



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: DECEMBER 5, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Isler* & OFFICE OF THE GENERAL COUNSEL (DODSON) *Dodson*

RE: DOCKET NO. 020689-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 5729 ISSUED TO GLORIA TELECOMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/17/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020689.RCM

CASE BACKGROUND

- 11/10/98 - This company obtained Florida Public Service Commission Interexchange Carrier (IXC) Certificate No. 5729.
- 04/27/01 - The Commission received the company's Regulatory Assessment Fee (RAF) return for the period ended December 31, 2000. The company reported no revenues.
- 12/12/01 - The Division of the Commission Clerk & Administrative Services mailed the 2001 RAF notice. The due date was January 30, 2002.
- 02/21/02 - The Office of the General Counsel mailed a delinquent notice via certified mail. The US Postal Service

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subsequently returned the receipt, which showed the delinquent notice was signed for and delivered to the company.

- **05/17/02** - Staff wrote the company and explained that the 2001 RAF, plus penalty and interest charges, had not been paid. Staff advised that a docket would be established if payment was not received by June 7, 2002.
- **07/11/02** - Having received no response from the company, staff opened this docket to address the nonpayment of RAF.
- **08/16/02 and 09/10/02** - Staff had several telephone conversations with Mr. Kevin Garrett, the company's accountant and brother-in-law to the company's president, Mr. Orlando Puche. Mr. Garrett advised that the company no longer existed and had no funds to pay the past due amount and that Mr. Puche was in prison.
- **09/17/02** - The Commission received a letter from Mr. Garrett which requested cancellation of the company's certificate and advised that the company had been out of business for over a year and had no assets to pay the RAFs.
- **11/27/02** - As of this date, the company has not paid the past due amount. In addition, there are no outstanding consumer complaints against this company.

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 Gloria Telecommunications, Inc. a voluntary cancellation of IXC Certificate No. 5729?

RECOMMENDATION: No. The Commission should not grant Gloria Telecommunications, Inc. a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion with an effective date of September 17, 2002. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificate for Gloria Telecommunications, Inc. is cancelled in accordance with the Commission's Order from this recommendation, Gloria Telecommunications, Inc. should be required to immediately cease and desist providing interexchange telecommunications services in Florida. (Isler; Dodson)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, and 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.

Rule 25-24.474(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:
 - (a) Statement of intent and date to pay Regulatory Assessment Fee.
 - (b) Statement of why the certificate is proposed to be cancelled.
 - (c) A statement on treatment of customer deposits and final bills.
 - (d) Proof of individual customer notice regarding discontinuance of service.

On September 17, 2002, the Commission received a letter from Gloria Telecommunications, Inc.'s CPA, Mr. Kevin Garrett, which requested cancellation of the company's certificate. Mr. Garrett

stated that the company has been out of business for over a year because the president of the company is in prison. Mr. Garrett stated that the company has no funds to pay the Regulatory Assessment Fees. As of November 27, 2002, the company owes the 2001 RAF, including statutory penalty and interest charges for the years 1998, 1999, 2000, and 2001. In addition, the company either has not paid the 2002 RAF or stated when the 2002 RAF would be paid. Therefore, it appears Gloria Telecommunications, Inc. has not complied with Rule 25-24.474(2)(a), Florida Administrative Code. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff believes the Commission should not grant Gloria Telecommunications, Inc. a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion with an effective date of September 17, 2002. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificate for Gloria Telecommunications, Inc. is cancelled in accordance with the Commission's Order from this recommendation, Gloria Telecommunications, Inc. should be required to immediately cease and desist providing interexchange telecommunications services in Florida.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of 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 penalty and fees or cancellation of the company's certificate. (Dodson)

STAFF ANALYSIS: Whether staff's recommendations 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 receipt of the penalty and fees or cancellation of the company's certificate.