



Public Service Commission
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DATE: SEPTEMBER 4, 2003
TO: DIRECTOR, DIVISION OF THE COMMISSION ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) OFFICE OF THE GENERAL COUNSEL (MCKAY) *vs m*
RE: DOCKET NO. 030613-TA - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF AAV CERTIFICATE NO. 2961 ISSUED TO COMMERCIAL COMMUNICATIONS SYSTEMS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/16/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030613.RCM

CASE BACKGROUND

- 04/29/92 - This company obtained Florida Public Service Commission Alternative Access Vendor (AAV) Certificate No. 2961.
- 01/02/02 - The Commission received the company's Regulatory Assessment Fee (RAF) return for the period ended December 31, 2001. The company reported no revenues.
- 12/12/02 - The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF return. Payment was due January 30, 2003.
- 02/21/03 - The Office of the General Counsel mailed a delinquent notice. The US Postal Service returned the

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certified receipt, which showed the delinquent notice was signed for by Don Jacobs and delivered on March 4, 2003.

- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **04/11/03** - Staff wrote the company at the address on file in the Master Commission Directory and explained that payment for the RAF needed to be paid by April 30, 2003, to avoid an enforcement docket from being established.
- **06/18/03** - Staff called the telephone number on file in the Master Commission Directory and a recording advised the number had been disconnected. Staff then called Directory Assistance and was told there was no listing for Commercial Communications Systems, Inc.
- **07/11/03** - Staff received an e-mail from Mr. Don Jacobs, President of Commercial Communications Systems, Inc., who advised the company had gone out of business on January 31, 2003.
- **08/19/03** - As of this date, the company has not paid the past due amount. In addition, there are no outstanding consumer complaints against Commercial Communications Systems, Inc.

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 grant Commercial Communications Systems, Inc. a voluntary cancellation of AAV Certificate No. 2961?

RECOMMENDATION: The Commission should not grant the company a voluntary cancellation of its AAV certificate. The Commission should cancel the company's AAV Certificate No. 2961 on its own motion, effective July 11, 2003. The collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing alternative access vendor services in Florida. (Isler; McKay)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30, or the next business day, 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.

Rule 25-24.735(2)(a), (b), (c), and (d), Florida Administrative Code, states:

- (2) If a certificated AAV service provider seeks to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following information with its request:
 - (a) The date the final Regulatory Assessment Fee was paid;
 - (b) A statement of the reasons for cancellation;
 - (c) A statement on the treatment of customer deposits and final bills; and
 - (d) A representative copy of a customer notice regarding discontinuance of service.

Staff had written the company twice and attempted to call without success to attempt collection of the 2002 RAF. In response, on July 11, 2003, the company's President, Mr. Don Jacobs, e-mailed staff and advised only that Commercial Communications Systems, Inc. had gone out of business on January 31, 2003.

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Accordingly, the Commission should not grant the company a voluntary cancellation of its AAV certificate. The Commission should cancel the company's AAV Certificate No. 2961 on its own motion, effective July 11, 2003. The collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing alternative access vendor services in Florida.

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 issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order. (McKay)

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 issuance of a Consummating Order.