



Public Service Commission

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RECORDS AND REPORTING

DATE: APRIL 8, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Pix RPT*
DIVISION OF LEGAL SERVICES (BEDELL) *CB MCR*

RE: DOCKET NO. 981953-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 4829 ISSUED TO JETCOM, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 04/20/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981953.RCM

CASE BACKGROUND

Jetcom, Inc. obtained ALEC Certificate No. 4829 on 04/02/97. 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.

On January 12, 1999, Mr. Joseph Pierre, the company's president, called staff and advised he would pay the the past due amount and make a settlement offer. As of April 1, 1999, the company has not paid the past due amount or filed a settlement offer. Staff called the telephone number listed in the Master Commission Directory and received a recording that the number had been disconnected. Staff then called Directory Assistance and was

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advised that there was no listing for Jetcom. Staff then searched the internet for Jetcom and Mr. Pierre, but no matches were found. This item was deferred from the March 16, 1999 Agenda Conference at staff's request to review this case further.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Jetcom, 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. 4829 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.

On January 12, 1999, Mr. Joseph Pierre, the company's president, called staff and advised he would pay the the past due amount and make a settlement offer. As of April 1, 1999, the

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company has not paid the past due amount or filed a settlement offer.

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.

ISSUE 2: Should the Commission impose a \$500 fine or cancel Jetcom, Inc.'s certificate for apparent violation of Rule 25-22.005(7), Florida Administrative Code, Noticing Address Files?

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. 4829 should be canceled with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of an ALEC certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Rule 25-22.005(7), Florida Administrative Code, states:

Change of Name, Address, Telephone. Each person included in the main noticing address file or in any docket noticing address file shall, in writing, notify the Division (and any parties of record in a docketed matter) of any change in name, address or telephone number. Any notice, order or other document served on the name and address on file prior to the date of receipt of such written notification shall be considered properly served.

Staff called the telephone number listed in the Master Commission Directory and received a recording that the number had been disconnected. Staff then called Directory Assistance and was advised that there was no listing for Jetcom. Staff then searched the internet for Jetcom and Mr. Pierre, but no matches were found. Staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has the company requested cancellation of its certificate in compliance with Rule 25-24.820, Florida Administrative Code.

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 information required by Rule 25-22.005(7), Florida Administrative Code, Noticing Address Files, 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 required information and fine are not received, Jetcom's certificate should be canceled with an effective date of December 31, 1998.

ISSUE 3: 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 Issues 1 and 2 are 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.