

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: OCTOBER 4, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *pin 100*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *pin VMP*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF
INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE FOR VIOLATION
OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 010719-TI - LDC CONSULTANTS
DOCKET NO. 011003-TI - MERCURY MARKETING COMPANY, LTD.
DOCKET NO. 011007-TI - UTILITY.COM, INC.

AGENDA: 10/16/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010719.RCM

CASE BACKGROUND

The companies listed on Attachment A were mailed the 2000 Regulatory Assessment Fee (RAF) return notice and payment was due by January 30, 2001. On February 21, 2001, the Division of the Commission Clerk & Administrative Services mailed a delinquent notice for the 2000 RAF.

After the dockets were opened, staff wrote each of the companies listed on Attachment A and explained that a docket had been established and to contact staff if the companies were interested in resolving the dockets. The companies listed on Attachment A contacted the Commission and requested cancellation

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of their certificates. However, the companies listed on Attachment A have outstanding RAFs.

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 the companies listed on Attachment A a voluntary cancellation of their respective certificates?

RECOMMENDATION: No. The Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. 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 25-24.474, 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.

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.

Each of the companies listed on Attachment A have an outstanding balance of the regulatory assessment fees, including statutory penalty and interest charges. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Staff wrote each of the companies listed on Attachment A and explained that a docket had been established. Staff advised the companies to contact staff if they were interested in resolving the dockets. Each company listed on Attachment A contacted the Commission and requested cancellation of their respective certificates.

LDC Consultants - Docket No. 010719-TI

On June 11, 2001, the Division of the Commission Clerk & Administrative Services provided staff with a copy of LDC

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Consultants' blank 2000 RAF return with the note "no longer in business" written on it. The company did not include payment for the 2000 RAF. Staff wrote the company on August 10, 2001 and explained that Rule 25-24.474, Florida Administrative Code, states that a company must provide its intent and date to pay the current year's RAF. The company owes the 2000 RAF, plus statutory penalty and interest charges for the years 1994, 1995, 1997, 1999, and 2000. In addition, the 2001 RAF will become due January 30, 2002. As of September 26, 2001, the company has not complied with Rule 25-24.474, Florida Administrative Code, by providing the date the 2001 RAF will be paid or paying the outstanding amount.

Mercury Marketing Company, Ltd. - Docket No. 011003-TI

On July 10, 2001, the Commission received a letter from Ms. Judith A. Riley of Telecom Professionals, Inc., which requested cancellation of the company's certificate. Staff spoke with Ms. Riley and was told that there are no funds to pay any remaining liabilities. The company will owe the 2001 RAF, plus has an outstanding balance of the statutory penalty and interest charges for the year 1999. As of September 26, 2001, the company has not complied with Rule 25-24.474, Florida Administrative Code, by providing the date the 2001 RAF will be paid or paying the outstanding amount.

Utility.com, Inc. - Docket No. 011007-TI

On March 21, 2001, the Commission received a letter from the company, which requested cancellation of its certificate. Staff wrote the company on April 3, 2001 and explained that in order to grant a voluntary cancellation, the company must pay the past due amount and comply with Rule 25-24.474, Florida Administrative Code, which provides that a company must provide its intent and date to pay the current year's RAF. On July 23, 2001, the Commission received a bulletin from CMA Business Credit Services, which advised Utility.com, Inc. had filed for a "General Assignment", which is an alternative to bankruptcy proceedings in California. The company owes the 2000 RAF, plus statutory penalty and interest charges for the year 2000. As of September 26, 2001, the company has not complied with Rule 25-24.474, Florida Administrative Code, by providing the date the 2001 RAF will be paid or paying the outstanding amount.

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Accordingly, staff believes the Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should these dockets 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. These dockets should then be closed upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (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, these dockets should be closed upon issuance of a Consummating Order and upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

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ATTACHMENT A

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
010719-TI	LDC Consultants \$42,192 Revenues for Period Ended 12/31/99	3533	06/11/01
011003-TI	Mercury Marketing Company, Ltd. \$8,192.28 Revenues for Period Ended 12/31/99	5767	07/10/01
011007-TI	Utility.com, Inc. No Previous Return Filed	7630	03/21/01