



# Public Service Commission

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

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MAY -4 AM 9:29  
RECORDS AND REPORTING

**DATE:** MAY 4, 2000

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

**FROM:** DIVISION OF LEGAL SERVICES (CALDWELL) *DWC AK*  
DIVISION OF COMMUNICATIONS (BIEGALSKI) *WB* *EB*

**RE:** DOCKET NO. 992031-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST DIGITAL NETWORK SERVICES, INC. D/B/A DIGITAL NETWORK OPERATOR SERVICES, INC. FOR APPARENT VIOLATION OF RULE 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES.

**AGENDA:** 05/16/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\992029.RCM

### CASE BACKGROUND

- July 25, 1996 - Digital Network Services, Inc. d/b/a Digital Network Operator Services, Inc. (Digital) obtained Florida Public Service Commission Interexchange Telecommunications Certificate Number 4450.
- July 29, 1999 - Staff mailed a certified letter to Digital requesting information pertaining to its operator service provider rates listed in its tariff. Staff requested a response by August 16, 1999. Digital failed to respond to staff's inquiry.
- December 22, 1999- Order No. PSC-99-2516-AS-TI was issued, in Docket No. 991538-TI, approving Digital's settlement proposal for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

DOCUMENT NUMBER-DATE

**05544 MAY-48**

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- December 29, 1999 - Staff opened Docket No. 992031-TI to initiate show cause proceedings for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries.
- January 20, 2000 - Staff issued a memo to close Docket No. 991538-TI and to cancel its certificate due to Digital's failure to remit its settlement payment.
- February 7, 2000 - Order No. PSC-00-0251-SC-TI was issued, in Docket No. 992031-TI, ordering Digital to show cause why it should not be fined \$10,000 or have its certificate canceled for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. In addition, Digital was ordered to provide a written response to the requested information within 10 days of the issuance of the Order.
- February 25, 2000 - Return receipt received from the U.S. Postal Service confirming delivery of Order No. PSC-00-0251-SC-TI to Digital.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission modify Order No. PSC-00-0251-SC-TI for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

**RECOMMENDATION:** Yes. The Commission should modify Order No. PSC-00-0251-SC-TI to forward the \$10,000 fine imposed to the Office of the Comptroller for further collection efforts because Digital's certificate has already been canceled in a separate proceeding for a different violation. **(Biegalski)**

**STAFF ANALYSIS:** On February 7, 2000, Order No. PSC-00-0251-SC-TI, was issued requiring Digital to show cause in writing within 21 days of the issuance of the Order why it should not be fined \$10,000 or have Certificate Number 4450 canceled for apparent violation of Rule 25-4.043, Florida Administrative Code. In addition, the Order required Digital to provide a written response

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to the requested information within ten business days of the issuance of the Order.

The Order stated that if Digital failed to respond to the Show Cause Order, and the fines were not paid within ten business days after the 21 day show cause period, Certificate Number 4450 should be canceled. Furthermore, the Order stated that if Digital failed to provide a response to the requested information, the docket should remain open pending the initiation of further show cause proceedings. Staff's intent was to place Digital on notice that payment of the fine would not excuse the company from its obligation to respond to staff's inquiry.

Prior to the issuance of Order No. PSC-00-0251-SC-TI, Digital's certificate was canceled pursuant to Order No. PSC-99-2516-AS-TI issued December 22, 1999, for failure to remit its \$100 settlement for failure to pay its regulatory assessment fees.

Therefore, since the company's certificate was canceled in Docket 991538-TI, for failure to comply with its settlement offer, staff believes the Commission should modify Order No. PSC-00-0251-SC-TI, to forward the \$10,000 fine imposed to the Office of the Comptroller for further collection efforts because Digital's certificate has already been canceled in a separate proceeding for a different violation.

**ISSUE 2:** Should this docket be closed?

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

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