



# Public Service Commission

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

RECORDS AND REPORTING

00 MAY - 4 AM 9:28

RECEIVED-FPSC

**DATE:** MAY 4, 2000

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *Pif*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *ad*

**RE:** DOCKET NO. 992007-TA - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE ACCESS VENDOR CERTIFICATE NO. 5764 ISSUED TO PROGRESS TELECOMMUNICATIONS CORPORATION FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

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

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\992007.RCM

### CASE BACKGROUND

- **12/22/98** - This company was granted AAV Certificate No. 5764.
- **12/22/99** - According to Commission records, this company had not submitted the 1998 Regulatory Assessment Fee (RAF), along with statutory penalty and interest charges.
- **01/31/00** - The Commission received the company's payment for the 1999 RAF payment. The company reported revenues of \$14,125,165 for the period ended December 31, 1999.
- **04/06/00** - Staff wrote the company and explained that the 1998 RAF had not been paid and outlined the company's options to resolve this docket.

DOCUMENT NUMBER-DATE

05549 MAY-48

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- **04/20/00** - Mr. Wesley Bailey, attorney for Progress, called staff and advised the company would pay the past due amount and propose a settlement.
- **04/21/00** - The Commission received the company's payment for the 1998 RAF, including statutory penalty and interest charges, and a letter of settlement from the company.

Staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Progress Telecommunications Corporation to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should accept the settlement offer proposed by Progress Telecommunications Corporation to pay regulatory assessment fees in a timely manner and follow up to insure that the fees were received. (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. Since January 30, 1999, fell on a weekend, the due date for the 1998 fees was February 1, 1999.

According to Commission records, Progress Telecommunications Corporation had not submitted the regulatory assessment fee for 1998, along with statutory penalty and interest charges. Therefore, staff opened the docket. After the docket was opened, the company contacted staff and advised that the 1998 RAF form was never received. The company has since paid the 1998 RAF, including penalty and interest charges.

Staff has researched Commission records and it appears that it is possible a 1998 RAF form was not sent to the company. Before staff processes applications, each applicant must sign and return an affidavit attesting that the Commission's rules and regulations had been read and understood. In addition, the RAF rule requires payment even if a company does not receive a RAF notice. However, staff believes it is important for a RAF notice to be mailed the first year a company is in business and there is a reasonable doubt a notice was not mailed to Progress Telecommunications Corporation.

Due to the extenuating circumstances, staff believes it would serve no purpose to fine the company. Progress Telecommunications Corporation paid the 1999 RAF timely and has now paid the 1998 past due amount. In addition, the company proposed to pay future RAFs on a timely basis.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted.

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

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña; B. Keating)

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