

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Cancellation by Florida ) DOCKET NO. 010591-TI  
Public Service Commission of IXC )  
Certificate No. 2497 issued to ) FILED: August 15, 2001  
AmeriVision Communications, Inc. )  
for violation of Order No. PSC- )  
00-0827-PAA-TI. )  
\_\_\_\_\_ )

**AMERIVISION'S PRELIMINARY ISSUES**

AmeriVision Communications, Inc. proposes the following issues for the Commission's consideration in Docket No. 010591-TI:

- Issue 1. Are the allegations of the Order Proposing Cancellation sufficient to place AmeriVision on notice of the charges against it?
- Issue 2. Does the Commission have authority under Chapter 364 to refuse acknowledgment of the business name of a carrier as established under the laws of this state?
- Issue 3. Does the Commission have authority under Chapter 364 Florida Statutes to regulate through prior restraint of AmeriVision's use of its service mark?
- Issue 4. Is the action contemplated by the Commission an invalid exercise of delegated legislative authority in that it is arbitrary, capricious, and discriminatory?
- Issue 5. Is the Commission's proposed agency action based upon an unlawful rule with respect to the relationship between the business name on the certificate and a carrier's right to use its service marks to engage in constitutionally protected commercial free speech?
- Issue 6. Does the order amount to *ultra vires* agency action based on an unlawful delegation of non-ministerial functions to staff?
- Issue 7. Is the Commission's proposed agency action an impermissible infringement of AmeriVision's statutory right to the lawful use of its service mark?

DOCUMENT NUMBER-DATE

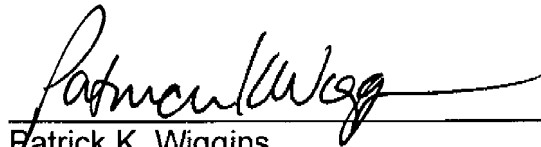
09962 AUG 15 01

FPSC-COMMISSION CLERK

Issue 8. Is the Commission's action an unconstitutional infringement of AmeriVision's right to commercial free speech?

Issue 9. Is the Commission's proposed cancellation of certification excessive given there is no allegation of harm caused by AmeriVision's lawful use of its service mark?

Respectfully submitted this 15<sup>th</sup> day of August, 2001.

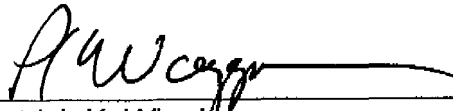


Patrick K. Wiggins  
Katz, Kutter, Haigler, Alderman,  
Bryant & Yon, P.A.  
106 East College Avenue, 12<sup>th</sup> Floor  
Tallahassee, Florida 32301  
(850) 224-9634 Telephone  
(850) 222-0103 Facsimile  
Email: [pkwiggins@katzlaw.com](mailto:pkwiggins@katzlaw.com)

Counsel for  
AmeriVision Communications, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by hand delivery to Mary Anne Helton, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this 15th day of August, 2001.

  
Patrick K. Wiggins