

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

DECEMBER 2, 1997

RE: DOCKET NO. 971299-TI - Initiation of show cause proceedings against PrePay USA Telecom for violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

Issue 1: Should the Commission order PrePay USA Telecom to show cause in writing why a fine of \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, and \$10,000 for violation of Rule 25-4.043, Florida Administrative Code, should not be assessed?

Recommendation: Yes. Due to PrePay's unresponsiveness to staff inquiries and apparent provision of telecommunications service without a certificate, staff believes the Commission should require PrePay to show cause in writing within 20 days of issuance of the Commission's order why it should not be fined \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. The company's response must contain specific disputed allegations of fact or law. If PrePay fails to respond to the show cause, the fine will be deemed assessed. If the fine is not paid after reasonable collection efforts by the Commission, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

DEFERRED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

DOCUMENT NUMBER - DATE
112497 DEC-56
PSC - RECORDS/REPORTING

REMARKS/DISSENTING COMMENTS: Commissioner Clark participated in the vote via 2-way conference call. In her oral vote, she AGREED WITH THE MAJORITY DISSENTED. Commissioner Clark will sign the original vote sheet upon her return to Tallahassee.

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Issue 2: Should the Commission order all certificated interexchange companies (IXCs) to discontinue providing interexchange telecommunications service to PrePay pursuant to Rule 25-24.470(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited?

Recommendation: Yes. It appears that PrePay may be operating in Florida without a certificate in violation of Rule 25-24.470(3), Florida Administrative Code. The order should state that any IXC providing service to the company must contact the Commission at the conclusion of the show cause response period to determine if the show cause proceeding has been concluded.

Issue 3: Should this docket be closed?

Recommendation: If staff's recommendation in Issue 1 is approved, an order to show cause will be issued. If PrePay timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. The docket should also remain open to process any protest to Issue 2 that may be filed within 21 days of issuance of the order by a person whose substantial interests are affected by the Commission's proposed agency action. If PrePay does not respond to the Commission's order to show cause, the fine should be assessed. If no timely protest of Issue 2 is filed and PrePay fails to respond to the order to show cause, this docket may be closed.