

Ruth Nettles

From: staceyk@vcicompany.com
Sent: Tuesday, May 27, 2008 4:01 PM
To: Filings@psc.state.fl.us
Cc: Beth Keating; Lee Eng Tan; Adam Teitzman; Beth Salak; 'Culpepper, Bruce'
Subject: Vilaire Communications, Inc. Statement of Non-Participation in Docket No. 080065-TX dated May 27, 2008
Attachments: Vilaire Communications, Inc. Statement of Non-Participation in Docket No. 080065-TX 5.27.08.pdf

Attached for electronic filing in the referenced Docket, please find a copy of Vilaire Communications, Inc.'s Statement of Non-Participation in Docket No. 080065-TX. If you have any questions, please do not hesitate to contact me.

Sincerely,
Stacey A. Klinzman
VCI Company
(253) 830-0056
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staceyk@vcicompany.com

A.
Stacey A. Klinzman
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- B. Docket No. 080065-TX - In re: Investigation of Vilaire Communications, Inc.'s eligible telecommunications carrier status and competitive local exchange company certificate status in the State of Florida.
- C. On behalf of Vilaire Communications, Inc.
- D. Statement of Non-Participation 3 pp.
- E. VCI Company's statement of non-participation in further aspects of Docket No. 080065-TX.

DOCUMENT NUMBER-DATE

04479 MAY 27 8

FPSC-COMMISSION CLERK

VCI Company

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Via Electronic Mail

May 27, 2008

Ms. Ann Cole
Clerk of the Commission
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399

Re: Docket No. 080065-TX -- Vilaire Communications, Inc. Statement of Non-Participation

Dear Ms. Cole:

With this filing, VCI Company, doing business in Florida as Vilaire Communications, Inc. ("VCI" or "Company"), respectfully notifies the Florida Public Service Commission ("Commission") that, as of today's date, the Company will no longer participate in any aspect of Docket No. 080065-TX ("Proceeding"), including the Prehearing Conference scheduled for May 28, 2008.

VCI's reasons for discontinuing participation in this Proceeding are as follows:

First, VCI will cease participation because information forming the basis for this Proceeding was obtained through improper channels and pertains to matters that are outside the Commission's authority. This Proceeding is predicated upon information the Commission collected during an audit of VCI's operations as an ETC in Florida, post-audit information regarding VCI's operations as an ETC in Florida, and from Universal Service Administrative Company ("USAC") personnel. The Commission's audit and post audit inquiries were conducted without authority under state or federal law.

Further, pursuant to the Federal Communication Commission's ("FCC") rules¹, USAC personnel are prohibited from making policy, interpreting unclear provisions of the Telecommunications Act or the FCC's rules, or interpreting the intent of Congress. Documentation provided by the Commission pursuant to VCI's public records request dated February 7, 2008 demonstrates that USAC personnel's interactions with the Commission exceeded the authority granted by the

¹ 47 C.F.R. §§ 54.702(c) and (d).

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Ms. Ann Cole
Clerk of the Commission
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FCC's rules. Thus, all information obtained by the Commission forming the basis for this Proceeding was obtained in violation of state law, federal law and the FCC's rules.

Second, this Proceeding far exceeds the Commission's authority. The Commission is without subject matter jurisdiction under state or federal law to initiate, prosecute or adjudicate matters concerning VCI's operations as an ETC. Because this Commission is without state or federal authority to adjudicate matters concerning VCI's operations as an ETC, the Commission is without authority to issue orders in this Proceeding. As a consequence, any and all current or future orders issued by the Commission in this Proceeding are unenforceable.

In fact, VCI questioned the Commission's assumption of jurisdiction on these matters *prior to* the initiation of this Proceeding and has maintained that the Commission lacks subject matter jurisdiction over VCI's operations as an ETC *continually throughout this Proceeding*. This Commission was obligated to investigate its jurisdiction either on its own motion or when questioned by VCI. Nevertheless, the Commission has steadfastly refused to decide its jurisdiction, which suggests the Commission's willingness to prejudice and punish VCI regardless of its authority. As a result, VCI is forced to allocate its limited resources to pursuing relief in other judicial forums.

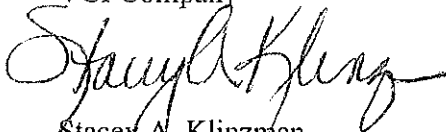
Third, the Commission's prosecution of VCI in this Proceeding violates VCI's Constitutional rights. The Commission failed to provide VCI with proper notice in contravention of VCI's rights to due process under the Florida State and United States Constitutions. Any and all orders issued by the Commission in this Proceeding are deficient as a matter of law and unenforceable.

Fourth, VCI no longer can afford to allocate Company resources to defend itself in this Proceeding. VCI, a small company with limited financial resources, has been expending upwards of \$40,000 in legal fees per month. It is of paramount importance that VCI preserve its financial resources, first, to maintain and continue its core business operations - serving its customers.

Finally, VCI will discontinue participation in this Proceeding so that the Company's attention and resources are directed to pursuing its claim against the Commission filed in the Federal District Court for the Northern District of Florida.

Sincerely,

VCI Company



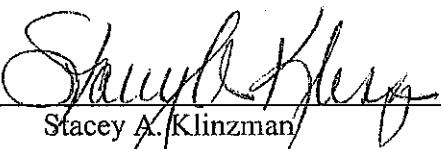
Stacey A. Klinzman
Regulatory Attorney

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Statement of Non-Participation has been served via Electronic Mail* to the persons listed below this 27th day of May, 2008:

Lee Eng Tan, Senior Attorney* Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 LTan@psc.state.fl.us	Beth Salak, Director/Competitive Markets and Enforcement* 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 bsalak@psc.state.fl.us
Adam Teitzman, Supervising Attorney* Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 ateitzma@psc.state.fl.us	

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