

State of Florida



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

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COMMISSION CLERK

DATE: FEBRUARY 6, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *PK JLC*

RE: DOCKET NO. 021161-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 7970 ISSUED TO CALPOINT (FLORIDA), LLC FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 02/18/03 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\021161.RCM

CASE BACKGROUND

- 12/11/01 - This company obtained Florida Public Service Commission Alternative Local Exchange Carrier Certificate No. 7970.
- 08/27/02 - Staff mailed the 2001 Regulatory Assessment Fee (RAF) notice, along with a letter, and requested payment by September 17, 2002.
- 10/22/02 - Staff called the company and left a voice mail message requesting a return call.
- 10/22/02 and 10/23/02 - Staff and company representative, Ms. Myra Hoffman, had several voice mail "conversations". In a voice mail message on October 23, 2002, Ms. Hoffman asked

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staff to fax the 2001 RAF return form. The 2001 RAF return form was faxed the same date, along with a note advising payment needed to be received by November 15, 2002 to avoid a docket from being established. The company did not pay the 2001 RAF, therefore, this docket was established.

- **01/07/03** - Order No. PSC-03-0042-PAA-TX was issued, which imposed a \$500 penalty or cancelled the company's certificate.
- **01/09/03** - Ms. Rebecca Baker called staff and left a voice mail message advising the company wished to resolve this docket before the certificate was revoked. Staff called Ms. Baker and provided the information required to keep the company's certificate active.
- **01/13/03** - The Commission received the company's payment for the 2001 and 2002 RAFs, including statutory penalty and interest charges for late payment of the 2001 RAF. The company reported no revenues for the period ended December 31, 2002. In addition, the Commission received the company's proposed settlement, along with payment of the \$100 proposed settlement.

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 accept the settlement offer proposed by Calpoint (Florida), LLC to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 7970 should be canceled administratively. If Calpoint (Florida), LLC's certificate is cancelled in accordance with the Commission's Order from this recommendation, Calpoint (Florida), LLC should be required to immediately cease and desist providing alternative local exchange carrier services in Florida. (Isler; Teitzman)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.835, 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.

After Order No. PSC-03-0042-PAA-TX was issued on January 7, 2003, the Commission received the company's payment for the outstanding Regulatory Assessment Fee, including statutory penalty and interest charges, the 2002 RAF, and a letter from the company which offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. In addition, the company included payment of the \$100 contribution. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during

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any portion of the calendar year, including the year of cancellation.

Accordingly, staff believes the Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 7970 should be canceled administratively. If Calpoint (Florida), LLC's certificate is cancelled in accordance with the Commission's Order from this recommendation, Calpoint (Florida), LLC should be required to immediately cease and desist providing alternative local exchange carrier services in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed. (Teitzman)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.