

## **AGENDA ITEM 2-b**

MINUTES OF JOINT SPECIAL MEETING OF THE UTILITIES COMMISSION AND THE CITY COMMISSION OF NEW SMYRNA BEACH, FLORIDA, HELD WEDNESDAY, MARCH 1, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Mayor Vandergriff opened the meeting with roll call with all of the City Commissioners present and a majority of the Utilities Commissioners present as follows:

City Commission:

Mayor James L. Vandergriff  
Vice Mayor Lynne Plaskett  
Commissioners Randal R. Richenberg  
Commissioner Jack S. Grasty  
Commissioner James W. Hathaway

Utilities Commission:

Commissioner Richard L. Spangler (ABSENT)  
Commissioner Jeanne K. Diesen  
Commissioner William E. Hall  
Chairman Kevin J. Para  
Commissioner William H. Reynolds

Others in attendance during the meeting were as follows: R. Rodi, General Manager/CEO; F. Roberts, City Manager; J. Hagood, Asst. City Manager; R. Montalvo, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; D. Hoover, Director of Water & Wastewater; J. White, Director of Engineering; C. Crawford, Director of I.T.; B. Mudge, Director of Human Resources; E. Mahle, Public Relations/Marketing Manager; K. Connor, Materials Manager; T. Gilligan, Payroll/Benefits Adm.; D. Ling, Sales Manager; S. Gunter, Training Officer; A. Rushing, Call Center Supervisor; J. Knowlton, Senior Network Technician; S. Avera-Fulton, Billing Dispute Analyst; C. Hines, Call Center Technician; R. Short, Internet Technician; H. Roberts, Telecommunications Provisioner; J. Lutz, Call Center Technician, Level II; J. Santrock, Repair Supervisor; D. Simmons, Executive Asst./Recording Secretary; and a few other UC employees; Bill Preston, Interim U.C. Legal Counsel; F. Gummey, City Attorney; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Joel Addison, Reporter for THE OBSERVER; Katherine Coffey, Hometown News; Alex Kish and Brad Douglas, Brent Millikan & Co., Angela Lee, Alternative Client Solutions, Inc.; Bill Rogers; Ken Taylor; Bob Tolley; Robert Hunter, Ron Vaden, and an unidentified man; all members of the public.

(1) Information/Discussion RE: U.C.'s Telephone Business:

Mayor Vandergriff thanked everyone for being here today and stated we're here for discussion on telecommunications. He then turned this over to Mr. Rodi.

(1) Information/Discussion RE: U.C.'s Telephone Business (cont.):

Mr. Rodi addressed the City Commission and Utilities Commission and stated about six months ago we had a budget meeting and in the course of that meeting there was a lot of discussion about the telecommunications and where we were going with it; just a lot of questions. Noting everything that we're dealing with, I have no handouts tonight, I would like you to listen very carefully. I intend to be as clear as I can be but I'm just trying to communicate as best I can. I wanted to do it this way, again, because of some of the detail that we're working with.

Mr. Rodi stated in the research that I did this U.C. telephone service was authorized by Emergency City Ordinance 51-01 on 7-30-2001. We're currently providing telephone service to about 9,000 customers, talking about telephone customers here, in the southeast U.S. The number of customers that are in arrears has been fluctuating between 750 and 1,000. So that the number recently has remained relatively constant, so we've been sliding downhill but seemed to have hit a plateau, at least for several months. Having begun as a sales organization, the business evolved into a CLEC reseller and then a UNEP provider, and is now classified as a CLEC DSO provider. The CLEC services are provided exclusively through contractual arrangements without dedicated physical assets.

Mr. Rodi stated after giving this high level overview of the status of where we are, I wanted to give you some summary of what's occurred since August 2005. An internal employee study team completed and formally presented an interim report on August 15<sup>th</sup> and a completed report on September 19<sup>th</sup>. As you may or may not recall there were many details of the functioning of the telecommunications group that were provided through these reports and developed by the employees. Since that time, since the reports came out, we implemented revenue and expense process improvements through an initiative team, audited, reconciled, and corrected systemics, and developed as accurate reporting where feasible as we could and realigned the inside organization. The reason for commenting on the accurate reporting is with the Florida Telecommunications Act that went into effect in June 2005, it required that we maintain accurate records. Part of what has occurred is the assets that are being used for communications were all extracted and pulled out into a separate unit and then we've been going through all of the systems trying to validate the accuracy of the information. Then we developed a Request for Statement of Qualifications for parties interested in acquiring or partnering with the Utilities Commission regarding the telephone and non-local internet. That was posted and sent out, and then Mr. Rodi confirmed that statement with Ms. Connor (UC Materials Manager).

