



# Public Service Commission

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

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RECORDING

**DATE:** APRIL 19, 2001

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *Py*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *MP*

**RE:** DOCKET NO. 001455-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 5751 ISSUED TO DPI-TELECONNECT, L.L.C. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 05/01/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\001455.RCM

### CASE BACKGROUND

- 12/05/98 - This company obtained Florida Public Service Commission Certificate No. 5751.
- 05/24/99 - Docket No. 990672-TX was established for nonpayment of the 1998 Regulatory Assessment Fee (RAF). On October 25, 1999, Order No. PSC-99-2110-AS-TX was issued, which accepted the company's \$100 settlement offer. The company paid the settlement amount and the docket was closed.
- 12/08/99 - The Division of Administration mailed the 1999 RAF notice. The due date was January 31, 2000.
- 02/29/00 - The Division of Administration mailed a delinquent notice.

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FPSC-RECORDS/REPORTING

- 09/26/00 - The Commission received a copy of the company's 1999 RAF return notice showing no revenues for the period ended December 31, 1999. A check for the minimum amount was not included.
- 10/05/00 - Staff called the company and left a voice mail message for a return call.
- 12/06/00 - Ms. Kelli Muhammad, Telecom Compliance Services, consultant to DPI-Teleconnect, L.L.C., called staff and asked for the status of this docket. Staff faxed the company a letter the same date.
- 12/12/00 - The Division of Administration mailed the 2000 RAF return notice. Payment was due by January 30, 2001.
- 01/22/01 - The Commission received a check for the 1999 and 2000 RAFs, including the 1999 statutory penalty and interest charges. The company reported revenues in the amount of \$2,227,295.66 for the period ended December 31, 2000.
- 01/24/01 - The Commission received a proposed settlement from the company's consultant.
- 01/25/01 - Staff e-mailed Ms. Muhammad and advised that staff could not recommend acceptance of the settlement offer unless the proposed settlement amount was increased to an amount consistent with prior Commission decisions.
- 01/29/01 - The Commission received the company's modified proposed settlement.

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

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by DPI-Teleconnect, L.L.C. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 5751 should be cancelled administratively. (Isler)

**STAFF ANALYSIS:** 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.

After this docket was opened, but prior to staff filing a recommendation, the Commission received the company's payment for the 1999 and 2000 regulatory assessment fees, including applicable statutory penalty and interest charges, and a letter from the company, which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. In addition, the company included a waiver of objection to the administrative cancellation of its certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of its offer. This settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

This is the second docket established for the same apparent rule violation. In Docket No. 990672-TX, the company paid the past due amount and proposed a settlement. On October 25, 1999, Order No. PSC-99-2110-AS-TX was issued, which accepted the company's settlement proposal. The company paid the \$100 contribution and the docket was closed.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten

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business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 5751 should be cancelled administratively.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate. (K. Peña; B. Keating)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate.