

VOTE SHEET

MAY 1, 2001

RE: DOCKET NO. 010310-TI - Initiation of show cause proceedings against Netfax Communications, Inc. for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

ISSUE 1: Should the Commission order Netfax Communications, Inc. (Netfax) to show cause why it should not be fined \$25,000 for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: Yes. The Commission should order Netfax to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be fined \$25,000 for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. The company's response should contain specific allegations of fact and law. If Netfax fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts should be deemed admitted, the right to a hearing waived, and the fine shall be deemed assessed. If Netfax pays the fine, it should be remitted to the State of Florida General Revenue Fund, pursuant to Section 364.285, Florida Statutes. If the company fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the expiration of the show cause response period, it should be forwarded to the Office of the Comptroller for collection.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Michael A. Paley
[Signature]
[Signature]
[Signature]
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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

05433 MAY-16

FPSC-REG. STS. REPORTING

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ISSUE 2: Should the Commission order Netfax Communications, Inc. (Netfax) to show cause why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should order Netfax to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. The company's response should contain specific allegations of fact and law. If Netfax fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts shall be deemed admitted, the right to a hearing waived, and the fine shall be deemed assessed. If Netfax pays the fine, it should be remitted to the State of Florida General Revenue Fund, pursuant to Section 364.285, Florida Statutes. If the company fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the expiration of the show cause response period, it should be forwarded to the Office of the Comptroller for collection.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. If staff's recommendations in Issues 1 and 2 are approved, Netfax will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amounts proposed. If Netfax timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceedings. If Netfax fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts shall be deemed admitted, the right to a hearing waived, and the fines shall be deemed assessed. If the company fails to respond to the Order to Show Cause and the fines are not paid within ten business days after the expiration of the show cause response period, they should be forwarded to the Office of the Comptroller for collection and this docket may be closed administratively.

APPROVED