

A RESOLUTION DECLARING THE UTILITIES COMMISSION'S ACTION, BY A MAJORITY VOTE, REGARDING THE CONTINUATION OF THE PROVISION OF COMMUNICATIONS SERVICES (INTERNET - DIAL UP, WIRELESS, FIBER) BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA; RESCINDING ALL RESOLUTIONS, OR PORTIONS THEREOF, IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Utilities Commission, City of New Smyrna Beach, Florida, in late 1997, established the provision of Internet services to our customers through a Tri-Party agreement including the City of New Smyrna Beach and Micro Products, Inc.; and

WHEREAS, the Utilities Commission, City of New Smyrna Beach, Florida, has continued the provision of Internet services (Dial Up, Wireless, and Fiber), and associated training mainly as a community support service; and

WHEREAS, in accordance with Florida Statute 350.81(2)(1) if the revenues from these Internet services do not exceed the operating expenses, the Utilities Commission must hold a public hearing within 60 days following the end of a four year period, four years after June 2, 2005 (effective date of Act), to consider the continuance of these communications services and make a decision regarding four actions contained within F.S. 350.81; and

WHEREAS, the four actions available to the Commission and listed within F.S. 350.81(2)(1) are to approve a plan to cease services; approve a plan to dispose of the system and accordingly cease services; approve a plan to create a partnership with a private entity for services; or approve continuance of the communications services by a majority vote; and

WHEREAS, the Utilities Commission presented information regarding the continuance of the provision of the communications services (Internet) to the customers of the Utilities Commission, and to other parties of interest, at a public hearing which was duly noticed and advertised; said public hearing held on June 15, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: The Utilities Commission, City of New Smyrna Beach, after considering the benefits of these communication services in support of the community and the proposed plan to make said services a viable operating business unit (revenues to exceed operating expenses), does hereby approve the continuance of the communications services (Internet - Dial Up, Wireless, and Fiber) by a majority vote.

SECTION 2: If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3: All Resolutions, or portions thereof, in conflict herewith are hereby rescinded and superseded.

SECTION 4: After adoption by the Utilities Commission, this Resolution shall take effect immediately.

THE ABOVE AND FOREGOING RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held on June 15, 2009, by Commissioner Diesen, who moved its adoption, which motion was seconded by Commissioner Zeller, and upon roll call vote of the Commission was as follows:

CHAIRMAN	<u>Mark Allen III</u>	<u>yes</u>
VICE CHAIRMAN	<u>William E Hall</u>	<u>yes</u>
SECY.-TREAS.	<u>William Reynolds</u>	<u>ABSENT</u>
ASST. SECY.-TREAS.	<u>Paul Zeller</u>	<u>yes</u>
COMMISSIONER	<u>James K. Diesen</u>	<u>yes</u>

APPROVED:

Mark Allen III

CHAIRMAN

ATTEST:

Paul Zeller
SECRETARY-TREASURER

APPROVED AS TO FORM AND
CORRECTNESS:

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Utilities Commission Attorney

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