

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-**

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**DATE:** February 17, 2005

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (Isler)  
Office of the General Counsel (Rockette-Gray)

**RE:** Docket No. 040990-TA – Compliance investigation of NUMINA COMMUNICATIONS CORP. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

**AGENDA:** 03/01/05 – Regular Agenda – Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\040990.RCM.DOC

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### Discussion of Issues

**Issue 1:** Should the Commission accept NUMINA COMMUNICATIONS CORP.'s settlement offer to voluntarily cancel its certificate to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code?

**Recommendation:** Yes. (Isler, Rockette-Gray)

**Staff Analysis:** See attached proposed Order.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission. (Rockette-Gray)

**Staff Analysis:** Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of NUMINA COMMUNICATIONS CORP. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 040990-TA  
ORDER NO.  
ISSUED:

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON  
LISA POLAK EDGAR

ORDER GRANTING VOLUNTARY CANCELLATION OF ALTERNATIVE ACCESS  
VENDOR TELECOMMUNICATIONS CERTIFICATE

BY THE COMMISSION:

NUMINA COMMUNICATIONS CORP. currently holds Alternative Access Vendor (AAV) Certificate No. 8342, issued by this Commission on July 8, 2003. The Division of the Commission Clerk & Administrative Services advised our staff that NUMINA COMMUNICATIONS CORP. had not paid the Regulatory Assessment Fee required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2003. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for the year 2003 had not been paid. NUMINA COMMUNICATIONS CORP. was scheduled to remit its 2003 Regulatory Assessment Fee by January 30, 2004. In addition, on May 7, 2004, our staff wrote the company and advised that payment of the 2003 Regulatory Assessment Fee should be paid by May 28, 2004, to avoid a docket from being established.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee (RAF) of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for a certificate receive a copy of our rules governing alternative access vendor telecommunications service.

After this docket was established, on December 23, 2004, Order No. PSC-04-1272-PAA-TA was issued, which imposed a \$500 penalty. The company had until January 13, 2005, to respond to the Order. On January 6, 2005, the Commission received NUMINA COMMUNICATIONS CORP.'s 2003 and 2004 Regulatory Assessment Fees and returns, along with the statutory late payment charges for the year 2003. In addition, the company's President, Ms. Irene Randall, wrote a letter requesting voluntary cancellation of the company's certificate to resolve this docket. Accordingly, we find it appropriate to cancel AAV Certificate No. 8342, effective December 31, 2004. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that NUMINA COMMUNICATIONS CORP.'s Certificate No. 8342 to provide Alternative Access Vendor Telecommunications services is hereby cancelled, effective December 31, 2004. It is further

ORDERED that NUMINA COMMUNICATIONS CORP. shall immediately cease and desist providing Alternative Access Vendor Telecommunications service in Florida. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas, or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.