

State of Florida



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

---

**DATE:** 08/22/02

**TO:** DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *pic* *RD*  
OFFICE OF THE GENERAL COUNSEL (DODSON) *gld* *sa*

**RE:** DOCKET NO. 020570-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 5792 ISSUED TO IG2, INC. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.835, F.A.C., RULES INCORPORATED.

**AGENDA:** SEPTEMBER 3, 2002 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\020570.RCM

---

**CASE BACKGROUND**

- 03/02/99 - This company obtained Florida Public Service Commission Certificate No. 5792.
- 08/23/01 - Docket No. 011147-TX was established for nonpayment of the 2000 Regulatory Assessment Fee (RAF). On December 10, 2001, Order No. PSC-01-2380-AS-TX was issued, which accepted the company's \$100 settlement. The company had previously paid the past due RAF and \$100 settlement, therefore, the docket was closed.
- 09/05/01 - The Commission received the company's payment for the 2000 Regulatory Assessment Fee (RAF). The company reported no revenues for the period ended December 31, 2000.

DOCUMENT NUMBER-DATE

08870 AUG 22 8

.FPSC-COMMISSION CLERK

DATE: 08/22/02

- **12/12/01** - The Division of the Commission Clerk & Administrative Services mailed the 2001 RAF notice. Payment was due January 30, 2002.
- **02/22/02** - The Office of the General Counsel mailed the delinquent notice for nonpayment of the 2001 RAF. The US Postal Service returned the receipt, which showed that the delinquent notice was signed for and delivered.
- **04/24/02** - Staff wrote the company and explained that payment for the 2001 RAF had still not been received. Staff explained that in order to avoid a docket being established, payment should be received within 15 working days.
- **06/28/02** - The Division of the Commission Clerk & Administrative Services notified staff that mail addressed to the company had been returned by the US Postal Service.
- **07/11/02** - Staff called the telephone number listed in the Master Commission Directory, but the number had been disconnected. Staff then called Directory Assistance, but was unsuccessful in obtaining a telephone number for the company.
- **08/14/02** - As of this date, the company has not paid the 2001 RAF, including statutory penalty and interest charges or provided updated its reporting requirements.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, and 364.183, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$1,000 penalty or cancel IG2, Inc.'s ALEC Certificate No. 5792 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should impose a \$1,000 penalty or cancel the company's certificate if the penalty and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 5792 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, IG2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida. (Isler; Dodson)

**STAFF ANALYSIS:** Pursuant to Section 364.285, Florida Statutes, the Commission may impose a penalty or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of the Commission Clerk & Administrative Services' records showed that the company had not paid its 2001 regulatory assessment fee, plus statutory penalty and interest

DOCKET NO. 020570-TX  
DATE: 08/22/02

charges; therefore, this docket was established. Although staff wrote the company, as of August 14, 2002, the company has not contacted staff by paying the past due RAF, including statutory penalty and interest charges, requested cancellation of its certificate, or proposed a settlement. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.820, Florida Administrative Code. This penalty amount is consistent with amounts imposed for recent, similar violations.

This is the second docket opened against IG2, Inc. for nonpayment of the RAF. On December 10, 2001, Order No. PSC-01-2380-AS-TX was issued in Docket No. 011147-TX. The Order accepted the company's \$100 settlement proposal. The company had previously paid the past due RAFs and the \$100 settlement; therefore, the docket was closed upon issuance of the Order.

Accordingly, staff recommends that the Commission assess a \$1,000 penalty or cancel the company's certificate if the penalty and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 5792 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, IG2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida.

**ISSUE 2:** Should the Commission impose a \$500 penalty or cancel IG2, Inc.'s ALEC Certificate No. 5792 for apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 penalty or cancel IG2, Inc.'s certificate if the information required by Rule 25-24.835, Florida Administrative Code, Rules Incorporated, and penalty are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the penalty and required information are not received, IG2, Inc.'s ALEC Certificate No. 5792 should be cancelled administratively. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, IG2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida. (Isler; Dodson)

**STAFF ANALYSIS:** Pursuant to Rule 25-24.835, Florida Administrative Code, Rules Incorporated, each company is allowed ten days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to the company was returned to the Commission by the US Postal Service. Staff was unsuccessful in calling the company at the number on file for this company or obtaining a telephone number from Directory Assistance. It has been well over ten days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has the company requested cancellation of its certificate in compliance with Rule 25-24.820, Florida Administrative Code. This penalty amount is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 penalty or cancel IG2, Inc.'s certificate if the information required by Rule 25-24.835, Florida Administrative Code, Rules Incorporated, and penalty are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for

DOCKET NO. 020570-TX

DATE: 08/22/02

deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the penalty and required information are not received, IG2, Inc.'s ALEC Certificate No. 5792 should be cancelled administratively. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, IG2, Inc. should be required to immediately cease and desist providing alternative local exchange services in Florida.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate. (Dodson)

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate.