

State of Florida



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED-FPSC  
01 NOV 19 AM 10:05  
COMMISSION CLERK

**DATE:** NOVEMBER 19, 2001

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *PIJ*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *MP*  
*BK*

**RE:** DOCKET NO. 011027-TI - CANCELLATION BY FLORIDA PUBLIC  
SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS  
CERTIFICATE NO. 6094 ISSUED TO LEGENDS COMMUNICATIONS,  
INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY  
ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 12/04/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\011027.RCM

CASE BACKGROUND

- 05/26/99 - This company was granted Florida Public Service Commission Certificate No. 6094.
- 09/05/00 - Docket No. 001318-TI was established for nonpayment of the 1999 Regulatory Assessment Fee (RAF). On January 8, 2001, Order No. PSC-01-0054-AS-TI was issued, which accepted the company's \$250 settlement. The company paid the past due RAF and \$250 contribution and the docket was closed.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 RAF notice. Payment was due January 30, 2001.

DOCUMENT NUMBER-DATE  
14651 NOV 19 2001  
FPSC-COMMISSION CLERK

DOCKET NO. 011027-TI  
DATE: NOVEMBER 19, 2001

- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice to the company.
- **08/07/01** - Ms. Rebecca Dean called on behalf of Legends Communications, Inc. She requested the RAF return and the company's options to resolve this docket. Staff wrote the company the same date and provided the RAF return form and options.
- **09/25/01** - The Commission received the company's payment for the 2000 RAF, including all penalty and interest charges except \$0.50.
- **10/11/01** - Ms. Rebecca Dean called staff and left a voice mail message, which stated that the \$0.50 underpayment would be paid. Staff called Ms. Dean back to discuss the company's options.
- **11/07/01** - As of this date, the company has not paid the small interest balance, proposed a settlement to resolve this docket, nor requested cancellation of its certificate in compliance with Rule 25-24.474, Florida Administrative Code.

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 \$1,000 fine or cancel Legends Communications, 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 \$1,000 fine or cancel the company's certificate if the fine is 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 is not received, the company's Certificate No. 6094 should be cancelled administratively. (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 25-24.474, 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' records show that the company had not paid its 2000 regulatory assessment fee, plus statutory penalty and interest charges. Ms. Rebecca Dean called staff on August 7, 2001 and advised that the past due amount would be paid. Ms. Dean was provided the 2000 RAF return form and the company's options to resolve this docket.

Although the Commission did receive the company's payment for the past due RAF, including all except \$0.50 of the penalty and interest charges, the company did not propose a settlement or request cancellation of its certificate to resolve this docket.

DOCKET NO. 011027-TI  
DATE: NOVEMBER 19, 2001

Staff returned a call to Ms. Dean on October 11, 2001, after receiving a voice mail message. Ms. Dean was asked if the company was going to propose a settlement to resolve this docket. Ms. Dean advised "probably."

Although this company has now paid the past due RAFs, plus all the penalty and interest charges except the \$0.50 balance, it still appears that it has failed to comply with Rule 25-4.0161, Florida Administrative Code, by not addressing its apparent non-compliance with the rule or propose a settlement. Therefore, staff recommends that the company be fined. The fine amount recommended in this docket is consistent with amounts imposed for recent, similar violations.

This is the second docket opened against Legends Communications, Inc. for nonpayment of the RAF. On January 8, 2001, Order No. PSC-01-0054-AS-TI was issued in Docket No. 001318-TI. The Order accepted the company's \$250 settlement. The company subsequently paid the past due RAFs and the \$250 contribution. The docket was then closed.

Accordingly, staff recommends that the Commission assess a \$1,000 fine or cancel the company's certificate if the fine is 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 is not received, the company's Certificate No. 6094 should be cancelled administratively.

DOCKET NO. 011027-TI  
DATE: NOVEMBER 19, 2001

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** 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 or cancellation of the certificate. (K. Peña; B. Keating)

**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 receipt of the fine or cancellation of the certificate.