

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SEUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: APRIL 22, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pit*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *DK King CB*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE FOR VIOLATION OF F L E 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 981966-TX - AMERITECH COMMUNICATIONS INTERNATIONAL, INC.
DOCKET NO. 981969-TX - ANNOX, INC.
DOCKET NO. 981971-TX - EVERGLADES NATIONAL COMMUNICATION NETWORK, INC.

AGENDA: 05/04/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981966.RCM

CASE BACKGROUND

Docket No. 981966-TX
Ameritech Communications International, Inc.

- 04/15/97 - This company obtained ALEC Certificate No. 4840.
- 12/11/97 - The Division of Administration mailed the 1997 regulatory assessment fee (RAF) notice by certified mail.

DOCUMENT NUMBER-DATE

05124 APR 21 99

FPSC-RECORDS/REPORTING

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- 12/17/97 - The United States Postal Service (USPS) returned the receipt, which showed the RAF notice was signed for and received.
- 01/30/98 - The RAFs payment was due. The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalty and interest charges for the year 1997.
- 03/30/99 - This item was deferred from the Agenda Conference at the company's request. Ms. Mary Lubner had called staff and advised that the company wanted to keep its certificate, would pay the past due amount, and would make a settlement offer.
- 04/12/99 - The Division of Administration's records show that the company paid the past due amount. In addition, the company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.

**Docket No. 981969-TX
Annox, Inc.**

- 07/25/97 - This company obtained ALEC Certificate No. 5189.
- 12/11/97 - The Division of Administration mailed the 1997 RAF notice by certified mail.
- 12/13/97 - The USPS returned receipt, which showed the notice was signed for and delivered.
- 01/30/98 - The RAFs payment was due. The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalty and interest charges for the year 1997.
- 03/30/99 - This item was deferred from the Agenda Conference at the company's request. Ms. Katherine M. Hunter, attorney for Annox, had called staff and advised that the company wanted to keep its certificate, would pay the past due amount, and would make a settlement offer.
- 04/15/99 - The Division of Administration's records show that the company paid the past due amount. In addition, the

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company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.

Docket No. 981971-TX
Everglades National Communication Network, Inc.

- 09/12/97 - This company obtained ALEC Certificate No. 5227.
- 12/11/97 - The Division of Administration mailed the 1997 RAF notice by certified mail.
- 12/15/97 - The USPS returned receipt, which showed the notice was signed for and delivered.
- 01/30/98 - The RAFs payment was due. The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalty and interest charges for the year 1997.
- 03/30/99 - This item was deferred from the Agenda Conference at the company's request. Mr. Timothy A. Nemeckay, President, called staff and advised that the company wanted to keep its certificate, would pay the past due amount, and would make a settlement offer.
- 04/16/99 - The Division of Administration's records show that the company paid the past due amount. In addition, the company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offers proposed by each company listed on page 6 to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept each company's settlement offer as listed on page 6. Any contribution should be paid by the companies within five business days from the effective date of the Commission Order. The Commission should forward the contributions to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any company listed on page 6 fails to pay in accordance with the terms of its settlement offer, that company's certificate should be canceled administratively with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, 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 Administration notified staff by memorandum that each company listed on page 6 had not submitted the 1997 regulatory assessment fees, along with statutory penalty and interest charges for the year 1997. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

After the dockets were opened, the companies submitted settlement offers to pay future regulatory assessment fees on a timely basis and make a \$100 contribution to the State General Revenue Fund.

Accordingly, staff believes the terms of the settlement agreements as summarized in this recommendation should be accepted. Any contribution should be paid by the companies within five business days from the effective date of the Commission Order. The Commission should forward the contributions to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any company listed on page 6 fails to pay in accordance with the terms of its settlement offer, that company's certificate should be canceled administratively with an effective date of December 31, 1998.

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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1 and upon remittance of the \$100 contributions, these dockets should be closed. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, and upon remittance of the \$100 contributions, these dockets should be closed. The contributions should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Chapter 364.285(1), Florida Statutes.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>CERTIFICATE NO.</u>	<u>Settlement Amount</u>
981966-TX	Ameritech Communications	4840	\$100
981969-TX	Annox, Inc.	5189	\$100
981971-TX	Everglades National Communication	5227	\$100