

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
03 SEP 18 AM 11:43
COMMISSION CLERK
pic
for

DATE: SEPTEMBER 18, 2003
TO: DIRECTOR, DIVISION OF THE COMMISSION ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) OFFICE OF THE GENERAL COUNSEL (DODSON)
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.
AGENDA: 09/30/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: NONE
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\CMP\WP\030694.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against pay telephone companies (PATs) for nonpayment of the Regulatory Assessment Fees (RAFs) and not providing the Commission with its updated reporting requirements. Staff is recommending that the first time offenders for both rule violations be penalized \$1,000.

In Issue 1 of this recommendation, staff identifies Rule 25-4.0161, Florida Administrative Code, as that apparently violated by the companies listed in the attachment. The rule is incorporated by Rule 25-24.505, Florida Administrative Code. To avoid redundancy, hereafter, the recommendation refers only to Rule 25-4.0161, Florida Administrative Code.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, 364.3375, and 364.183,

DOCUMENT NUMBER-DATE

08896 SEP 18 03

FPSC-COMMISSION CLERK

DOCKET NOS. 030694-TC & OTHERS

DATE: SEPTEMBER 18, 2003

Florida Statutes. The following docket numbers are addressed by this recommendation.

1st Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

DOCKET NO. 030694-TC - VISIONCOMM, INC. D/B/A VISION COMMUNICATIONS OF DELAWARE, INC.

DOCKET NO. 030709-TC - OL CORPORATION

DOCKET NO. 030723-TC - T. TODD

DOCKET NO. 030744-TC - DIGI COMMUNICATIONS, INC.

DISCUSSION OF ISSUES

ISSUE 1: . Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel each company's respective certificate, as listed on Attachment A, for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective certificate, as listed on Attachment A, for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Dodson)

STAFF ANALYSIS: Each of the companies listed on Attachment A have not paid their 2002 Regulatory Assessment Fees, plus statutory penalty and interest charges, in compliance with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

In addition, each of the companies listed on Attachment A have had returned mail and have not updated the information within 10 days of the change of their respective address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Staff attempted to call each

DATE: SEPTEMBER 18, 2003

company, but was unsuccessful. Therefore, it appears the companies listed on Attachment A have failed to comply with Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, Florida Administrative Code, Reporting Requirements, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay RAFs, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective certificate, as listed on Attachment A, for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of 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 dockets should then be closed upon receipt of the penalties, fees, and required information or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (Dodson)

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, these dockets should be closed upon receipt of the penalties, fees, and required information or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

1st Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

<u>Docket No.</u>	<u>Provider Last Reported Revenues & Period Ended</u>	<u>Cert. No.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
030694-TC	VisionComm, Inc. d/b/a Vision Communications of Delaware, Inc. \$18,446 Revenues 12/31/01	4581	2002	1997 2000 2002
030709-TC	OL Corporation \$3,420 Revenues 12/31/01	5874	2002	2001 2002
030723-TC	T. Todd \$87 Revenues 12/31/01	7503	2002	2002
030744-TC	Digi Communications, Inc. No Previous Return Filed	8207	2002	2002

*Years penalty and/or interest was not paid