



Public Service Commission

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

RECEIVED FPSC
MARCH 16 9:40 AM
COMMUNICATIONS DIVISION

DATE: MARCH 16, 2000

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

FROM: DIVISION OF LEGAL SERVICES (FORDHAM) *Z.P.S. BLC*
DIVISION OF COMMUNICATIONS (M. WATTS) *MW A*

RE: DOCKET NO. 000209-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TECHTEL COMMUNICATIONS, INC. FOR APPARENT VIOLATION OF RULE 25-24.835, F.A.C., RULES INCORPORATED.

AGENDA: 03/28/00 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: KEEP WITH DOCKET 000191-TI ON AGENDA

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000209.RCM

CASE BACKGROUND

- December 2, 1999 - Staff sent a letter to TechTel informing it of staff's role in processing arbitrations and complaints under the Telecommunications Act of 1996.
- December 13, 1999 - Staff's December 2, 1999, letter was returned by the post office with the notation, "Moved, Left No Address. Unable to Forward. Return to Sender," (Attachment A, page 5).
- January 26, 2000 - Staff's investigation revealed that TechTel is no longer an active corporation in Florida.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order TechTel Communications, Inc. to show cause in writing why certificate number 5259 should not be canceled or a fine of \$500 should not be imposed for apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated?

RECOMMENDATION: Yes. The Commission should order TechTel to show cause in writing within 21 days of the issuance of the Commission's Order why it should not have certificate number 5259 canceled or be fined \$500 for apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated. The company's response should contain specific allegations of fact and law. If TechTel fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the 21-day show cause period, certificate number 5259 should be canceled. If the fine is paid, it should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

(M. Watts)

STAFF ANALYSIS: TechTel has an active Certificate of Public Convenience and Necessity to provide Alternative Local Exchange Carrier (ALEC) services in Florida. Pursuant to Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, incorporated by reference in Rule 25-24.835, Florida Administrative Code, Rules Incorporated, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to TechTel was returned to the Commission by the USPS. It has been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has TechTel requested cancellation of its certificate in compliance with Rule 25-24.820, Florida Administrative Code. Based on the return of staff's letter with the envelope (Attachment A, page 5) stamped "Moved, Left No Address. Unable to Forward. Return to Sender," it appears that TechTel is in violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated.

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any

DATE: March 16, 2000

provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Staff believes that TechTel's conduct by failing to update its liaison and corporate information, in apparent violation of Commission Rule 25-24.835, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, In re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as TechTel's conduct at issue here, would meet the standard for a "willful violation."

Therefore, staff recommends that the Commission order TechTel to show cause in writing within 21 days of the issuance of the Commission's Order why it should not have certificate number 5259 canceled or be fined \$500 for apparent violation of Rule 25-24.835, Florida Administrative Code, Rules Incorporated. The company's response should contain specific allegations of fact and law. If TechTel fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the 21-day show cause period, certificate number 5259 should be canceled. If the fine is paid, it should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

DOCKET NO. 000209-1A

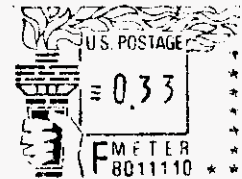
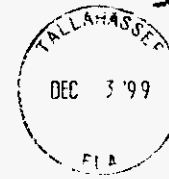
DATE: March 16, 2000

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If staff's recommendation in Issue 1 is approved, TechTel will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have certificate number 5259 canceled. If TechTel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If TechTel fails to respond to the show cause order, certificate number 5259 should be canceled and this docket should be closed at that time. **(Fordham)**

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, TechTel will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have certificate number 5259 canceled. If TechTel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If TechTel fails to respond to the show cause order, certificate number 5259 should be canceled and this docket should be closed administratively at that time.

State of Florida
Public Service Commission
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Regulatory
TechTel Communications, Inc.
1420 South Powerline Road
Pompano Beach, FL 33069

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RETURN TO SENDER
TECH TEL COMMUNICATIONS
MOVED LEFT NO ADDRESS
UNABLE TO FORWARD
RETURN TO SENDER

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DOCKET NO. 000209-TY
DATE: March 16, 2000

ATTACHMENT A

- 5 -