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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

September 26, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *PKH*
DIVISION OF LEGAL SERVICES (LUGO) *scf mls*

RE: DOCKET NO. 961033-TA - TWC CABLE PARTNERS - CANCELLATION
BY FLORIDA PUBLIC SERVICE COMMISSION FOR VIOLATION OF
RULE 25-4.0161(2), F.A.C., REGULATORY ASSESSMENT FEES.

AGENDA: October 8, 1996 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\961033.RCM

CASE BACKGROUND

- Regulatory assessment fees for 1995 have not been remitted by **TWC CABLE PARTNERS**, an alternative access vendor, certificate #4033.
- The Bureau of Fiscal Services mailed the appropriate forms and a delinquent notice to the company and received no response.
- Staff believes the following recommendation is appropriate.

DOCUMENT NUMBER-DATE

10327 SEP 26 96

FPSC-RECORDS/REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should **TWC CABLE PARTNERS**, an alternative access vendor, have its certificate cancelled by the Florida Public Service Commission for violation of Rule 25-4.0161(2), Florida Administrative Code, Regulatory Assessment Fees, if it fails to pay a \$250 fine and past due regulatory assessment fees?

RECOMMENDATION: Yes. Staff recommends that **TWC CABLE PARTNERS** should have its certificate cancelled if it fails to pay a \$250 fine and past due regulatory assessment fees within 30 days after the Order becomes final. The fine is to 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 364.285(1), Florida Statutes.

STAFF ANALYSIS: Rule 25-4.0161(2), Regulatory Assessment Fees; Alternative Access Vendor, Florida Administrative Code, states in pertinent part:

- (2) Regulatory assessment fees and the applicable regulatory assessment fee return form for companies whose gross regulatory assessment fees of \$10,000 or more shall be filed twice a year. Companies whose gross regulatory assessment fees are less than \$10,000 shall file the appropriate form once a year; no later than January 30 of the subsequent year, and:
 - (a) Remit the total amount of its fee, or
 - (b) Remit an amount which the company estimates is its full fee, or
 - (c) Seek and receive from the Commission a 30 day extension of its due date.

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The regulatory assessment fees due have not been remitted by **TWC CABLE PARTNERS** based on information provided by the Bureau of Fiscal Services. Furthermore, the company has not requested an extension of time in order to comply with the Rule.

Therefore, since it appears that **TWC CABLE PARTNERS** has violated Rule 25-24.745(1), Regulatory Assessment Fees; Alternative Access Vendor, Florida Administrative Code, staff recommends that **TWC CABLE PARTNERS'** certificate be cancelled pursuant to Rule 25-24.735(1), Cancellation of Certificate, Florida Administrative Code, if it fails to pay a \$250 fine and past due regulatory assessment fees within 30 days after the Order becomes final. Rule 25-24.735, F.A.C., states in pertinent part that:

- (1) The Commission may cancel a company's certificate for any of the following reasons:
 - (a) Violation of the terms and conditions under which the authority was originally granted.
 - (b) Violation of the Commission rules or orders;
 - (c) Violation of Florida Statutes; or,
 - (d) Failure to provide service for a period of six (6) months.

Staff believes that **TWC CABLE PARTNERS** was given ample opportunity to comply with Rule 25-4.0161(2), Regulatory Assessment Fees; Alternative Access Vendor, Florida Administrative Code. The Bureau of Fiscal Services not only mails the appropriate forms annually, but they also mail a delinquent notice. A provider that does not receive the form is still responsible for remitting the appropriate fees. Each company seeking certification acknowledges that it understands the rules at the time it applies by signing an acknowledgement card.

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ISSUE 2 : Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the vendor will have 30 days from the date the Order becomes final to pay a \$250 fine and all past due regulatory assessment fees or its certificate will be cancelled without further Commission action and the docket should be closed.

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then **TWC CABLE PARTNERS** will have 30 days from the date the Order becomes final to pay a \$250 fine and past due regulatory assessment fees or its certificate will be cancelled without further Commission action. If no protest is filed, the docket should be closed after the conclusion of the 30 day period. If the Commission denies staff on Issue 1, this docket should be closed.