

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER * 2540 SHUMARD OAK BOULEVARD TALLAHASSEE, FLORIDA 32399-0850

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DATE:

JULY 23, 1998

TO:

FROM:

DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYE

DIVISION OF COMMUNICATIONS (BIEGALSKI)

DIVISION OF LEGAL SERVICES (COX)

RE:

DOCKET NO. 971104-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3187 ISSUED TO KIRBY COMMUNICATIONS INTERNATIONAL, INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA:

08/04/98 - REGULAR AGENDA - INTERESTED PERSONS MAY

PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\971104.RCM

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge Kirby Communications International, Inc.'s letter withdrawing its protest in this docket and make Order No. PSC-97-1252-FOF-TI final and effective?

RECOMMENDATION: Yes. The Commission should acknowledge Kirby's letter withdrawing its protest and make Order No. PSC-97-1252-POF-TI final and effective as of the date of the Commission's vote on this recommendation. (Biegalski)

STAFF ANALYSIS: On September 11, 1997, staff filed a recommendation to cancel Kirby's certificate for nonpayment of regulatory assessment fees for the years 1993 and 1996. By Notice of Proposed Agency Action Order No. PSC-97-1252-FOF-TI (PAA Order), issued October 14, 1997, in Docket No. 971104-TI, the Commission approved staff's recommendation. On November 3, 1997, Kirby timely

DOCUMENT NUMBER - DATE

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DOCKET NO. 971104-TI DATE: July 23, 1998

filed a letter protesting the PAA Order and requesting a hearing on this matter. (Attachment A, Page 3)

On March 19, 1998, Kirby filed a letter notifying the Commission that it wished to withdraw its project of the PAA Order. (Attachment B, Page 4) Staff notes that Kirby stated in an October 7, 1997 letter to staff that it was not operating in any state. (Attachment C, Page 5) In addition, Kirly's filing with the Secretary of State is inactive as of June 5, 1998. Acknowledging Kirby's withdrawal does not remove the liability of the past due regulatory assessment fees, including statutory penalties and interest. Because Kirby withdrew its protest and no other protests to the PAA Order were filed, there are no issues for the Commission to address in this docket. Accordingly, the Commission should acknowledge that Kirby has withdrawn its protest and make Order No. PSC-97-1252-FOF-TI final and effective as of the date of the Commission's vote on this recommendation.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, no further issues remain for the Commission to address. Therefore, this docket should be closed. (Cox)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, no further issues remain for the Commission to address. Therefore, this docket should be closed.

ATTACHMENT A DOCKET NO. 971104-TI JULY 23, 1998

Millie Flocumb-

6010 Fairdale Lane, Suite 700 Houston, TX 77057-6102

Tel. No. (713) 789-1300

Fax. No. (713) 781-2094

November 3, 1997

Plorida Public Service Commission Division of Records and Reporting 2540 Shumard Oak Boulevard Tallahassee, Plorida 32399-0850 Delivered via Federal Express Airbill No. 4441768730 and by facsimile transmission 805-413-711% (Linda Williams)

Attention: Ms. Blanca S. Bayo

Re: Docket No. 971104-TI, Order No. PSC-97-1252-FOF-TI
Kirby Communications International, Inc., Certificate Number 3187

Dear Ms. Bayo:

W: 3 .

Attached please find a Petition for Formal Proceeding in the above-referenced matter. I apologize if the Petition I have drafted is not in the preferred format. Please consider this Petition and request to re-determine the Commission's recommendation as stated in the above-referenced order. Please advise me of the appropriate hearing date.

Also please consider this a formal request that the \$500.00 fine be waived, as Kirby Communications International, Inc. (*KCI*) never received the forms for the 1996 assessment, nor has it received any forms for the year 1997. Since the company is currently inoperable, it was easy not to notice that it had not been received. As to the fees for 1993, our records indicate that \$69.00 was paid, and I am in the process of verifying this payment. KCI would like to keep its license active for at least an additional year or through the end of 1998, an it is currently undergoing a reorganization and intends to resume business some time next year. In the event that the \$500.00 fine is waived, KCI will immediately forward payment for 1996 and 1997.

	Sincerely,
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Enclosures	

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Millie Flocumb-

6010 Fairdale Lane, Suite 700 Houston, TX 77057-6102 ATTACHMENT B DOCKET NO. 971104-TI JULY 23, 1998

98 MAY 29 11/2 12 13) 781-2094

Tel. No. (713) 789-1300

May 26, 1998

Florida Public Service Commission Division of Records and Reporting 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

Delivered via Regular Mail and by farsimile transmission to: 850-413-6205

Attention: Mr. Will Cox

ORIGINAL

Docket No. 971104-TI, Order No. PSC-97-1252-FOF-TI Kirby Communications International, Inc., Certificate Number 3187

Dear Mr. Cox:

This is written to confirm our telephone conversation as to Kirby Communications International, Inc.'s ("KCI's) desire to voluntarily withdraw its Petition for a formal proceeding, in lieu of the Plorida Public Service Commission waiving the \$500.00 fine, with the understanding that KCI will be free to reapply for a Certificate at a later date when KCI resumes its intention to do business in Plorida. Based on this understanding KCI would like to voluntarily withdraw its Petition for a formal proceeding and would request that KCI's Certificate be canceled at KCI's request.

If you need additional information, please notify me Otherwise, I assume that no hearing will take place and that the \$500.00 fine against KCI will be waived and that KCI's Certificate is to be canceled, with the right to reapply for reinstatement at a later date.

Thank you for your assistance in this matter.

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Mallie Plocumb-

6010 Fairdale Lane, Suite 700 Houston, TX 77057-6102 ATTACHMENT C DOCKET NO. 971104-TI JULY 23, 1998

Tel. No. (713) 789-1300

Fax. No. (713) 781-2094

October 7, 1997

Public Service Commission State of Florida 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 Delivery via certified mail Return receipt requested Article No. P 183 028 372

Attention: Barbara H. Bailey, Research Assistant

Re: Kirby Communications International, Inc. ("KCI")

Dear Ms. Bailey:

I apologize for not notifying you of the disconnect of KCI's telephone number. KCI is currently not operating in any state and, as secretary of the company, I have asked all of the taxing authorities in Florida to place KCI's accounts as "inactive".

Your office may contact me at 713-789-1300 regarding any matter related to KCI. When the company re-establishes its operations, I will forward its new information to you. As of this date, correspondence related to KCI may still be sent to its office at 6010 Fairdale Lane, Suite 500, Houston, TX 77057, or you may send correspondence for KCI to my attention at 6010 Fairdale, Suite 700.

Thank you for your assistance in this matter.

Sincerely,

Millie Slocumb

Enclosures

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