

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: APRIL 19, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *DJ*
DIVISION OF LEGAL SERVICES (BANKS) *RUP AK*

RE: DOCKET NO. 001469-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 7132 ISSUED TO FREEDOMTEL, INC. 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\001469.RCM

CASE BACKGROUND

- 09/27/99 - This company obtained Florida Public Service Commission Certificate No. 7132.
- 12/08/99 - The Division of Administration mailed the 1999 Regulatory Assessment Fee (RAF) return notice. Payment was due January 31, 2000.
- 02/29/00 - The Division of Administration mailed the delinquent notice for nonpayment of the 1999 RAF.
- 10/30/00 - Staff wrote the company and advised a docket had been established and to contact staff if it wished to keep its certificate active.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS-REPORTING

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- 12/12/00 - The Division of Administration mailed the 2000 RAF return notice. Payment was due by January 30, 2001.
- 01/22/01 - Mr. David Gillette, President, contacted staff and advised that the company was not currently operating, but wanted to keep the certificate active. Mr. Gillette requested the 1999 RAF form and the company's options be faxed to him. This information was faxed the next day, January 23, 2001.
- 02/06/01 - The Commissioners voted to fine the company \$500 or cancel the certificate.
- 02/14/01 - The Commission received the 1999 and 2000 RAF returns, along with payment of the past due amount in full. The company reported no revenues for the period ended December 31, 2000.
- 02/26/01 - Order No. PSC-01-0464-PAA-TX was issued, which imposed a \$500 fine. The company had until March 19, 2001 to protest the Order.
- 03/19/01 - The Commission received the company's 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 FreedomTel, Inc. 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. 7132 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.

Prior to Order No. PSC-01-0464-PAA-TX being issued on February 26, 2001, the Commission received payment for the 1999 and 2000 regulatory assessment fees, including statutory penalty and interest charges. After the Order was issued, the Commission received a letter from the company, which offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

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 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. 7132 should be cancelled administratively.

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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 \$100 contribution or cancellation of the certificate. (Banks)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.