip.com fails to submit the settlement payment within 14 calendar days after the issuance of the Consummating Order, Netline's IXC Registration No. TK315 and tariff shall be cancelled. This docket shall be closed administratively upon receipt of the settlement payment or no earlier than 14 calendar days after issuance of the Consummating Order if the settlement payment is not received.
(McKay, Evans)

Staff Analysis: Staff recommends that the Commission take action as set forth in the above staff recommendation.