

STATE OF FLORIDA

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

Public Service Commission

August 16, 2001

Mr. Jim McArthur, President
@xess Communications, Inc.
286 107th Avenue, 2nd Floor
Treasure Island, FL 33706-4700

011016-TI

Dear Mr. McArthur:

A docket has been opened by staff of the Florida Public Service Commission for nonpayment of the 2000 Regulatory Assessment Fee (RAF), which was due January 30, 2001, plus statutory penalty and interest charges, and not providing the Commission with the company's updated reporting requirements (address, telephone number, liaison, etc.). A late notice was mailed February 21, 2000, and to date, Commission records show that payment has not been received.

It is staff's intention to file a recommendation imposing a \$1,500 fine (\$1,000 for violation of the RAF rule since this is the second docket opened for this rule violation and \$500 for the reporting requirements violation), or cancelling your telecommunications certificate. The Commissioners will vote at an upcoming Agenda Conference whether or not to accept staff's recommendation. A Proposed Agency Action Order will then be issued within 20 days after the vote and your company will have 21 days to protest the Order. It should be noted that just paying the delinquent RAF amount and providing the Commission with the updated reporting requirements will not prevent the company's certificate from being cancelled.

If the Order is not protested and the past due amount, including statutory penalty and interest charges, is not paid, then the certificate will be cancelled, and the past due amount will be turned over to the Florida Comptroller's Office for further collection attempts. Therefore, it is important that you contact staff as soon as possible, but no later than August 31, 2001.

Options for resolving this docket are enclosed. If you have any questions, please contact me at (850) 413-6502-voice, (850) 413-6503-fax, at the address below, or via internet e-mail at pisler@psc.state.fl.us.

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Internet E-mail: contact@psc.state.fl.us

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Sincerely,

A handwritten signature in black ink that reads "Paula J. Isler". The signature is written in a cursive style with a large initial 'P' and a distinct 'J'.

Paula J. Isler, Research Assistant
Bureau of Service Quality

Enclosure

cc: Docket No. 011016-TI
Division of Legal Services (Elliott)

OPTIONS

CANCELLATION OF THE CERTIFICATE

- **Voluntary Cancellation** - In order to be granted a voluntary cancellation, the company must: 1) write a letter requesting cancellation of the certificate and explain why (such as no longer in the telecommunications business); 2) pay all past due charges in full; 3) provide the Commission with your updated mailing and physical location addresses, telephone and fax numbers, and liaison and title; and 4) pay the 2001 Regulatory Assessment Fee (RAF) or provide a date certain that it will be paid (such as 30 days from the date of the Commission Order cancelling the certificate).
- **Involuntary Cancellation** - If the company does nothing to resolve this docket, the certificate will be cancelled on the Commission's own motion. All outstanding RAFs, including penalty and interest charges, will be turned over to the Comptroller's Office for collection.

TO KEEP THE CERTIFICATE ACTIVE

- Pay the past due RAF amount in full, including statutory penalty and interest charges, plus the fine imposed, after the Order is issued and the certificate will remain active. Just paying the past due amount will not prevent your certificate from being cancelled.
- Propose a settlement - All settlements should include the following elements:
 - 1) Docket number;
 - 2) A check for the past due amount in full. It should be noted that just paying the past due amount will not prevent your certificate from being cancelled;
 - 3) Updated reporting requirements (liaison and title of liaison, mailing and physical location addresses, telephone and fax numbers, e-mail address, and web site);
 - 4) A statement that the company has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are;
 - 5) A waiver of objection, which should state: 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, Commission staff will bring the matter to the Commission for consideration; and
 - 6) Make a specific monetary settlement. There is normally a \$1,500 fine (\$1,000 for RAF violation and \$500 fine for the other violation) associated with these rule violations, which is the case in this docket. However, the Commission has accepted amounts less than the fine amount in other similar cases.

Any settlement offer/correspondence should be addressed to Ms. Blanca Bayó, Director, Division of the Commission Clerk & Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The proposed settlement amount should **not** be paid at this time, instead only the past due regulatory assessment fee, plus penalty and interest charges should be paid. The settlement amount, if approved by the Commission, must be paid within 10 business days after the Commission Order is issued.