

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-

COMMISSION CLERK

FEB - 5 PM 3:48

GENERAL PSC

DATE: FEBRUARY 7, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Dji* #
OFFICE OF GENERAL COUNSEL (J. ELLIOTT) *JAE Bil*

RE: DOCKET NO. 011138-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5712 ISSUED TO A 1 MOBILE TECH, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 02/19/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011138.RCM

CASE BACKGROUND

- 11/03/98 - This company obtained Florida Public Service Commission Certificate No. 5712.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2001.
- 02/21/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice for nonpayment of the 2000 RAF.
- 09/18/01 - Staff wrote the company and explained that a docket had been established and to contact staff if interested in resolving this docket.

DOCUMENT NUMBER-DATE

01395 FEB-58

FPSC-COMMISSION CLERK

DOCKET NO. 011138-TX
DATE: FEBRUARY 7, 2002

- **10/22/01** - The Commission received a letter from the company requesting cancellation of its certificate.
- **10/26/01** - Staff wrote the company and explained that in order for staff to recommend a voluntary cancellation, the company must pay the past due amount in full and either pay the 2001 RAF or provide a date certain it would be paid.
- **01/28/01** - As of this date, the company has neither paid the past due amount nor the 2001 RAF, or provided a date certain the 2001 RAF would be paid, in compliance with Rule 25-24.820, Florida Administrative Code.

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 A 1 Mobile Tech, Inc. a voluntary cancellation of Certificate No. 5712?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5712 on its own motion, effective October 22, 2001. 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.

Rule 25-24.820(2)(a), (b), (c), and (d), Florida Administrative Code, states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request. Cancellation of a certificate shall be ordered subject to the holder providing the required information.

(a) A statement of intent and date certain to pay regulatory assessment fee.

(b) A statement of why the certificate is proposed to be cancelled.

(c) A statement as to how customer deposits and final bills will be handled.

(d) Proof of individual customer notice regarding discontinuance of service.

Although the company requested cancellation of its certificate, the company has not paid the past due RAF amounts or complied with Rule 25-24.820(2), Florida Administrative Code.

Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5712 on its own motion,

DOCKET NO. 011138-TX
DATE: FEBRUARY 7, 2002

effective October 22, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should this docket 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 issuance of the Proposed Agency Action Order. The docket should then be closed upon cancellation of the certificate. (J. Elliott)

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.