



Public Service Commission

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

-M-E-M-O-R-A-N-D-U-M-

DATE: MARCH 4, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *PI*
DIVISION OF LEGAL SERVICES (BEDELL) *CB MCB*

RE: DOCKET NO. 981952-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 4815 ISSUED TO DIGITAL CABLE, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 03/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981952.RCM

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RECORDS AND REPORTING

CASE BACKGROUND

Digital Cable, Inc. obtained ALEC Certificate No. 4815 on 03/18/97. The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt, which showed the RAF notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalty and interest charges for the year 1997. As of February 22, 1999, the company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

02744 MAR-39

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Digital Cable, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

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 five 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 regulatory assessment fees, including statutory penalties and interest, are not received, ALEC Certificate No. 4815 should be canceled with an effective date of December 31, 1998. (Isler)

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.

Staff was notified by the Division of Administration that the company had not paid its 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's certificate if the fine and the regulatory assessment fees, along with statutory penalty and interest charges, are not paid within five 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 regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's certificate should be canceled with an effective date of December 31, 1998.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, 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 fine and fees, or cancellation of the certificate, this docket should be closed. (Bedell)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon payment of the fine and fees, or upon cancellation of the certificate.