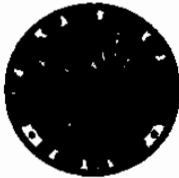


State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2500 SHIRLAND OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

RECEIVED  
NOV 19 AM 10:41  
J.C.

**DATE:** NOVEMBER 19, 1998

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF COMMUNICATIONS (ISLER) *PI*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP/MS*

**RE:** DOCKET NO. 981232-TA - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE ACCESS VENDOR CERTIFICATE NO. 4033 ISSUED TO TWC CABLE PARTNERS, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 12/01/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981232.RCM

## CASE BACKGROUND

TWC Cable Partners obtained Florida Public Service Commission Alternative Access Vendor Certificate Number 4033 on June 13, 1995.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. Staff received the return receipt from the United States Postal Service (USPS) which showed that the RAF notice was signed for and delivered on December 15, 1997.

The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalties and interest for the year 1997.

DOCUMENT NUMBER-DATE

**1993 NOV 19 8**

FPSC-RECORDS/REPORTING

After the docket was opened, Ms. Jill Butler called staff and stated that the company wanted to keep its certificate and would pay all past due charges and make a proposed settlement offer. The company has since paid the 1997 RAFs plus statutory penalties and interest charges and made a proposed settlement offer to pay a \$500 contribution and pay future regulatory assessment fees by January 30 of each year. (ATTACHMENT A) Therefore, staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission accept the settlement offer proposed by TWC Cable Partners to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should accept TWC Cable Partners' settlement offer. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. (Isler)

**STAFF ANALYSIS:** Rule 25-4.0161, Florida Administrative Code, 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.

The Division of Administration notified staff by memorandum that TWC Cable Partners had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the year 1997.

After staff opened this docket but prior to filing the recommendation, the company paid the regulatory assessment fees for 1997, plus the statutory penalties and interest charges. The company contacted staff and advised that it wanted to keep its certificate and would make a settlement proposal. The company's correspondence was received November 13, 1998, and proposed to pay all future regulatory assessment fees by January 30 of every year

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and would make a \$500 contribution to the State General Revenue Fund. (ATTACHMENT A)

This is the second time a docket has been opened against this company for nonpayment of the regulatory assessment fees (RAFs). The first time was Docket No. 961033-TA, in which the company did not pay its 1995 RAFs. Staff filed a recommendation to fine or cancel the company's certificate. However, an Order was never issued since the company paid all charges prior to the Agenda Conference date and the docket was closed.

In previous cases, the Commission has accepted a \$100 settlement in lieu of telecommunications' companies having their certificate canceled or paying the full amount of the fine. However, since this is the second docket to be opened against this company for the same rule violation, staff believes the \$500 settlement proposal is appropriate.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

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

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1 and upon remittance of the \$500 contribution, this docket should be closed. (K. Peña)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, and upon remittance of the \$500 contribution, this docket should be closed. The contribution should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Chapter 364.285(1), Florida Statutes.

DOCKET NO. 981232-~~1~~  
DATE: NOVEMBER 19, 1998  
ATTACHMENT A

98 NOV -3 AM 9:57  
MAIL ROOM

Jill Butler,  
Director Regulatory Affairs  
Cox Florida Telecom, L.P.  
6900 Cox Communications  
188 Village Avenue  
Norfolk, Virginia 23502  
(757) 389-4824  
(757) 389-4800 fax



November 12, 1998

Ms. Paula Isler,  
Regulatory Analyst  
Division of Communications  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 981232-TX Cancellation by Florida Public Service Commission of Alternative Access Vendor Certificate No. 4033 issued to TWC Cable Partners for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees

Dear Ms. Isler:

TWC Cable Partners wishes to offer \$500.00 as a settlement in lieu of cancellation of its alternative access vendor (AAV) Certificate No. 4033, or a \$1,000.00 fine. The Company has already paid its 1997 regulatory assessment fees plus appropriate penalty and interest. While we realize this is the second time for such an occurrence, TWC Cable Partners regrets the oversight which led to the late payment of these fees, and has revised its internal procedures to ensure that such an event will not occur again. It is the Company's policy to be fully compliant with the Commission's rules and orders.

We appreciate your consideration.

Sincerely,

Jill Nickel Butler  
Director of Regulatory Affairs

Cc: Larry Lewis  
Suzanne Howard

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