



Public Service Commission

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PSC RECORDS/REPORTING

DATE: APRIL 19, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIC DA*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *WMP BK*

RE: DOCKET NO. 001413-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5269 ISSUED TO PINNACLE TELCOM, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 05/01/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001413.RCM

CASE BACKGROUND

- 11/24/97 - This company obtained Florida Public Service Commission Certificate No. 5269.
- 12/24/98 - Docket No. 981963-TX was established for nonpayment of the 1997 Regulatory Assessment Fee (RAF). On May 10, 1999, Order No. PSC-99-0919-AS-TX was issued, which accepted the company's \$100 settlement offer. The company paid the settlement amount and the docket was closed.
- 12/08/99 - The Division of Administration mailed the 1999 RAF notice. The due date was January 31, 2000.
- 02/29/00 - The Division of Administration mailed a delinquent notice.

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- 10/23/00 - Ms. Eva Sokolewicz called staff and requested information on how to resolve the docket and the RAF form. Staff wrote the company on October 24, 2000.
- 12/12/00 - The Division of Administration mailed the 2000 RAF Return Notice. Payment was due by January 30, 2001.
- 02/21/01 - The Division of Administration mailed a delinquent notice for the 2000 RAF.
- 03/12/01 - Order No. PSC-01-0557-PAA-TX was issued, which imposed a \$1,000 fine or cancelled the company's certificate. The company had until April 2, 2001 to respond to the Order.
- 03/22/01 - Ms. Eva Sokolewicz called staff and again requested the information on how to resolve the docket. This information was faxed the same date.
- 03/29/01 - The Commission received payment of the 1999 and 2000 RAFs, including penalty and interest charges. The company reported no revenues for the period ended December 31, 2000. In addition, the company proposed a settlement.

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 Pinnacle Telcom, 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. 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, Certificate No. 5269 should be cancelled administratively. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, 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.

After Order No. PSC-01-0557-PAA-TX was issued on March 12, 2001, the Commission received the company's payment for the outstanding regulatory assessment fee, including statutory penalty and interest charges, and a letter from the company, which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. In addition, the company paid the 2000 RAF, including penalty and interest charges. This settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

This is the second docket established for the same apparent rule violation. In Docket No. 981963-TX, the company paid the past due amount and proposed a settlement. On May 10, 1999, Order No. PSC-99-0919-AS-TX was issued, which accepted the company's settlement proposal. The company paid the \$100 contribution and the docket was closed.

Accordingly, staff believes the terms of the 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

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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, Certificate No. 5269 should be cancelled administratively.

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 \$500 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 \$500 contribution or cancellation of the certificate.