

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-

DATE: MARCH 20, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (WATTS)  
DIVISION OF AUDITING & SAFETY (VANDIVER)  
OFFICE OF THE GENERAL COUNSEL (ROJAS)

RE: DOCKET NO. 030165-TC - COMPLIANCE INVESTIGATION OF  
SPRAWLNET.COM INC. D/B/A PUBLIC COMMUNICATIONS SERVICES  
FOR APPARENT VIOLATION OF SECTION 364.183 (1), F.S., ACCESS  
TO COMPANY RECORDS.

AGENDA: 04/01/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030165.RCM

CASE BACKGROUND

- March 1, 1990 - Sprawl.net.com Inc. d/b/a Public Communication Services (PCS) obtained Florida Public Service Commission (Commission) pay telephone Certificate No. 2437.
- January 24, 2002 - PCS reported operating revenue of \$94,601.00.
- May 24, 2002 - Staff sent PCS a notice of impending Audit Request (Attachment A) via the United States Postal System (U.S.P.S.). The letter notified the company that the auditor would contact the company to coordinate the audit.
- June 6, 2002 - Staff sent PCS a request for documents needed to complete the audit (Attachment B).

DOCUMENT NUMBER-DATE

02662 MAR 19 8

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COMMISSION CLERK  
CS-110-110-110

DATE: March 20, 2003

- November 14, 2002 - Staff sent PCS a second request for documents needed to complete the audit (Attachment C). The company was given a due date of November 22, 2002.
- December 12, 2002 - Staff sent PCS a certified letter (Attachment D) urging the company to respond to staff and advising of possible Commission action if it failed to do so.
- January 8, 2003 - Staff's December 12, 2002, letter was returned by the U.S.P.S. with a forwarding address written on the envelope.
- January 9, 2003 - Staff sent PCS a second certified letter (Attachment E) to the forwarding address written on the envelope of the returned December 12, 2002, letter reiterating the contents of that letter.
- January 31, 2003 - Staff's January 9, 2003, letter was returned by the U.S.P.S. marked "Unclaimed."

The Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.17, 364.18, 364.183, 364.285, 364.336, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a penalty on Sprawl.net.com Inc. d/b/a Public Communication Services of \$10,000 for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

**RECOMMENDATION:** Yes. The Commission should impose a penalty on Sprawl.net.com Inc. d/b/a Public Communication Services of \$10,000 for apparent violation of Section 364.183(1), Florida Statutes. The penalty should be paid to the Florida Public Service Commission pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and if payment of the penalty is not received within 14 calendar days after the issuance of the Consummating Order, then Certificate No. 2437 should be canceled administratively. If PCS's certificate is cancelled in accordance with the Commission's Order from this recommendation, PCS should be required to immediately cease and desist providing pay telephone services in Florida. (Watts/Vandiver/Rojas)

**STAFF ANALYSIS:** Section 364.183(1), Florida Statutes, requires that telecommunications providers allow Commission staff access to all records that are reasonably necessary for the disposition of matters within the Commission's jurisdiction. Staff contacted PCS via certified letter on May 24, 2002, to arrange for an audit of the company's 2001 Regulatory Assessment Fee (RAF) filing in accordance with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Staff made numerous attempts to contact PCS between May 24, 2002, and January 9, 2003, both by telephone and certified letter. To date, PCS has not responded to staff's request for access to its records for an audit.

Staff believes PCS's conduct of failing to respond to staff's request for access to its records for an audit in apparent violation of Section 364.183(1), Florida Statutes, is "willful" within the meaning and intent of Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 for GTE Florida, Inc., the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined,

stating that "[I]n our view, 'willful' implies intent to do an act, and this is distinct from intent to violate a statute or rule." Thus, any intentional act, such as PCS's conduct at issue here, would meet the standard for a "willful violation."

Section 364.285(1), Florida Statutes, authorizes the Commission to impose upon any entity subject to its jurisdiction a penalty for each offense of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364, Florida Statutes. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Based on the foregoing, staff recommends that the Commission impose a penalty on Sprawl.net.com Inc. d/b/a Public Communication Services of \$10,000 for apparent violation of Section 364.183(1), Florida Statutes. The penalty should be paid to the Florida Public Service Commission pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and if payment of the penalty is not received within 14 calendar days after the issuance of the Consummating Order, then Certificate No. 2437 should be canceled administratively. If PCS's certificate is cancelled in accordance with the Commission's Order from this recommendation, PCS should be required to immediately cease and desist providing pay telephone services in Florida.

DOCKET NO. 030165-TC  
DATE: March 20, 2003

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. This docket should then be closed administratively upon either receipt of the payment of the penalty, or upon cancellation of Certificate No. 2437 if the penalty is not paid within fourteen calendar days after issuance of the Consummating Order. (Rojas)

STAFF ANALYSIS: 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. This docket should then be closed administratively upon either receipt of the payment of the penalty, or upon cancellation of Certificate No. 2437 if the penalty is not paid within fourteen calendar days after issuance of the Consummating Order.

STATE OF FLORIDA

COMMISSIONERS:  
LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY



DIVISION OF AUDITING & SAFETY  
DANIEL M. HOPPE, DIRECTOR  
(850) 413-6480

Public Service Commission

May 24, 2002

Mr. Alfred Susi, President  
Sprawlnet.com Inc. d/b/a Public Communication Services  
1811 N. E. 146th Street  
North Miami, FL 33181-1423

**RE: Undocketed; Sprawlnet.com Inc. d/b/a Public Communication Services; Company Code: (TE181); Audit Request: RAF Compliance Audit; Audit Control No. 02-119-4-5**

Dear Mr. Susi:

The Florida Public Service Commission will conduct an audit to verify the revenues and Regulatory Assessment Fees (RAF) reported in your 2001 RAF filing. Your company was chosen as part of our random sample of all companies paying RAF for 2001. Kathy Welch, the Miami district office supervisor, will coordinate this audit. Ms. Welch can be reached at (305) 470-5600. These audits will be scheduled after the current workload. Therefore, you may hear from the auditor assigned in June or July to set up the requirements of the audit.

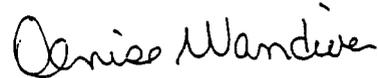
Commission rule states that "upon notification to the utility, members may, at reasonable times, make personal visits to the company offices or other places of business within or without the State and may inspect any accounts, books, records, and papers of the company which may be necessary in the discharge of Commission duties. During such visits the company shall provide the staff member(s) with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable with the accommodations provided the company's outside auditors.

This audit is designed to reconcile the numbers reported in the RAF filing to the utility's records and perform tests to verify that the utility's records are accurate. For those companies with records out of state, we do not intend to travel out of state unless the utility cannot provide the necessary documentation by mail or fax. Commission rule states that "any company that keeps its records outside the State shall reimburse the Commission for the reasonable travel expense incurred by each Commission representative during any review of the out-of-state records of the company or its affiliates."

Mr. Alfred Susi  
Page 2  
May 24, 2002

This will be a limited scope audit and will only result in a staff memorandum describing the company's compliance with applicable rules and statutes regarding regulatory assessment fees. This memorandum will be issued before November 30, 2002. If the company is not in compliance with applicable rules and regulations, a copy of the memorandum will be sent to the company and any future action, if any, will be determined at that time. Questions regarding the audit or audit staff should be directed to the district supervisor or myself. My phone number is (850) 413-6487.

Sincerely,



Denise N. Vandiver  
Bureau Chief of Auditing Services

DNV/jcp  
Attachments

cc: Division of Auditing and Safety (Miami District Office Supervisor, File Folder)

State of Florida

Commissioners:

LILA JABER, CHAIRMAN  
RUDY BRADLEY  
J. TERRY DEASON  
BRAULIO BAEZ  
MICHAEL A. PALECKI



3625 NW 82nd AVENUE  
SUITE 400  
MIAMI, FLORIDA 33166-  
7602

Public Service Commission

June 6, 2002

Mr. Alfred Susi, President  
Sprawlnet.com Inc. d/b/a  
Public Communication Services (TE181)  
1811 N.E. 146 St.  
North Miami, Fl 33181-1423

Dear Mr. Susi:

You recently received a letter from Denise Vandiver from our Tallahassee office informing you that our office would be performing an audit of your Regulatory Assessment Fee Return for 2001. Although we will probably not be starting these audits until August, I am enclosing a request for the documents we will need to complete the audit.

This should give you ample time to gather the information so that when we call to schedule a time with you, you can have the information ready. If you have any questions about what we are asking for, please call me and I will be glad to help you. I can be reached at 305-470-5602.

Yours truly,

A handwritten signature in cursive script that reads "Kathy Welch".

Kathy Welch  
Public Utilities Supervisor

enc

**FLORIDA PUBLIC SERVICE COMMISSION  
AUDIT DOCUMENT/RECORD REQUEST  
NOTICE OF INTENT**

TO: Alfred Susi UTILITY: Public Communication Services (TE181)

AUDIT MANAGER: Kathy Welch PREPARED BY: \_\_\_\_\_

REQUEST NUMBER: 1 DATE OF REQUEST: 6/6/02

AUDIT PURPOSE: Regulatory Assessment Fee Audit

REQUEST THE FOLLOWING ITEM(S) BE PROVIDED BY: August 1, 2002  
REFERENCE RULE 25-22.006, F.A.C., THIS REQUEST IS MADE:  INCIDENT TO AN INQUIRY  
 OUTSIDE OF AN INQUIRY

**ITEM DESCRIPTION:**

1. Provide a copy of your company trial balance for 2001.
2. Provide a copy of your tax return for 2001.
3. If you have audited financial statements, provide a copy.
4. If the account balances in the trial balance do not trace to the total revenues shown on your Regulatory Assessment Fee Return because they include several states, provide a detail of the accounts by state that reconciles the two numbers and shows all other states.
5. If the account balances in the trial balance do not trace to the total revenues shown on your Regulatory Assessment Fee Return because of other reasons, provide a reconciliation of why and include the reasons.
5. Provide documentation that shows how you determined the intrastate amounts. If they are actual, provide a copy of the reports from the billing system that you obtained them from. If they are based on an allocation percentage, provide the allocation percent and the supporting documentation for how it was calculated. Please include the billing summary reports that show number of calls or dollars for calls in Florida (intrastate/interstate/international).
7. If your return includes an amount for "amounts paid to other companies", please include the documentation that you used to arrive at this number. Provide summaries from the bills paid to the companies that show intrastate dollars.

TO: AUDIT MANAGER DATE: \_\_\_\_\_

**THE REQUESTED RECORD OR DOCUMENTATION:**

- (1)  HAS BEEN PROVIDED TODAY
- (2)  CANNOT BE PROVIDED BY THE REQUESTED DATE BUT WILL BE MADE AVAILABLE BY: \_\_\_\_\_
- (3)  AND IN MY OPINION, ITEM(S) \_\_\_\_\_ IS (ARE) PROPRIETARY AND CONFIDENTIAL BUSINESS INFORMATION AS DEFINED IN 364.183, 366.093, OR 367.156, F.S. TO MAINTAIN CONTINUED CONFIDENTIAL HANDLING OF THIS MATERIAL. THE UTILITY OR OTHER PERSON MUST, WITHIN 21 DAYS AFTER THE AUDIT EXIT CONFERENCE, FILE A REQUEST FOR CONFIDENTIAL CLASSIFICATION WITH THE DIVISION OF RECORDS AND REPORTING. REFER TO RULE 25-22.006, F.A.C.
- (4)  THE ITEM WILL NOT BE PROVIDED. (SEE ATTACHED MEMORANDUM)

\_\_\_\_\_  
(SIGNATURE AND TITLE OF RESPONDENT)

Distribution: Original: Utility (for completion and return to Auditor)  
Copy: Audit File

State of Florida

Commissioners:

LILA JABER CHAIRPERSON  
J. TERRY DEASON  
BRAULIO BAEZ  
MICHAEL A. PALECKI  
RUDY BRADLEY



3625 NW 82nd AVENUE  
SUITE 400  
MIAMI, FLORIDA 33166-  
7602

Public Service Commission

November 14, 2002

Mr. Alfred Susi, President  
Sprawlnet.net.com Inc. d/b/a Public Communication Services  
1811 N. E. 146<sup>th</sup> Street  
North Miami, FL 33181-1423

RE: Undocketed; Sprawlnet.net .com Inc.; Company Code: (TE181);  
Audit Request: RAF Compliance Audit; Audit Control No. 02-119-4-5

Dear Mr. Susi,

On May 24, 2002, you were sent a letter stating that an audit will be conducted to verify the revenues on your 2001 Regulatory Assessment Fee return. You were also sent a Document Record Request requesting specific documents needed to conduct this audit. You have not responded to our request or to the numerous messages the auditors left on your answering machine.

We believe that we have given you adequate time to gather the information that we requested. If we do not receive the information by November 22, 2002, we will recommend punitive action for noncompliance. Please call our office at (305) 470-5600 so that arrangements can be made to conduct the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond A. Grant".

Raymond A. Grant  
Regulatory Analyst IV

cc: Kathy Welch, Miami District Office Supervisor

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BLVD • TALLAHASSEE, FL 32399-0850

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RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



DIVISION OF COMPETITIVE MARKETS &  
ENFORCEMENT  
WALTER D'HAESELEER  
DIRECTOR  
(850) 413-6600

## Public Service Commission

December 12, 2002

CERTIFIED

Mr. Alfred Susi  
Public Communication Services  
1811 N.E. 146<sup>th</sup> Street  
North Miami, FL 33181-1423

Dear Mr. Susi:

The purpose of this letter is to bring to your attention staff's attempts to contact you by letter and by telephone since May 24, 2002, and to urge you to respond to this letter as quickly as possible. Rule 25-4.043, Florida Administrative Code (F.A.C.), included by reference in Rule 25-24.505, F.A.C., requires that companies provide the necessary response to Commission staff inquiries within 15 days.

The Florida Public Service Commission's (the Commission) Division of Auditing and Safety has sent Public Communication Services (PCS) three letters (copies enclosed) to notify PCS that it had been selected for a random Regulatory Assessment Fee audit and to request that specific documents be available to the auditor. When attempting to schedule a time to conduct the audit, the auditor left numerous messages on PCS' voicemail requesting a return phone call. When PCS did not return any of the messages, the auditor sent a letter requesting PCS respond by November 22, 2002, or it would recommend punitive action for noncompliance.

Mr. Susi, I strongly urge you to contact me at your earliest convenience. I understand that PCS may have vacated its offices and may be considering going out of business. If that is the case and PCS meets the requirements for a voluntary cancellation, it may request one by writing to our Division of the Commission Clerk & Administrative Services. However, if PCS wishes to retain its certificate, you must respond to this letter by January 8, 2003, and contact Ms. Kathy Welch by the same date at (305) 470-5602 to make arrangements for the audit. Failure to respond to this letter will result in further action by the Commission.

DOCKET NO. 030165-TC  
DATE: March 20, 2003

ATTACHMENT D

Mr. Alfred Susi  
Page 2  
December 12, 2002

If you have any questions, please contact me at (850) 413-6952.

Sincerely,



Melinda Watts  
Bureau of Service Quality

Enclosures (3)

cc: Division of Auditing and Safety (Vandiver)  
Ref: Audit Control No. 02-119-4-5

STATE OF FLORIDA

COMMISSIONERS:  
LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY



DIVISION OF COMPETITIVE MARKETS &  
ENFORCEMENT  
WALTER D'HAESELEER  
DIRECTOR  
(850) 413-6600

## Public Service Commission

January 9, 2003

### CERTIFIED - SECOND NOTICE

Mr. Alfred Susi  
Public Communication Services  
1000 W. Island Boulevard, #1611  
Aventura, FL 33160-5611

Dear Mr. Susi:

The purpose of this letter is to bring to your attention staff's attempts to contact you by letter and by telephone since May 24, 2002, and to urge you to respond to this letter as quickly as possible. Rule 25-4.043, Florida Administrative Code (F.A.C.), included by reference in Rule 25-24.505, F.A.C., requires that companies provide the necessary response to Commission staff inquiries within 15 days.

The Florida Public Service Commission's (the Commission) Division of Auditing and Safety has sent Public Communication Services (PCS) three letters (copies enclosed) to notify PCS that it had been selected for a random Regulatory Assessment Fee audit and to request that specific documents be available to the auditor. When attempting to schedule a time to conduct the audit, the auditor left numerous messages on PCS' voicemail requesting a return phone call. When PCS did not return any of the messages, the auditor sent a letter requesting PCS respond by November 22, 2002, or it would recommend punitive action for noncompliance.

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

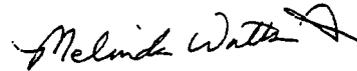
DOCKET NO. 030165-TC  
DATE: March 20, 2003

ATTACHMENT E

Mr. Alfred Susi  
Page 2  
January 9, 2003

If you have any questions, please contact me at (850) 413-6952.

Sincerely,



Melinda Watts  
Bureau of Service Quality

Enclosures (3)

cc: Division of Auditing and Safety (Vandiver)  
Ref: Audit Control No. 02-119-4-5