

STATE OF FLORIDA

Commissioners:
J. TERRY DEASON, CHAIRMAN
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ



DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

October 19, 2000

Mr. Ronald J. Kain, President
K.C.S. Communications, Inc.
144 Coral Vine Drive
Naples, FL 34110-5718

Re: Docket No. 000970-TC

Dear Mr. Kain:

This is a follow up to our telephone conversation concerning the above docket, which was opened for nonpayment of the 1999 regulatory assessment fee (RAF). The RAF is due each year by January 30 for the previous year, unless the 30th falls on a weekend, then the due date is the next working day. For example, the 1999 fee was due January 31, 2000.

Commission records show that as of this date, the 1999 RAF has not been paid. It is my understanding from our telephone conversation that your records show that the 1999 RAF form and check were mailed to the Commission on February 14, 2000 and that you needed additional time to check your records to see if the check has been cashed. In addition to the 1999 RAF, plus statutory penalty and interest charges, our records show that you have a penalty and interest balance in the amount of \$6.00 from prior years that needs to be paid. A breakdown is attached.

On October 2, 2000, Order No. PSC-00-1800-PAA-TC was issued, which imposed a \$500 fine for violation of the RAF rule. According to the Order, the Commission must receive a protest by Monday, October 23, 2000. At this point, you have three options.

- (1) Cancel the certificate voluntarily - Pay all past due charges in full, pay the current year's RAF (2000) or provide a date certain that it will be paid (such as 30 days from the date of the Commission Order cancelling your certificate), and write a letter requesting cancellation and reference the docket number. A copy of our rule is attached.
- (2) Do nothing - In this case, your certificate will be cancelled on the Commission's own motion. All outstanding RAFs, including penalty and interest charges, will be turned over to the Comptroller's Office for

DOCUMENT NUMBER-DATE

13354 OCT 19 2000

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collection. In addition, Rule 25-24.511(5), F.A.C., states that "Only one certificate per applicant will be granted. A new certificate will not be granted to any applicant who has previously had a certificate involuntarily cancelled." This means that if you choose this option, you could not reapply for a new certificate at a later date.

(3) File a petition for a formal proceeding in the form provided by Rule 28-106.201, F.A.C., copy attached. This petition must be filed with the Commission by October 23, which is the end of the protest period. Rule 28-106.201(2)(g) states that the petition must include "A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action." This means that you may wish to propose a settlement. If you propose a settlement, your petition must include the following:

- Docket number;
- A check for the past due amount in full;
- A statement that it has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are; and
- Make a specific monetary settlement.

Any settlement offer should be addressed to Ms. Blanca Bayó, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The proposed settlement amount should **not** be paid at this time, instead only the past due regulatory assessment fee, plus penalty and interest charges should be paid. The settlement amount, if approved by the Commission, will become due after the Commissioners vote on this issue.

If you file a timely petition proposing a settlement, a new Agenda Conference date will be scheduled. At that time, the Commissioners will vote on whether or not to accept your settlement offer. If the settlement is approved, an Order will then be issued and you will have 10 business days from the date of the Order to pay the settlement. If the settlement amount is not paid timely, your certificate will be cancelled.

Please let me know if you have any questions. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at pisler@psc.state.fl.us.

Mr. Ronald J. Kain, President

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Sincerely,

A handwritten signature in cursive script that reads "Paula J. Isler".

Paula J. Isler, Research Assistant
Bureau of Service Quality & Compliance

Enclosures

cc: Docket No. 000970-TC
Division of Legal Services (Elliott)

K.C.S. Communications, Inc. (TF614)
Certificate No. 4616, Effective 04/11/96

Year	Fee	Penalty	Interest	Notes
1996	Paid	\$2.50	\$0.50	The RAF was paid on 02/04/97 (due 01/30/97), but not the penalty and interest charges, leaving a balance of \$3.00.
1998	Paid	\$2.50	\$0.50	The RAF was paid on 02/02/99 (due 02/01/99), but not the penalty and interest, leaving a balance of \$3.00.
Total	N/A	\$5.00	\$1.00	Total Past Due for Prior Years, NOT including 1999: \$6.00.

25-24.514 Cancellation of a Certificate.

- (1) The Commission may cancel a company's certificate for any of the following reasons:
- (a) Violation of the terms and conditions under which the authority was originally granted;
 - (b) Violation of Commission rules or orders;
 - (c) Violation of Florida Statutes; or,
 - (d) Failure to provide service for a period of six (6) months.

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.

- (a) Statement of intent and date to pay Regulatory Assessment Fee.
- (b) Statement of why the certificate is proposed to be cancelled.

(3) Cancellation of a certificate shall be ordered subject to the holder providing the information required by subsection (2).

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 350.127(1), 364.03, 364.285, 364.337, 364.345 FS.

History--New 1-5-87.

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 ½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.