



Public Service Commission

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DATE: FEBRUARY 22, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pic id*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *VP Kemp*

RE: DOCKET NO. 001494-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 7193 ISSUED TO KING COMMUNICATIONS & SERVICES, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 03/06/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001494.RCM

CASE BACKGROUND

- **12/29/99** - This company obtained Florida Public Service Commission Certificate No. 7193.
- **01/14/00** - The Division of Administration mailed the 1999 Regulatory Assessment Fee (RAF) notice. Payment was due February 28, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice.
- **10/30/00** - Staff wrote the company and advised that a docket had been established for nonpayment of the 1999 RAF, including

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statutory penalty and interest charges, and to contact staff for its options.

- **11/03/00** - Mr. Willie Delgado contacted staff on behalf of the company and advised that it had been having problems with its mail being vandalized. Mr. Delgado requested that its options and 1999 RAF return be faxed to him. This information was faxed to the company the same day.
- **11/13/00** - The Commission received the company's payment for the outstanding amount, including statutory penalty and interest charges. The company reported no revenues for the period ended December 31, 1999. In addition, the company proposed a settlement.
- **12/12/00** - The Division of Administration mailed the 2000 RAF notice. Payment was due by January 30, 2001.
- **12/19/00** - The Commission received the company's payment for the 2000 RAF.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by King Communications & Services, Inc. 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 settlement proposal to pay future regulatory assessment fees on a timely basis. (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 the company's certificate did not become effective until December 29, 1999, the RAF notice was not mailed until January 14, 2000 and payment became due February 28, 2000.

According to Commission records, the company had not submitted the regulatory assessment fee for 1999, along with statutory penalty and interest charges, therefore, staff established this docket. After the docket was opened, the company contacted staff and advised that the 1999 RAF notice was never received. Mr. Willie Delgado, Treasurer, advised that children had vandalized the mailboxes in the shopping center where this company is located and that this caused many problems with receiving mail. Therefore, Mr. Delgado believes that not receiving the RAF notice was beyond its control. In addition, Mr. Delgado informed staff that the company is no longer having this problem.

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 received the first year a company is in business. Although Commission records show that the notice was mailed, staff believes that due to the extenuating circumstances, it would serve no purpose to fine the company. Mr. Delgado advised that since he is now aware of this rule, he has proposed to pay future RAFs on a timely basis. Mr. Delgado followed up this promise by paying the 2000 RAF timely.

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.