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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 23, 2008

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COMMISSION
CLERK

Rosanne Gervasi, Esquire
Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Re: Docket No. 080065-TX, Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida

Dear Ms. Gervasi:

The purpose of this letter is to provide you with notice of VCI's continued failure to abide by applicable discovery rules and procedures.

On April 30, 2008, prosecutorial staff arranged to depose Stanley Johnson from Vilaire Communications, Inc. (VCI). The deposition was scheduled for Thursday, May 15, 2008, and prosecutorial staff served a notice of deposition on April 30, 2008. (Attachment A) On Tuesday, May 13, 2008, prosecutorial staff was informed by counsel that Mr. Johnson was unavailable due to important business concerns.

Although the discovery cut-off date was May 22, 2008, both parties agreed to extend the time for deposition until May 28, 2008. (Attachment B) On May 14, 2008, VCI filed their prehearing statement. VCI states in their Prehearing Statement:

"VCI intends to offer the direct testimony of Stanley Johnson, filed April 24, 2008. Mr. Johnson will not offer testimony on any issues that touch on, wholly or in part, the company's operations as an ETC as VCI believes the Commission is without subject matter jurisdiction to inquire into, review or adjudicate these matters. With respect to Issue Nos. 11(a) and (b), Mr. Johnson's testimony will be limited to the company's operations as a CLEC that VCI believes are within the jurisdiction of the Commission in accordance with Florida law, rules lawfully adopted by and lawful orders issued by the Commission with respect to CLECs. Mr. Johnson's also will offer testimony as to Issues 5 and 6."

On May 21, 2008, prosecutorial staff requested Mr. Johnson be available for deposition on May 28, 2008, following the prehearing conference. In response, VCI sent prosecutorial staff an

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email (Attachment C) which indicated Mr. Johnson will only respond to 3 of the 11 issues at deposition.

VCI's indication it will object and limit any discussion outside of issues 5, 6, and 11, inappropriately limits staff's deposition of Mr. Johnson. Rule 1.1310(c), Florida Rules of Civil Procedure, states that in a deposition upon oral examination a party may instruct a deponent not to answer only when necessary to preserve a privilege. Otherwise, evidence objected to shall be subject to oral examination. Prosecutorial staff notes that VCI has failed to identify any applicable privilege. Rule 1.280(b), Florida Rules of Civil Procedure, provides that parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action. Prosecutorial staff believes it is the Commission who will make the determination whether the evidence acquired through depositions is admissible, not VCI.

As a result of VCI's notification to prosecutorial staff that it will not allow its witness to respond to staff's questions on any issues that reference its ETC operations, staff has chosen not to proceed with a deposition at this time. Prosecutorial staff believes to do otherwise would result in a waste of valuable Commission resources. However, prosecutorial staff would like to reserve the right to depose Mr. Johnson at a later date when Mr. Johnson is prepared to answer all questions relevant to the issues in this proceeding. Furthermore, prosecutorial staff would request the Commission to consider VCI's refusal to allow its witness to be fully deposed, when addressing prosecutorial staff's Motion for Sanctions, filed on May 13, 2008.

Sincerely,

for 

LEE ENG TAN
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
(850) 413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-FPSC

In re: Investigation of Vilaire
 Communications, Inc.'s eligible
 telecommunications carrier status and
 competitive local exchange company
 certificate status in the State of Florida.

DOCKET NO. 080065 ~~08~~ APR 30 PM 4:17
 DATED: APRIL 30, 2008 COMMISSION
 CLERK

NOTICE OF DEPOSITION UPON ORAL EXAMINATION

TO: Beth Keating
 Akerman Senterfitt
 106 East College Avenue, Suite 1200
 Tallahassee FL 32301

NOTICE is hereby given that the Staff of the Florida Public Service Commission will take the deposition of the following named individual, at the following time and location indicated:

NAME	DATE and TIME	LOCATION
Stanley Johnson	Thursday, May 15, 2008 10:00 A.M.	Room 382D, Gunter Building 2540 Shumard Oak Blvd. Tallahassee, FL 32399

Please bring with you copies of all the work papers or other materials used by you in the preparation of any testimony filed in this docket or used by you in the preparation of any responses to staff's discovery requests in this docket.

This deposition is being taken for purposes of discovery, for use at trial, or for any other purpose allowed under the Florida Rules of Civil Procedure, the Uniform Rules of Procedure, and the Rules of the Florida Public Service Commission.

Interested persons unable to attend may dial the following number promptly at 9:00 a.m. on Thursday, May 15, 2008, to participate by phone: 1-888-808-6959 (conference code 4136206).

Any person requiring some accommodation at this hearing because of a physical impairment should call the Office of Commission Clerk at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).

If settlement of the case or a named storm or other disaster requires cancellation of the proceedings, Commission staff will attempt to give timely direct notice to the parties. Notice of cancellation will also be provided on the Commission's website (<http://www.psc.state.fl.us/>)

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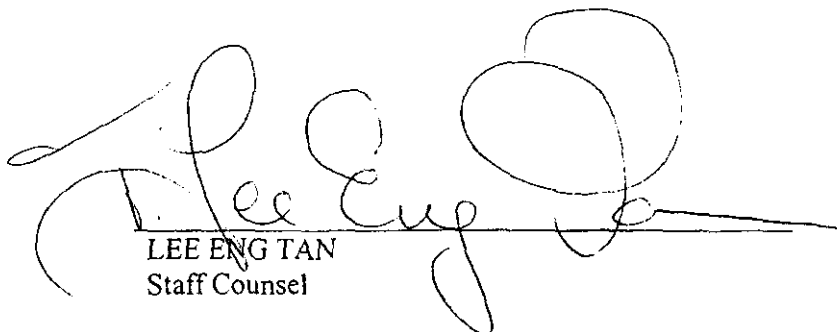
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NOTICE OF DEPOSITION UPON ORAL EXAMINATION
DOCKET NO. 080065-TX
PAGE 2

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under the Hot Topics link found on the home page. Cancellation can also be confirmed by calling the Office of the General Counsel at 850-413-6199.

DATED this 30th day of April, 2008.

A handwritten signature in black ink, appearing to read "Lee Eng Tan", is written over a horizontal line. The signature is fluid and cursive.

LEE ENG TAN
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
(850) 413-6199

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of Vilaire
Communications, Inc.'s eligible
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DOCKET NO. 080065-TX

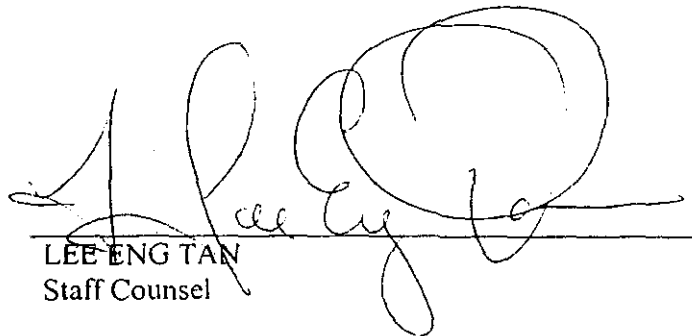
DATED: APRIL 30, 2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one correct copy of NOTICE OF DEPOSITION UPON ORAL EXAMINATION has been served by U. S. mail to Beth Keating, Akerman Senterfitt Law Firm, 106 East College Avenue, Suite 1200, Tallahassee, Florida 32301, and that a true copy thereof has been furnished to the following by U. S. mail or by (*) hand delivery this 30th day of April, 2008:

Vilaire Communications, Inc.
P. O. Box 98907
Lakewood, WA 98496-8907

(*)Rosanne Gervasi
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



LEE ENG TAN
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
(850) 413-6199

Lee Eng Tan

From: Lee Eng Tan
Sent: Wednesday, May 21, 2008 2:55 PM
To: 'Culpepper, Bruce'
Cc: Beth Keating; Rosanne Gervasi; Adam Teitzman; Bob Casey
Subject: RE: Dkt. 080065 - Staff's Motion to Impose Sanctions

Staff would like conduct the deposition of Stanley Johnson on May 28, 2008, following the prehearing at 9:30 a.m. Please let me know of your client's availability and I will issue the Notice.

Thank you.

Lee Eng

From: Culpepper, Bruce [mailto:bruce.culpepper@akerman.com]
Sent: Wednesday, May 14, 2008 8:34 AM
To: Lee Eng Tan
Cc: Beth Keating; staceyk@vcicompany.com
Subject: RE: Dkt. 080065 - Staff's Motion to Impose Sanctions

Morning....I spoke with VCI to confirm support for my agreement to extend discovery in our case through the 28th of May. That will give us each time to digest any actions or directions that the state or federal courts may extend. Consider this my agreement on behalf of VCI to the extension. thanks. Bruce Culpepper, attorney for VCI.



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CONFIDENTIALITY NOTE: The information contained in this transmission may be *privileged and confidential information*, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

CIRCULAR 230 NOTICE: To comply with U.S. Treasury Department and IRS regulations, we are required to advise you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this transmittal, is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the U.S. Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this e-mail or attachment.

From: Lee Eng Tan [mailto:LTAN@PSC.STATE.FL.US]
Sent: Tuesday, May 13, 2008 5:03 PM
To: Culpepper, Bruce; staceyk@vcicompany.com; Rosanne Gervasi; David Dowds; Beth Salak
Cc: Bob Casey; Dale Mailhot; Lee Eng Tan; Adam Teitzman
Subject: Dkt. 080065 - Staff's Motion to Impose Sanctions

5/22/2008

Good Afternoon,

Please find attached prosecutorial staff's Motion's to Impose Sanctions.

Regards,

Lee Eng Tan
Senior Attorney
Office of the General Counsel
(850) 413-6185
ltan@psc.state.fl.us

5/22/2008

Lee Eng Tan

From: staceyk@vcicompany.com
Sent: Wednesday, May 21, 2008 3:15 PM
To: Lee Eng Tan
Subject: FW: Docket No. 080065-TX - Draft Prehearing Order

From: staceyk@vcicompany.com [mailto:staceyk@vcicompany.com]
Sent: Wednesday, May 21, 2008 12:13 PM
To: 'RGervasi@PSC.STATE.FL.US'
Cc: 'Keating, Beth'; 'Culpepper, Bruce'
Subject: Docket No. 080065-TX - Draft Prehearing Order

Rosanne: I've reviewed Staff's Draft Prehearing Order and would like the following statement added, either as a footnote or in text, with respect to the issues Stanley Johnson is identified as testifying about:

"VCI indicated in its Prehearing Statement that Mr. Johnson will offer testimony on issues 5, 6 and 11 only with respect to subject matters VCI believes are within the PSC's jurisdiction."

Sincerely,
VCI Company
Stacey A. Klinzman
Tel: 253.830.0056

5/22/2008