Mr. Rodi stated we had during this time ten firms or investors who originally indicated interest in the telephone service and three in the internet service. What the results were is that we've signed non-disclosure agreements and we have had responses where there are some companies who would want to purchase part of the telephone business. There was no interest in the internet. One company is a Florida CLEC who conducts business in 28 states and recently acquired 160,000 customers. Another is an Oregon CLEC who

(1) Information/Discussion RE: U.C.'s Telephone Business (cont.):

conducts business in 40 states including the southeast US. This CLEC has multiple subsidiaries and an experienced staff. He stated there are other interested firms who did not complete the RSQ to be compliant.

Mr. Rodi stated what are the most promising of these firms offering. In a public forum, part of what we've experienced is that the public nature of all of this has severely weakened our negotiating position, so when I relate the basic offers, and they're partial offers, I'm going to give an overview of the offer. The Florida CLEC is basically an account purchase concept, they plan to provide x dollars per month per line activated for a maximum of 18 months for the Bellsouth area. They are interested only in the Sprint North Carolina and Florida areas, if that contract is assignable. This same company will pay for account conversion costs of x amount per line that is verified. This company will also consider employment of selective employees. The methodology and time line wasn't specifically defined and the assignment of domestic and international 214 authorizations was not defined by this company. The process is to how to acquire them, the customers. There was no statement about compensation for accounts receivables or carrier access billings, nor about filing costs with the FCC, states, and the ILECs, and also mailing costs. These are all cost components that we would want to talk further about recovery on. They're willing to draft a Letter of Intent and hold further discussions if they're selected.

Mr. Rodi stated the Oregon CLEC is also an account purchase concept, x number of dollars each for a converted account making the first monthly payment. There's no stated compensation again for account conversions, accounts receivable, carrier access billings. There are no methodologies specified, no time lines, and again, the same issues with regard to compensation for filing costs with the FCC, states, and mailings.

Mr. Rodi stated another company is attempting yet another approach with this, and this is a Texas CLEC. They did not participate in the RSQ, and they're emphasizing that if this all falls apart, they're willing then to talk to us. And obviously the implication is if it all falls apart it's worth nothing so they will talk to us. There is an opportunity for ILEC pay back, correction, buy back, and the last alternative is just abandonment.

Mr. Rodi stated so what's our status right now. Losses continue, we're at about \$250,000 a month despite all the improvements that have made, and there have been many. Most of this, currently, can be attributed to the doubling of the ILEC costs, that seems to be the principle impact to us. Our plan pricing is arguably competitive with Sprint and non-competitive with Bellsouth. We have no local marketing assessment or intelligence in the sales areas and advertising is now curtailed. The systems that are used do not readily support conversion or improvement for competitive initiatives. Employee levels are now at maintenance levels and some number of employees will be required through the transition. Our negotiating position is limited if not compromised. I'm talking about our negotiating position with these CLEC's who are all private parties obviously.

(1) Information/Discussion RE: U.C.'s Telephone Business (cont.):

Mr. Rodi stated there are some risks. We have third party provider issues including financial liabilities due to ambiguous contract language, including termination and execution issues. We have latent issues of significance which continue to be discovered daily and these are for example, for our long distance. We discovered just yesterday that there's an inaccuracy in the amount of revenue that we would be entitled to. We're trying to track down what the correct number is. That is a significant item, especially after so much time. There are customer transition issues regarding deposits, taxes, late payments and credit ratings that will go on as we go through this, and customer service levels are deteriorating.

(2) Necessary "Next-Step" Approvals:

Mr. Rodi then stated what are the next steps, this is why I've asked for the meeting. We need to exit the telephone services business in an orderly manner. We're, as staff, requesting that you authorize for us to complete the negotiations and execute an agreement to move forward or in the alternative, present a formal agreement to the U.C. in an emergency or special meeting.

Mr. Rodi stated if negotiations prove to be unsuccessful, implement abandonment proceedings and then continue to work through the ongoing and contractual issues as appropriate. We're also requesting that you authorize staff to secure the legal, consulting, and staff resources as may be needed during and after the transition. That's my overall presentation.

Commissioner Diesen stated so you need a motion from the Utilities Commission for you to be able to move forward with negotiations. Commissioner Diesen then made that motion authorizing staff to complete negotiations. Commissioner Reynolds seconded that motion.

Chairman Para then requested for a vote to be taken of the Utilities Commission. Commissioner Diesen's motion then passed unanimously on a roll call vote.

Mr. Rodi stated I'm also requesting from a standpoint of in the conclusion of the negotiations whether or not I and my staff would be authorized to sign the contract or to bring it to the U.C. for public approval.

