



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

RECEIVED-FPSC
03 AUG - 8 AM 10:13
RECORDS AND REPORTING
DWC AK RK to M
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DATE: AUGUST 3, 2000

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

FROM: DIVISION OF LEGAL SERVICES (CALDWELL)
DIVISION OF COMPETITIVE SERVICES (M. WATTS)

RE: DOCKET NO. 000229-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST BURNO INC. D/B/A INTEGRA PAGING FOR APPARENT VIOLATION OF SECTION 364.183(1), F.S., ACCESS TO COMPANY RECORDS.

AGENDA: 08/15/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000229.RCM

CASE BACKGROUND

- March 10, 1998 - Burno Inc. d/b/a Integra Paging (Integra) obtained Florida Public Service Commission Alternative Local Exchange Company Certificate Number 5334.
- June 25, 1999 - Staff mailed a certified letter requesting information necessary for inclusion in the local competition report required of the Commission by Section 364.386, Florida Statutes. Staff requested a response by August 6, 1999.
- July 6, 1999 - Integra signed for and received the certified letter (Attachment A, page 5).
- December 6, 1999 - Staff sent a second certified letter requesting Integra respond to the data request no later than December 22, 1999.

DOCUMENT NUMBER-DATE

09399 AUG-38

FPSC-RECORDS/REPORTING

- December 8, 1999 - Integra signed for and received the certified letter (Attachment A, page 5).
- February 22, 2000 - After receiving no response to its June 25, 1999 and December 6, 1999 certified letters, staff opened this docket to investigate whether Integra should be required to show cause why it should not be fined or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.
- April 12, 2000 - Commission Order No. PSC-00-0678-SC-TX was issued to show cause Integra for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.
- July 31, 2000 - Integra submitted an offer to settle this case (Attachment B, pages 6-7).

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Burno Inc. d/b/a Integra Paging to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within twenty business days from the issuance 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 of Florida General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed. **(M. Watts)**

STAFF ANALYSIS: On July 31, 2000, Integra sent a settlement offer (Attachment B, pages 6-7) in response to Commission Order No. PSC-00-0678-SC-TX. In its settlement offer, Integra proposed the following:

- A monetary settlement of \$3,500.

- Implementation of procedures to prevent this from reoccurring.

Integra received and signed for both certified letters (Attachment A, page 5), and still did not provide the requested information. The Commission has approved settlement offers of \$3,500 and \$4,000 from other companies that neither provided the requested information nor presented evidence of reasonable mitigating factors to account for its failure to provide the information.

Therefore, staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and we support Integra's offer of settlement. Any contribution should be received by the Commission within twenty business days from the issuance 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 of Florida General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed.

DOCKET NO. 000229-TX
DATE: August 03, 2000

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. With the approval of Issue 1, this docket should remain open pending the remittance of the \$3,500 settlement payment. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed. **(Caldwell)**

STAFF ANALYSIS: With the approval of Issue 1, this docket should remain open pending the remittance of the \$3,500 settlement payment. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate should be canceled, and this docket should be closed.

is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

Donald T. Burno
 President
 Integra Paging
 4220 West Colonial Drive
 Orlando, FL 32808-8135

4a. Article Number

4b. Service Type

Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

PS Form 3811, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
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I also wish to receive the following services (for an extra fee):

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

Donald T. Burno
 President
 Integra Paging
 4220 West Colonial Drive
 Orlando, FL 32808-8135

4a. Article Number
 Z 362 335 774

4b. Service Type

Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery
 8/3/94

8. Addressee's Address (Only if requested and fee is paid)

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

PS Form 3811, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

WRAY, HARRIS & ROBINSON

ATTACHMENT B
ORIGINAL

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW
SUITE 1400
301 EAST PINE STREET
POST OFFICE BOX 3068

ORLANDO, FLORIDA 32802-3068

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FAX 407-244-5690
WEBSITE: www.ghrlaw.com

WRITER'S DIRECT DIAL

407-244-5661

R. Dean Cannon, Jr.

E-MAIL ADDRESS
dcannon@ghrlaw.com

July 19, 2000

VIA FACSIMILE;
850-413-6953

Ms. Melinda Watts
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Offer of Settlement;
Docket No. 00029-TX
010229

Dear Melinda:

This letter follows our earlier conversations regarding an offer of settlement on behalf of our client, Integra Paging. As we have previously indicated, Mr. Don Burno is the CEO of Integra Paging, and he was not aware that Integra had failed to comply with information requests by the Commission last year. Unfortunately, due to the misfeasance of one of his employees, the Commission's requests were not complied with. Mr. Burno has corrected this situation by terminating the employee who caused this situation, and has implemented procedures to insure that he will personally handle all future document requests by the Commission, and that the failure to supply the requested information will not happen again in the future.

In the interest of resolving this matter, Mr. Burno is proposing to pay \$3,500 in settlement of this matter, payment to be made within 20 days after approval of the settlement by the Commission. We hope that you will find this proposal satisfactory, but will be happy to discuss its terms if any of them need to be altered slightly.

Thank you very much for your assistance with these matters. Please let me know when this matter will be put on the agenda for consideration by the Commission.

- APP _____
- CAF _____
- CMP I
- COM _____
- CTR _____
- ECR _____
- LEG I
- OPC _____
- PAI _____
- RGO _____
- SEC I
- SEP _____
- OTH _____

MELBOURNE
321-727-8100



DOCUMENT NUMBER-DATE

09240 JUL 31 2000

FP24-RECORDS/REPORTING

2000 JUL 31 11:00 AM
FBI

DOCKET NO. 000229-TX
DATE: August 3, 2000

ATTACHMENT B

GRAY, HARRIS & ROBINSON
Professional Association

Ms. Melinda Watts
Page 2
July 19, 2000

With best regards, I am

Very sincerely yours,



R. Dean Cannon, Jr.

RDC/db

cc: Mr. Don Burno
Ms. Diana W. Caldwell (via facsimile)