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FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

M E M O R A N D U M

January 8, 1998

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *LB*
DIVISION OF ADMINISTRATION (LAKE) *FW*
DIVISION OF LEGAL SERVICES (PELLEGRINI) *Q MCB*

RE: DOCKET NO. ~~971378~~ 971378-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4559 ISSUED TO ACTION TELECOM AND DATA, INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES

AGENDA: 01/20/98 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: 8:PSC/CMU/WP/971378TC.RCM

CASE BACKGROUND

- Action Telecom and Data, Inc. (Action) obtained Florida Public Service Commission Pay Telephone certificate number 4559 on April 20, 1996.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Action that it was delinquent on its regulatory assessment fees for the year 1996. The letter was returned by the United States Postal Service stamped "Forward Time Expired" (Attachment A, Page 4). Since that time, Action has updated thier address with the Commission.
- On December 24, 1997, staff contacted Action and notified it of the pending cancellation. Action stated it didn't care if the certificate was canceled.
- As of December 24, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by Action.

DOCUMENT NUMBER DATE

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FPSC RECORDS REPORTING

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DATE: January 8, 1998

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Action's Pay Telephone Certificate No. 4559 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 364.205(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 4559 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 December 24, 1997, staff learned that Action 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 4559 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 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. (Pellegrini)

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

State of Florida
Public Service Commission

2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850



CERTIFIED

P 174 241 144



MAIL

TF628
Action Telecom and Data, Inc.
5 Poinciana Drive
Gulf Breeze, FL 32561-4343



1/1006

ACT1005 325618405 1596 06/09/97
FORWARD TIME EXP RTN TO SEND ST 10
ACTION TELECOM AND DATA
1210 BRAD THOMAS RD
GULF BREEZE FL 32561-2571



ATTN: IIMLNI A
DOCKET NO. 971378-TC
JANUARY 8, 1998