Commissioner Reynolds directed a question to Mr. Preston. He stated obviously what we're trying to do there is keep some confidentiality in the negotiations, do you have any comments on that.

Mr. Preston stated I believe that the request was for the negotiated contract to come either before you or for you to authorize signature. It would be my recommendation that contract, once negotiated, be brought to you in a public hearing, to be approved by the

(2) Necessary “Next-Step” Approvals (cont.):

Commission. That authority can be granted to Mr. Rodi and his staff to negotiate that contract to a point of signature.

Commissioner Reynolds stated I would make a motion that we go that route of where Mr. Rodi has the authority to negotiate the contract and then bring it to the Utilities Commission for approval or rejection. Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

Mr. Rodi stated the third part of this that I would like to be clear on, if the negotiations for example do not move forward. For example the Oregon offer, if that is nothing more than a sophisticated slam, then that to me is a deal breaker. What we're after is using a formalized process so that the customers know what's happening and we know what kind of a deal we're getting. If there doesn't seem to be any real financial return for us, because these offers are not good offers financially. I want to make that point clear, they're not significant offers. Then, I think we may want to move forward with just the abandonment proceedings noting some of the potential liabilities we may have based upon moving forward. That's why I raised this right now, we would move for abandonment then.

City Commissioner Hathaway stated I'm one of your customers and as one of your customers I would like to know what the deal is going to be to me as a customer. If you bring back a deal, am I going to get the same service level that I'm getting now at the same price, or am I going to get a reduced service level at the same price, or am I going to get an increased price. How are you going to educate the public in that manner as to, regardless of whether you cut a deal with the Florida CLEC, or the Oregon CLEC, or go through the process of abandonment. I assume if we go through the process of abandonment you have to notice all your customers and your customers have x amount of days to get off the system and go find somebody else to pick them up.

Mr. Rodi stated generally what we're trying to do is recover whatever dollars we can first of all. Secondly, in that process, and that's why I mentioned we would want to go through a formal process filing with the FCC to assure not only the customers, part of this process is a notification to the customers and an application to the FCC, for purposes of transition. Acquisition of even just the customer base that requires service levels to be in conformance with, not only that, but in the respective PSC's. So that process assures more of a quality level than if you just tried to sell this off without it, that's why we're trying to stick to that process. As far as abandonment is concerned that's been happening regularly with CLEC's where generally those individuals go back to the incumbent local carriers.

City Commissioner Hathaway stated one last question then, do you have a time frame when some of these negotiations will take place?

Mr. Rodi interjected immediately.

(2) Necessary “Next-Step” Approvals (cont.):

City Commissioner Hathaway stated 60 days, 90 days.

Mr. Rodi reiterated immediately. The filings with the FCC have generally 30-day notifications and we have to apply for an expedited process that generally can go anywhere from a couple of weeks to a month. I can't guarantee what the FCC processes are going to be like now.

Mayor Vandergriff stated I assume you're not looking for a lot of questions right now, you're just going into that process.

Mr. Rodi stated yes sir, but I would be glad to try to answer.

Mayor Vandergriff stated he understands, just wanted to put that out that some of the questions are better not asked right now. He then asked if there was anything the City Commission may have or would like to ask.

Someone in attendance commented they couldn't hear.

Mayor Vandergriff reiterated that he was just asking if there were any questions the City Commission would like to ask without maybe jeopardizing the fact of negotiations going forward at this time. There were no questions and then the Mayor asked what's the next step?

Mr. Rodi stated we're obviously going to continue to need, and we've been using outside counsel, as well as some consultants to help us with this. I also wanted the approval to be able to use the necessary type of resource that we will need to execute all this. (As stated above, requesting authorization for staff to secure the legal, consulting, and staff resources as may be needed during and after the transition.)

Commissioner Diesen asked if Mr. Rodi needed a motion on that.

Mr. Rodi stated he would ask for that, yes.

Commissioner Diesen stated I will make that motion, and Commissioner Reynolds seconded the motion.

Chairman Para then requested a vote be taken of the Utilities Commission. Commissioner Diesen's motion then passed unanimously on a roll call vote.

Mr. Rodi stated that's all I have, thank you.

(3) Possible Other Business – Time for Commissioners:

Mayor Vandergriff confirmed there was nothing further from the Commissions.

(3) Possible Other Business – Time for Commissioners (cont.):

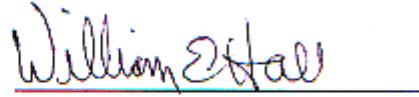
There being no further business Mayor Vandergriff then stated we stand adjourned and closed the meeting at 6:58 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their  
March 20, 2006 meeting.