



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSIONER
&
CLERK

DATE: JULY 12, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PJC AD*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE b/c*

RE: DOCKET NO. 010537-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5914
ISSUED TO KISS & KIS'S, INC. FOR VIOLATION OF RULE 25-
4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

AGENDA: 07/24/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010537.RCM

CASE BACKGROUND

- **09/22/98** - This company obtained Florida Public Service Commission Certificate No. 5914.
- **12/12/00** - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) notice. Payment was due January 30, 2001.
- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed the delinquent notice.
- **04/19/01** - Staff established this docket for nonpayment of the 2000 RAF, plus statutory penalty and interest charges for the years 1999 and 2000.

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- **04/20/01** - The company mailed its payment for the 2000 RAF, including penalty and interest charges for the year 2000. The company reported no revenues for the period ended December 31, 2000.
- **05/08/01** - Staff wrote the company and explained that a docket had been established prior to receipt of the company's 2000 RAF payment and to contact the Commission if it was interested in resolving this docket.
- **06/18/01** - As of this date, the company has not paid the 1999 penalty and interest charges or recontacted staff.

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 impose a \$500 fine or cancel Kiss & Kis's, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and statutory penalty and interest charges are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and statutory penalty and interest charges are not received, the company's Certificate No. 5914 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

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.

The Division of the Commission Clerk & Administrative Services's records showed that the company had not paid its 2000 regulatory assessment fee, plus statutory penalty and interest charges; therefore, this docket was established. The company subsequently paid the 2000 RAF, including the 2000 penalty and interest charges. However, the 1999 penalty and interest charges remain unpaid. Although staff wrote the company, as of June 18, 2001, the company has not contacted staff by paying the past due penalty and interest charges, requested cancellation of its certificate, or proposed a settlement. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code. This fine amount is consistent with amounts used for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's certificate if the fine and statutory penalty and interest charges are not paid within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and statutory penalty and interest charges are not received, the company's Certificate No. 5914 should be cancelled administratively and the

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fine and fees or cancellation of the certificate. (Elliott)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon issuance of a Consummating Order and upon receipt of the fine and fees or cancellation of the certificate.