

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of COMM)
SOUTH COMPANIES, INC. for a Certificate)
Authorizing it to Provide Local Exchange Service)
as a Telecommunications Reseller in the State of)
Utah)

DOCKET NO. 98-2250-01
REPORT AND ORDER

ISSUED: December 8, 2003

SYNOPSIS

Comm South Companies, Inc. having applied to rescind its authority to operate as a telecommunications service provider in the state of Utah, the Commission orders the cancellation of the Company's certificate of public convenience and necessity.

By The Commission:

PROCEDURAL HISTORY

On January 27, 1998, Comm South Companies, Inc. (Comm South or Company) filed an application for authority "to provide resold local exchange telecommunications services in the State of Utah." The application was given Docket No. 98-2250-01 and stated that "(t)he majority of Comm South's customers will be customers who are unable to obtain telephone service from other local exchange carriers because of credit problems or delinquent payment histories." The case was converted into an informal proceeding and there was no hearing held. The Commission granted Certificate of Public Convenience and Necessity No. 2250 on May 19, 1998. The Company was authorized ". . . to provide local and interexchange services and other public telecommunications services anywhere within the State of Utah, . . . except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone company with fewer than 30,000 access lines within the State."

On October 29, 2003, the Comm South filed an application to rescind its authority to operate as a telecommunications service provider in the state of Utah. The Company requested to withdraw its certificate to provide both local and interexchange telecommunications services in the state of Utah. The Company stated that it has seven customers in the state and that all customers had been sent a letter notifying them that Comm South would no longer be providing service. The customers were given 30 days, or until November 30, 2003, to find a new provider.

The Commission has received a memorandum from the Utah Division of Public Utilities (Division) stating that by letter dated November 4, 2003, the Division notified the Company of the provisions of proposed rule R746-350 requiring a service discontinuation notification period to customers of 50 days for a carrier without exclusive facilities. The Company responded with an amended application received on November 17, 2003. The amended application states that the Company is a non-facilities based reseller and neither owns nor leases any switches. The amended application also contained a copy of a letter dated November 14, 2003, sent to the customers giving them until December 20, 2003 to switch carriers (50 days). The Company also provided a copy of the letters sent to Qwest Wholesale Markets and National Number Administrator. The proposed rule requires that the exiting provider notify the telecommunications corporations providing it with resold telecommunications services, essential facilities or services, or unbundled network elements, and also the national number administrator.

The Division's memorandum states that the business plan of Comm South was to serve customers that could not otherwise get telephone service. The Division is concerned that the customers of Comm South might not be able to get telephone service from another carrier. The Division has attempted to contact each of the seven customers of Comm South to see if they have been able to switch to another carrier. The Division was only able to talk to three customers and two of them had already switched carriers. The Division's memorandum states that it appears that Comm South has complied with the requirements of proposed rule R746-350 for discontinuation of service. The Division recommends that the Commission cancel the certificate of public convenience and necessity held by Comm South Companies, Inc. effective after December 20, 2003.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

Certificate of Public Convenience and Necessity No. 2250 held by Comm South Companies, Inc., be and hereby is canceled effective December 21, 2003.

Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure to do so will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 8th day of December 2003.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#36224