

STATE OF FLORIDA

Commissioners:
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DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

June 7, 2001

Via Facsimile

Mr. Mitchell Guertler, President
Vendall Communications
14681 North Beckley Square
Davie, FL 33325-3068

Re: Docket No. 010559-TC

Dear Mr. Guertler:

On May 29, 2001 the Commission received your letter dated May 22 proposing a settlement to resolve this docket. I cannot recommend acceptance of your settlement offer and will discuss each issue below.

First, in the letter, you requested that the Regulatory Assessment Fee (RAF) form be sent directly to your CPA and provided the CPA's name and address. This is possible **only** if you want the CPA to receive all mail addressed to Vendall Communications from the Commission. Due to vast number of certificates in the state, the Commission uses the official mailing address for the company for all mailings (correspondence, RAF forms, violation letters, requests for information, data requests, etc.). In other words, the Commission will not send violation letters to one address and RAF forms to another. Therefore, please confirm in writing that you want the official address for Vendall Communications changed to the CPA's address.

Second, you stated that you agree that if the "above stated terms" are not complied with, your certificate will be cancelled. Please modify your May 22 settlement by providing the statement "The company agrees to waive any objection to the administrative cancellation of its certificate should it fail to pay in accordance with its settlement offer. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, it is my understanding Commission staff will bring the matter to the Commission for consideration."

And lastly, you proposed to pay a \$50 settlement. This is the second docket established for nonpayment of the RAF. The first docket was No. 001115-TC, which was established for nonpayment of the 1999 RAF. On October 2, 2000, Order No. PSC-00-1793-PAA-TC was issued,

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which imposed a \$500 fine, required payment of the past due RAF, or cancelled Vendall's certificate. The company paid the past due amount and the \$500 fine and the docket was closed.

There is normally a \$500 fine for a first offense of this rule violation and \$1,000 for a second. In other similar cases, the Commission has accepted settlements between \$500 and \$1,000 for a second offense. Therefore, I cannot recommend acceptance of a settlement of \$50 when a second docket has been opened for the same rule violation.

This means you have two options at this point. One, you can modify your settlement offer to make it consistent with prior Commission decisions. If you selected this option, you would need to confirm that you want the address changed to your CPA's address, include the waiver of objection statement, and increase the proposed settlement amount. You would also need to include the following statement: "All other elements of my settlement offer dated May 22, 2001 are reaffirmed."

The other option is to pursue the \$50 settlement as is. If you selected this option, I will write a recommendation to deny your settlement offer and recommend a fine of \$1,000 be imposed. If the Commissioners approved the recommendation, an Order would be issued and you would have 21 days to either protest the Order by requesting a hearing or paying the \$1,000 fine.

Please respond no later than June 22, 2001, by writing Ms. Blanca Bayó, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The docket number should be listed on any correspondence.

If you wish to discuss this or have any questions, just let me know. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at pisler@psc.state.fl.us.

Sincerely,



Paula J. Isler, Research Assistant
Bureau of Service Quality

cc: Docket No. 010559-TC
Division of Legal Services (K. Peña)