

Talbott : *WS*

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FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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MEMORANDUM

September 25, 1997

FPSC - Records Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*
DIVISION OF ADMINISTRATION (LAKE) *ML*
DIVISION OF LEGAL SERVICES (BOWMAN) *ATY* *MB*

RE: DOCKET NO. 971133-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4712 ISSUED TO 989021 ONTARIO, INC. D/B/A AD-TEL COMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 10/07/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971133TX.RCM

CASE BACKGROUND

- 989021 Ontario, Inc. d/b/a AD-TEL Communications (AD-TEL) obtained Florida Public Service Commission Alternative Local Exchange Telecommunications certificate number 4712 on December 11, 1996.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing AD-TEL that it was delinquent on its regulatory assessment fees for the year 1996. The letter was signed for and received, but to date, no response has been received (Attachment A, Page 4).
- As of September 16, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by AD-TEL.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 971133-TX
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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel AD-TEL's Alternative Local Exchange Telecommunications Certificate No. 4712 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine should 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 Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and the regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 4712 should be canceled. (Biegalski)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 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.

On September 16, 1997, staff learned that AD-TEL had not submitted the regulatory assessment fees for the year 1996, along with statutory penalties and interest charges. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 4712 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

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ISSUE 2: Should the Commission order all certificated local exchange companies (LECs) to discontinue providing service to AD-TEL if certificate number 4712 is canceled?

RECOMMENDATION: Yes. The Commission should order all certificated local exchange companies to discontinue providing service to AD-TEL if AD-TEL's certificate is canceled at the conclusion of the protest period for failure to submit the delinquent regulatory assessment fees, and pay the fines as required in Issue 1. The Order should state that any LEC providing service to AD-TEL must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled. (Biegalski)

STAFF ANALYSIS: If AD-TEL's certificate is canceled, any service offered by AD-TEL would be in violation of Rule 25-24.805, Florida Administrative Code. Since the Commission cannot readily identify which LEC provides service to AD-TEL, the Commission should order all certificated LECs to discontinue service to AD-TEL if AD-TEL fails to comply with the terms of the Commission's order resulting from these recommendations. The Order should state that any LEC providing service to AD-TEL must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, this docket should be closed. (Bowman)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then AD-TEL will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees, or upon cancellation of the certificate.

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

Is your RETURN ADDRESS completed on the reverse side?

3. Article Addressed to:
 TX034

4a. Article Number

4b. Service Type

Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery
 06-09

5. Received By: (Print Name)
 AD TEL COMMUNICATIONS

8. Addressee's Address (Only if requested and fee is paid)
 1997-03-24
 2500 AVENUE
 ON N2M1A8

6. Signature: (Addressee or Agent)
 X *Maria Tistavski*

PS Form 3811, December 1994

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