



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-

RECEIVED-FPSC
NOV 19 AM 10:03
COMMISSION CLERK
Pij
KMP
JAE
KLL

DATE: NOVEMBER 19, 2001
TO: DIRECTOR, DIVISION OF THE COMMISSION &
ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE SERVICES (ISLER)
DIVISION OF LEGAL SERVICES (J. ELLIOTT; K. PEÑA; B.
KEATING)
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF
ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE
FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY
ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

- DOCKET NO. 011249-TX - STARTCOMM CORP.
- DOCKET NO. 011272-TX - AVANA COMMUNICATIONS CORPORATION
D/B/A AVANACOM
- DOCKET NO. 011274-TX - INTERLOOP, INC.
- DOCKET NO. 011276-TX - TWENTY EIGHT RED, INC. D/B/A
CASH AMERICA
- DOCKET NO. 011278-TX - TELEBEEPER, INC. D/B/A OSCATEL
COMMUNICATIONS
- DOCKET NO. 011279-TX - COMPACT DATA SYSTEMS, INC.
- DOCKET NO. 011281-TX - CLARICOM NETWORKS, INC. D/B/A
STAPLES COMMUNICATIONS-NETWORKS
- DOCKET NO. 011288-TX - TEL-PHONE COMMUNICATIONS, INC.
- DOCKET NO. 011289-TX - BIZY PHONES, INC.

AGENDA: 12/04/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011249.RCM

DOCUMENT NUMBER DATE

14658 NOV 19 2001

FPSC-COMMISSION CLERK

DOCKET NOS. 011249-TX, 011272-TX, 011274-TX, 011276-TX, 011278-TX, 011279-TX, 011281-TX, 011288-TX, 011289-TX
DATE: NOVEMBER 19, 2001

CASE BACKGROUND

Each of the certificated providers listed on Attachment A were mailed the 2000 Regulatory Assessment Fee (RAF) notice. When full payment had not been received by the due date, the Division of the Commission Clerk & Administrative Services mailed a delinquent letter to the companies. In addition, each of the companies were mailed a letter and asked to contact staff if interested in resolving their docket. As of November 7, 2001, none of the companies have paid the past due amount.

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.

DOCKET NOS. 011249-TX, 011272-TX, 011274-TX, 011276-TX, 011278-TX, 011279-TX, 011281-TX, 011288-TX, 011289-TX
DATE: NOVEMBER 19, 2001

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's certificate as listed on Attachment A 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 certificate numbers listed on Attachment A should be canceled 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.

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.

The Division of the Commission Clerk & Administrative Services' records show that each of the companies listed on Attachment A had not paid its 2000 regulatory assessment fees, plus statutory penalty and interest charges. Therefore, it appears the

DOCKET NOS. 011249-TX, 011272-TX, 011274-TX, 011276-TX, 011278-TX, 011279-TX, 011281-TX, 011288-TX, 011289-TX
DATE: NOVEMBER 19, 2001

companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and have not requested cancellation of their certificates in compliance with Rule 25-24.820, Florida Administrative Code. This fine is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission should impose a \$500 fine or cancel each company's certificate as listed on Attachment A 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 certificate numbers listed on Attachment A should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

DOCKET NOS. 011249-TX, 011272-TX, 011274-TX, 011276-TX, 011278-TX, 011279-TX, 011281-TX, 011288-TX, 011289-TX
DATE: NOVEMBER 19, 2001

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: 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. (J. Elliott; 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 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.

ATTACHMENT A

DOCKET NOS. 011249-TX, 011272-TX, 011274-TX, 011276-TX, 011278-TX,
011279-TX, 011281-TX, 011288-TX, 011289-TX

DATE: NOVEMBER 19, 2001

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
011249-TX	StartComm Corp. 1999 Revenues - \$0 For the Period Ended 12/31/99	7250	2000	1999 2000
011272-TX	AvanaCom 1999 Revenues - \$0 For the Period Ended 12/31/99	7256	2000	1999 2000
011274-TX	Interloop, Inc. No Previous Return Filed	7259	2000	2000
011276-TX	Cash America No Previous Return Filed	7331	2000	2000
011278-TX	Oscatel Communications No Previous Return Filed	7341	2000	2000
011279-TX	Compact Data Systems, Inc. No Previous Return Filed	7353	2000	2000
011281-TX	Staples Communications-Networks No Previous Return Filed	7414	2000	2000
011288-TX	Tel-Phone Communications, Inc. No Previous Return Filed	7335	2000	2000
011289-TX	Bizy Phones, Inc. No Previous Return Filed	7381	2000	2000