



Public Service Commission

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RECORDS AND REPORTING
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DATE: MAY 17, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *ISL*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *PK*

RE: DOCKET NO. 000536-TP - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 2967 AND ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 7156 ISSUED TO CLEARTEL COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, FAC, REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 05/29/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000536.RCM

CASE BACKGROUND

- **06/17/92** - Cleartel Communications, Inc. (Cleartel) obtained Florida Public Service Commission Interexchange Carrier (IXC) Certificate No. 2967.
- **09/27/99** - Cleartel obtained Alternative Local Exchange Carrier (ALEC) Certificate No. 7156.
- **03/02/00** - The Commission received the company's payment for the 1999 RAF on its IXC certificate. The company reported revenues in the amount of \$406,388.00 for the period ended December 31, 1999.

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FPSC-RECORDS/REPORTING

- **04/06/00** - The Commission received the company's payment for the 1999 RAF, along with a portion of the penalty and interest charges, on its ALEC certificate. On June 8, 2000, the Commission received the balance of the penalty and interest charges for the late payment. The company reported revenues in the amount of \$102,003 for the period ended December 31, 1999.
- **05/02/00** - The Commission received a letter from Ms. Connie Wightman of Technologies Management, Inc., consultant to Cleartel Communications, Inc. Ms. Wightman requested cancellation of Cleartel Communications, Inc.'s IXC certificate. The letter advised that Cleartel Communications, Inc.'s long distance customer base was acquired by another certificated company and that all customers had been notified. In addition, Ms. Wightman advised that the company wished to keep its ALEC certificate active at this time.
- **12/12/00** - The Division of Administration mailed the regulatory assessment fee (RAF) notice for both certificates. Payment was due January 30, 2001.
- **02/21/01** - The Division of Administration mailed a delinquent notice to the company.
- **05/10/01** - As of this date, the company has not paid the 2000 RAF, including statutory penalty and interest charges, for either certificate. In addition, Cleartel owes statutory penalty and interest charges for the year 1998 on its IXC certificate.

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 grant Cleartel Communications, Inc. a voluntary cancellation of its IXC Certificate No. 2967?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its IXC certificate. The Commission should cancel the company's IXC Certificate No. 2967 on its own motion, effective May 2, 2000. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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, or the next business day, 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 the Commission received a letter from the company's consultant, which requested voluntary cancellation, staff contacted Ms. Connie Wightman. Ms. Wightman was advised that a voluntary cancellation could not be recommended when there was an outstanding balance. Ms. Wightman was advised that Cleartel Communications, Inc. needed to pay the past due 2000 RAF as required by Rule 25-24.474, Florida Administrative Code. Ms. Wightman advised staff that she had been unsuccessful in getting Cleartel Communications, Inc. to return her calls. In addition, staff has attempted several times to contact Cleartel Communications, Inc., but was also unsuccessful.

As of May 10, 2001, the company has not paid the 2000 RAF, including statutory penalty and interest charges for 1998 and 2000. Accordingly, the Commission should not grant the company a voluntary cancellation of its IXC certificate. The Commission should cancel the company's IXC Certificate No. 2967 on its own motion, effective May 2, 2000. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should the Commission grant the company's request to keep its ALEC Certificate No. 7156 active?

RECOMMENDATION: No. The Commission should deny the company's request to keep its ALEC certificate active. Instead, the Commission should impose a \$500 fine or cancel the company's ALEC certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 7156 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

The Division of Administration's records show that the company has not paid its 2000 regulatory assessment fee, plus statutory penalty and interest charges. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. Although the company's consultant has requested that its ALEC certificate be kept active, staff believes that since the 2000 RAF remains unpaid, the company's request should be denied. The recommended fine amount is consistent with amounts used for recent, similar violations.

Accordingly, staff recommends that the Commission should deny the company's request to keep its ALEC certificate active. Instead, the Commission should impose a \$500 fine or cancel the company's ALEC certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to

the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 7156 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. The docket should then be closed upon receipt of the fine and fees or cancellation of the certificates. (K. Peña; B. Keating)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon issuance of a Consummating Order and upon receipt of the fine and fees or cancellation of the certificates.