



# 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-

RECEIVED-FPSC  
9 NOV -4 AM 11:49  
RECORDS AND REPORTING

**DATE:** NOVEMBER 4, 1999

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

**FROM:** DIVISION OF LEGAL SERVICES (CLEMONS) *pmc*  
DIVISION OF COMMUNICATIONS (BIEGALSKI) *UB*

**RE:** DOCKET NO. 981868-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST COLORADO RIVER COMMUNICATIONS CORP. FOR APPARENT VIOLATION OF RULE 25-24.485, F.A.C., TARIFFS AND RULE 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES

**AGENDA:** 11/16/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981868.RCM

### CASE BACKGROUND

- July 8, 1994 - Colorado River Communications Corp. (Colorado) received certificate number 3565 in order to offer interexchange telecommunications service in Florida.
- December 31, 1998 - Colorado reported gross intrastate revenues of \$9,675.99 on its 1998 regulatory assessment fee form.
- May 18, 1998 - The Division of Consumer Affairs received a complaint from Mr. Parks regarding apparent unauthorized usage charges and a monthly service fee billed to his account. Upon investigation, it was determined that the monthly service fee was not in Colorado's tariff on file with the Florida Public Service Commission.

DOCUMENT NUMBER-DATE  
**13574 NOV-4 99**  
FPSC-RECORDS/REPORTING

- February 24, 1999 - The Commission issued Order No. PSC-99-0401-SC-TI, in Docket No. 981868-TI, ordering Colorado to show cause in writing within 21 days of the effective date of the Order why it should not be fined \$250 for apparent violation of Rule 25-24.485, Florida Administrative Code, Tariffs, and \$10,000 for failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, or have its certificate canceled.
- March 16, 1999 - Colorado timely responded to the order by filing a Motion for Extension of Time.
- May 5, 1999 - The Division of Telecommunications received a complaint from Chipola Pal Int. (Chipola) regarding apparent unauthorized monthly service fees billed to its account. Upon investigation, it was determined that the monthly service fee was not in Colorado's tariff on file with the Florida Public Service Commission.
- August 19, 1999 - Colorado submitted its offer of settlement. (Attachment A, Pages 6-7)

### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission grant Colorado River Communications Corp.'s Motion for Extension of Time?

**RECOMMENDATION:** Yes. The Commission should grant Colorado's Motion for Extension of Time. (Clemons)

**STAFF ANALYSIS:** As stated in the case background, Colorado was required by Order No. PSC-99-0401-SC-TI, issued February 24, 1999, to respond and show cause why it should not be fined or have its certificate canceled for violation of Rule 25-24.485, Florida Administrative Code, and Rule 25-4.043, Florida Administrative Code by March 17, 1999. On March 16, 1999, Colorado timely responded to the order by filing a Motion for Extension of Time. The ongoing settlement discussions with staff were the asserted grounds for Colorado's request for an extension of time. Because settlement negotiations were ongoing and have been successful to the extent a settlement offer supported by staff is now before the Commission,

staff believes it is appropriate to recommend granting Colorado's motion. If the settlement offer discussed in Issue 2 of this recommendation is not approved, staff recommends that an additional extension of 21 days from the date of the vote be granted in order to give Colorado an opportunity to fully respond to the Show Cause Order.

**ISSUE 2:** Should the Commission accept the settlement offer proposed by Colorado River Communications, Inc. to resolve the apparent violations of Rule 25-24.485, Florida Administrative Code, Tariffs, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

**RECOMMENDATION:** Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission Order and should identify the docket number and company name. 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. **(Biegalski)**

**STAFF ANALYSIS:** When investigating the Parks' complaint, it was determined that the overcharges were the result of a three month promotional offering by Colorado that it failed to file with the Florida Public Service Commission. Upon receipt of Chipola's complaint and further investigation into the charges, staff discovered that some of the customers that signed up for the promotional offering and decided to keep Colorado as its long distance provider, continued to be overcharged for a period of six months. Based on this information and its discussions with staff, Colorado submitted its settlement offer on September 23, 1999. In its settlement offer Colorado states that in the past few months it has experienced a substantial amount of turnover; therefore, the Parks' complaint was handled improperly.

In its settlement offer Colorado agreed to do the following:

- Issue a full credit to the Parks as resolution to their complaint filed with the Division of Consumer Affairs.

