



Public Service Commission

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REGULATIONS AND REPORTING
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DATE: MAY 25, 2000

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

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

RE: DOCKET NO. 991546-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4751 ISSUED TO CAPITAL SERVICES OF SOUTH FLORIDA, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 06/06/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991546.RCM

CASE BACKGROUND

- **12/11/96** - This company was granted IXC Certificate No. 4751. On its latest Regulatory Assessment Fee return filed with the Commission, the company reported no revenues for the period ended December 31, 1997.
- **12/10/98** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. In accordance with Florida Statute 350.113(4), the Commission "shall provide each regulated company with written notice of the date that payment of the fee is due at least 45 days prior to such date", which would put the due date to February 1, 1999.
- **03/17/99** - The Division of Administration mailed a delinquent letter.

DOCUMENT NUMBER-DATE

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FPSO-RECORDS/REPORTING

- **10/26/99** - Staff received a letter from the company, which advised payment had been made on June 25, 1999.
- **11/19/99** - Staff received another letter from the company. Again the company advised that payment for the 1998 RAF had been made.
- **11/23/99** - Staff wrote the company and advised that Commission records showed no payment for the 1998 RAF had been received. Staff requested a copy, front and back, of the company's canceled check by December 7, 1999. No response was received.
- **02/01/00** - At the Agenda Conference on this date, the Commission voted to impose a \$500 fine or cancel the company's certificate.
- **02/02/00** - The Commission received a Notice of Bankruptcy (Chapter 11) for this company.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission rescind its vote from the February 1, 2000 Agenda Conference and close Docket No. 991546-TI?

RECOMMENDATION: Yes. The company had filed for bankruptcy protection prior to the Commission's vote. Therefore, the Commission should rescind its vote from the February 1, 2000 Agenda Conference and issue a final order suspending further enforcement action until the company's bankruptcy proceeding concludes. In addition, this docket should be closed as no further action by the Commission is permitted at this time. (Isler; K. Peña; B. Keating)

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. According to Commission records, as of May 8, 2000, this company has not paid its 1998 and 1999 RAFs, plus statutory penalty and interest charges for the years 1996, 1997, 1998, and 1999.

After the February 1 Agenda Conference, at which the Commission voted to impose a \$500 fine or cancel the company's certificate, staff received a notice that Capital Services of South Florida, Inc. had filed for reorganization under Chapter 11, Bankruptcy. Therefore, the Commission is prevented by the automatic stay provision of the Bankruptcy Code from taking action against this company at this time for its failure to pay the 1998 and 1999 RAFs.

Accordingly, staff recommends that the Commission rescind its vote from the February 1, 2000 Agenda Conference and issue a final order suspending further enforcement action until the company's bankruptcy proceeding concludes. In addition, this docket should be closed as no further action by the Commission is permitted at this time.