

REVISED

State of Florida

Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850



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RECORDS AND
REPORTING

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RECEIVED FPSC

DATE: MAY 25, 2000

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

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

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: 06/06/00 - 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 obtained Florida Public Service Commission AAV Certificate No. 5764.
- **01/99** - 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."
- **03/17/99** - The Division of Administration mailed a delinquent letter.

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- **01/31/00** - The Commission received a check for the 1999 RAF. The company reported revenues in the amount of \$14,125,165 for the period ended December 31, 1999.
- **04/06/00** - Staff wrote the company and explained that although the 1999 RAF had been paid, the 1998 RAF, penalty, and interest charges remain unpaid.
- **04/20/00** - Mr. J. Wesley Bailey, Corporate Counsel, called on behalf of the company and advised it would pay the past due amount and make a settlement offer.
- **04/21/00** - The Commission received a check for the 1998 RAF, including penalty and interest charges. In addition, the company proposed a settlement.
- **05/09/00** - Mr. Bailey advised staff that the company would amend its settlement offer.
- **05/16/00** - This docket was deferred from the Agenda Conference. On the same day, the Commission received the company's amended settlement offer.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the modified 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 company's modified settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 5764 should be canceled administratively. (Isler)

STAFF ANALYSIS: The company paid its 1999 RAF timely, however, the 1998 RAF, including statutory penalty and interest charges, remained unpaid. Staff wrote the company and Progress responded by paying the past due amount in full. In addition, Progress proposed to pay future RAFs on a timely basis. Although staff filed a recommendation on May 5, after further review and discussion with the company, Progress advised staff that its settlement proposal would be amended. This docket was deferred from the May 16 Agenda Conference. Subsequently, the Commission received the amended offer to include the company's offer to pay a \$100 settlement.

Accordingly, staff believes the terms of the modified settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 5764 should be canceled administratively.

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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 upon receipt of the \$100 contribution or cancellation of the certificate. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.