- Issue a full credit to Chipola Pal Int. as resolution to its complaint filed with the Division of Telecommunications.
- Make timely tariff changes prior to implementation of any new services.
- Issue credits in the amount of \$4,533.21, which includes \$495.21 in interest, in the months of January and February of 2000 to all customers affected by the unauthorized charge. The credits will appear on the local telephone company statement through Colorado's billing agent, USBI.
- Provide staff with a status report on February 10, 2000 and March 10, 2000.
- Remit all remaining unrefundable monies to the Florida Public Service Commission for deposit in the General Revenue Fund by March 15, 2000.
- Make a voluntary contribution to the General Revenue Fund in the amount of \$2,000.

Staff supports Colorado's offer to issue a full credit to the Parks and to Chipola for all charges incurred while on its service. Staff also supports Colorado's affirmation that, in the future, it will file its tariff changes in a timely manner. In addition, staff supports Colorado's refund calculation of \$4,038.00 for the apparent overcharges, adding staff's interest calculation of \$495.21. Furthermore, staff supports Colorado's proposal to make refunds to customers between January 1, 2000 and February 29, 2000 and to remit a monthly refund report. Staff believes this will help monitor the refund process and ensure it is handled properly. Finally, staff supports Colorado's proposal to forward to the Commission all amounts not refunded for deposit in the General Revenue Fund by March 15, 2000.

The company has satisfactorily addressed each of staff's concerns. Moreover, the company has been very cooperative in resolving all issues. Therefore, staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable based on the intrastate revenues generated by the company.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** No. With the approval of Issue 2, this docket should remain open pending the completion of the refunds, the remittance of the \$2,000 voluntary contribution, remittance of the monthly consumer refund reports and the remittance to the Commission of all amounts remaining unrefunded for deposit in the General Revenue Fund by March 15, 2000. The reports should be submitted monthly on February 10, 2000 and March 10, 2000. Upon completion of the refunds, remittance of the last monthly refund report, remittance of the settlement payment, and remittance to the Commission of the unrefunded amount, this docket should be closed. The \$2,000 settlement and any unrefunded monies should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate will be canceled and this docket closed. **(Clemons)**

**STAFF ANALYSIS:** This docket should remain open pending the completion of the refunds, the remittance of the \$2,000 voluntary contribution, remittance of the monthly consumer refund reports and upon the remittance to the Commission of all amounts remaining unrefunded for deposit in the General Revenue Fund by March 15, 2000. The reports should be submitted monthly on February 10, 2000 and March 10, 2000. Upon completion of the refunds, remittance of the last monthly refund report, remittance of the settlement payment, and remittance to the Commission of the unrefunded amount, this docket should be closed. The \$2,000 settlement and any unrefunded monies should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the settlement offer, the company's certificate will be canceled and this docket closed.

**NOWALSKY, BRONSTON & GOTHARD**

A Professional Limited Liability Company  
Attorneys at Law

Leon L. Nowalsky  
Benjamin W. Bronston  
Edward P. Gothard

3500 N. Causeway Boulevard  
Suite 1442  
Metairie, Louisiana 70002  
Telephone: (504) 832-1984  
Facsimile: (504) 831-0892

Monica R. Borne  
EllenAnn G. Sands

October 20, 1999

OCT 25 1999

CRC

Ms. Kelly Biegalski  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Colorado River Communications Corp.  
Order to Show Cause  
Docket No. 981868-TI

Dear Ms. Biegalski:

In accordance with our telephone conversation of this date regarding the above referenced matter, Colorado River Communications Corp. ("CRC"), through undersigned counsel, herein submits the conditions which it will fulfill in order to obtain a final settlement of the issues raised in the Commission's Order to Show Cause. The conditions that CRC will fulfill are as follows:

- 1.) CRC will issue (if not previously issued) a full credit to both the Parks and Chipola Pal.
- 2.) CRC will timely file tariff changes prior to offering a new service or revising an old service.
- 3.) During the months of January through February, 2000, CRC will issue credits to those Florida customers of CRC's service who were overcharged.
- 4.) CRC will provide a report to the Commission regarding the status of the issuance of customer credits. The first report will be due on February 10, 2000 and the final report will be due on March 10, 2000.
- 5.) Any amounts which cannot be refunded will be forwarded to the Florida Public Service Commission by March 15, 2000, to be deposited into the General Revenue Fund.

Page -2-  
Ms. Kelly Biegalski  
October 20, 1999

---

- 6.) CRC will voluntarily contribute to the General Revenue Fund the sum of \$2,000.00.
- 7.) CRC will issue credits for overcharges in the amount of \$4,038.00. The credit will be divided proportionately between the 342 customers who were over charged by the \$3.00 per month charge during the promotional period and the additional 32 customers who were also overcharged by the same amount.

Should you have any questions or require any additional clarification please do not hesitate to call.

Sincerely,



Leon L. Nowalsky

LLN/sw

cc: Christine Heffernan