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FLORIDA PUBLIC SERVICE COMMISSION  
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JULY 2, 1997

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FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS, MUSSELWHITE)  
DIVISION OF AUDITING & FINANCIAL ANALYSIS (LESTER)  
DIVISION OF LEGAL SERVICES (PENA) *UP MCB*

RE: DOCKET NO. ~~961309~~-TI - APPLICATION FOR CERTIFICATE TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE BY VENDORMATIC, INC. d/b/a HSS VENDING DISTRIBUTORS AND INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF RULE 25-24.470, FLORIDA ADMINISTRATIVE CODE, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED.

AGENDA: JULY 15, 1997 - REGULAR AGENDA - ISSUE 1 IS PROPOSED AGENCY ACTION - ISSUE 2 IS SHOW CAUSE ORDER - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\961309.RCM

CASE BACKGROUND

On October 3, 1996, staff informed VENDORMATIC, INC. d/b/a HSS VENDING DISTRIBUTORS (HSS) that a certificate of public convenience and necessity is required to operate in Florida as an interexchange telecommunications service provider.

On November 1, 1996, staff received the appropriate application for certification as an interexchange telecommunication service company. However, the company continued to operate without a certificate in Florida through a national sweepstakes drawing offering a travel calling card, plus the opportunity to enter a contest to win certain specified prizes. Because of this, staff has received 60 complaints against HSS regarding People's Edge

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discount calling cards. The customers or complainants stated that they were charged for a service which they did not want, nor to their knowledge, did they submit an application to receive the card. On February 19, 1997, HSS was informed to immediately discontinue providing any telecommunications services in Florida, including billing and collection for other entities.

It is staff's recommendation that HSS be granted a certificate to operate as an interexchange telecommunications service provider and it is also staff's recommendation that because of the 60 complaints, HSS should be fined for operating without a certificate.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant VENDORMATIC, INC. d/b/a HSS VENDING DISTRIBUTORS (HSS) a certificate to provide statewide interexchange telecommunications service within the State of Florida as provided by Section 364.377(3), Florida Statutes?

RECOMMENDATION: Yes. HSS should be granted a certificate.

Florida Public Service Commission Certificate No. 4801  
(Williams)

STAFF ANALYSIS: Section 364.337(3), Florida Statutes reads as follows:

The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area to be served.

HSS filed an application with this Commission on November 1, 1996, to offer telecommunications service as a operator service provider and reseller in Florida. The company has sufficient managerial and technical capabilities in the provision of telecommunications service. A review of HSS's financial capability by the Division of Auditing and Financial Analysis indicates that the application appears to meet the requirements of Section 364.337(3), Florida Statutes.

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Therefore, staff recommends that the Commission grant HSS a certificate to provide interexchange telecommunications service.

**ISSUE 2:** Should VENDORMATIC, INC. d/b/a HSS VENDING DISTRIBUTORS (HSS) be ordered to show cause why it should not be fined \$25,000 pursuant to Section 364.285, Florida Statutes, for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

**RECOMMENDATION:** Yes. The Commission should require HSS to show cause in writing within 20 days of the issuance of the Commission's Order why it should not be fined \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The company's response must contain specific allegations of fact of law. If HSS fails to respond to the show cause, the fine will be deemed assessed. If the fine is not paid after reasonable collection efforts by the Commission, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. (**Penalty**)

**STAFF ANALYSIS:** Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, states;

No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment for services be collected, until the effective date of a certificate, if granted. However, acquisition and other promotional activities may begin prior to the effective date of the certificate at the applicant's risk that it may not be granted. In any customer contracts or advertisements prior to certification, the applicant must advise the customer that certification has not and may not be granted.

After HSS filed its application on November 1, 1996, staff began receiving complaints on November 12, 1996, concerning the

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People's Edge discount calling cards. Because of these complaints staff informed HSS by letter on February 2, 1997, to immediately discontinue providing any telecommunication services in Florida, including billing and collecting for other entities. A reply was received from HSS on March 3, 1997, informing staff that HSS no longer solicited the People's Edge discount calling card and that all complainants that desired to be removed from the program were removed and credits were issued to their phone bills.

However, because of the 60 complaints against HSS regarding People's Edge discount calling cards, HSS appears to have operated in Florida without a certificate. Further, the complaints stated that they were charged for a service that they did not want, nor to their knowledge, did they submit an application to receive the card. Therefore, staff recommends that the Commission require HSS to show cause why it should not be fined \$25,000 for operating in Florida without a certificate.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** No. The docket should remain open pending the resolution of the show cause proceeding, and the processing of any protest to Issue 1 that may be filed within 21 days of the issuance of the order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest to the Commission's decision in Issue 1 is filed, that portion of the Order will be final and the certificate can be issued. (**Pena**)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 2, an order to show cause will be issued and this docket should remain open for the resolution of the show cause proceeding. Further, whether the Commission approves or denies staff's recommendation in Issue 1, the Commission shall issue a Proposed Agency Action Order. Therefore, this docket should remain open pending the resolution of any protest that may be filed within 21 days of the issuance of the order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest is filed to the Commission's Proposed Agency Action, that action should become final.