

Talbott: *WZ*
Vandiver: *VI*

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

MEMORANDUM

October 23, 1997

RECEIVED

10/23/1997

9:45
FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*
DIVISION OF ADMINISTRATION (LAKE) *LA*
DIVISION OF LEGAL SERVICES (COX) *WJC MB*

RE: DOCKET NO. 971246-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3392 ISSUED TO NICARAGUA'S BUSINESS CORP. D/B/A NICARAGUA GROCERY FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 11/04/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMJ/WP/971246TC.RCM

CASE BACKGROUND

- Nicaragua's Business Corp. d/b/a Nicaragua Grocery (Nicaragua) obtained Florida Public Service Commission Pay Telephone certificate number 3392 on August 25, 1993.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Nicaragua 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 5).
- As of October 6, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by Nicaragua.

DOCUMENT NUMBER-DATE

10882-OCT 23

FPSC-RECORDS/REPORTING

DOCKET NO. 971246-TC
DATE: October 23, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Nicaragua's Pay Telephone Certificate No. 3392 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 3392 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 October 6, 1997, staff learned that Nicaragua 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 3392 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

DOCKET NO. 971246-TC
DATE: October 23, 1997

ISSUE 2: Should the Commission order all certificated local exchange companies (LECs) to discontinue providing service to Nicaragua if certificate number 3392 is canceled?

RECOMMENDATION: Yes. The Commission should order all certificated local exchange companies to discontinue providing service to Nicaragua if Nicaragua'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 Nicaragua 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 Nicaragua's certificate is canceled, any service offered by Nicaragua would be in violation of Rule 25-24.510, Florida Administrative Code. Since the Commission cannot readily identify which LEC provides service to Nicaragua, the Commission should order all certificated LECs to discontinue service to Nicaragua if Nicaragua 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 Nicaragua 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.

DOCKET NO. 971246-TC
DATE: October 23, 1997

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. (Cox)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Nicaragua 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.

Is your RETURN ADDRESS completed on the reverse side?

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.

3. Article Addressed to:
TE 864

4a. Article Number

4b. Service Type

Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery
6/5/97

8. Addressee's Address (Only if requested and fee is paid)

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)
X

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.