

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: MAY 6, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Dij*
DIVISION OF LEGAL SERVICES (BEDELL) *CB*

RE: DOCKET NO. 981949-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 4727 ISSUED TO CYPRESS TELECOMMUNICATIONS CORPORATION, FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 05/18/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981949.RCM

CASE BACKGROUND

- 12/11/96 - This company obtained ALEC Certificate No. 4727.
- 12/11/97 - 1997 Regulatory Assessment Fee (RAF) Notice was mailed. Payment was due by 1/30/98.
- 12/15/97 - The United States Postal Service (USPS) returned the receipt, which showed the RAF notice was signed for and delivered.
- 12/02/98 - The Division of Administration advised this company had not paid its 1997 RAFs and statutory penalty and interest charges for the years 1996 and 1997.

DOCUMENT NUMBER-DATE

05742 MAY-6 99

- **03/16/99** - At the Agenda Conference, the Commission approved staff's recommendation to fine the company \$500 for nonpayment of the RAFs.
- **03/17/99** - Staff received a letter from the company's General Counsel, Mr. David Wintersgill, which asked that the company's certificate be canceled.
- **04/06/99** - Order No. PSC-99-0678-FOF-TX was issued, which imposed a \$500 fine. The company had until April 27, 1999 to protest the Order and May 4 to pay the fine and past due charges.
- **04/27/99** - As of this date, the 1997 and 1998 RAFs remain unpaid, along with the 1996, 1997, and 1998 statutory penalty and interest charges.

Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the company a voluntary cancellation of ALEC Certificate No. 4727?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its ALEC certificate. The Commission should involuntarily cancel the company's certificate 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.

The Division of Administration notified staff by memorandum that the company had not submitted the 1997 regulatory assessment fees (RAFs), along with the 1996 and 1997 statutory penalty and interest charges.

The day after the Commission voted on staff's recommendation to fine or cancel this company's certificate, staff received a letter from the company dated March 8, 1999. The company's letter requested the Commission to "take all steps necessary to cancel

DOCKET NO. 981949-TX
DATE: MAY 6, 1999

Cypress Telecommunication's certificate to do business in Florida and close the docket on this matter."

On April 6, 1999, Order No. PSC-99-0678-FOF-TX was issued, which imposed a \$500 fine for the RAFs violation. The Order required payment of the fine and past due amount by April 27, 1999, or stated the company's certificate would be canceled.

As of April 27, 1999, the Division of Administration's records show that the 1997 and 1998 regulatory assessment fees remain unpaid, along with the statutory penalty and interest charges for the years 1996, 1997, and 1998.

Accordingly, the Commission should not grant the company a voluntary cancellation of its ALEC certificate. The Commission should involuntarily cancel the company's certificate with an effective date of December 31, 1998.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (Bedell)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.