



Public Service Commission

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RECORDS AND
REPORTING

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RECEIVED-FPSC

DATE: APRIL 6, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij RD*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *WMP*

RE: DOCKET NO. 992038-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE NO. 4769 ISSUED TO EASY PHONE, INC. D/B/A EASY TEL, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 04/18/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\992038.RCM

CASE BACKGROUND

- **01/08/97** - ALEC Certificate No. 4769 was granted to Easy Cellular, Inc. in Docket No. 961105-TX. Richard Pollara was listed as President and Lorinda Bucchieri was listed as Vice President/Secretary/Treasurer.
- **08/01/97** - Order No. PSC-97-0913-FOF-TP was issued, which approved a resale agreement between Sprint-Florida, Inc. and Easy Cellular, Inc. in Docket No. 970466-TP.
- **10/28/97** - Department of State, Division of Corporations' records show that Robin Caldwell filed an application for reinstatement and changed the company's mailing address from Las Vegas, Nevada, which is where Ms. Bucchieri is located, to Indian Rocks Beach, Florida.

DOCUMENT NUMBER-DATE

04243 APR-68

FPSC-RECORDS/REPORTING

- **01/30/98** - The Commission received the company's payment for the 1997 regulatory assessment fee (RAF). The company reported \$1,400,000 in revenues for the period ended December 31, 1997.
- **03/24/98** - Department of State, Division of Corporations' records show that Ms. Bucchieri requested Richard Pollara, Peter Bucchieri, and Robin Caldwell be removed as officers of Easy Cellular.
- **04/22/98** - Order No. PSC-97-1202A-FOF-TP was issued, which acknowledged a name change to Easy Cellular, Inc. d/b/a TelCom Plus in Docket No. 971183-TP.
- **06/01/98** - Docket No. 980703-TP was established at TelCom Plus' request for arbitration concerning a complaint against BellSouth Telecommunications, Inc. for alleged violations of the Telecommunications Act of 1996 and Chapter 364 of the Florida Statutes. Mr. Doc Horton, Attorney, wrote the Commission on January 12, 1999, and requested that the prehearing and hearing be canceled. In addition, Mr. Horton wrote the Commission on May 28, 1999 and stated that TelCom Plus is involved in litigation related to this docket and did not want to withdraw the complaint at this time. This docket is still pending and has a "Close docket or revise CASR" event scheduled for April 10, 2000.
- **12/10/98** - The 1998 regulatory assessment fee (RAF) notice was mailed. Payment was due by February 1, 1999.
- **03/17/99** - The Division of Administration mailed a delinquent letter to the company.
- **05/26/99** - Order No. PSC-99-1085-FOF-TP was issued, which acknowledged a name change to Easy Phone, Inc. d/b/a Easy Tel, Inc.
- **07/22/99** - The Commission received a letter from Ms. Lorinda C. Bucchieri, President, which requested cancellation of this certificate.
- **09/20/99** - Staff wrote the company and explained that a voluntary cancellation could not be granted when there are outstanding RAFs.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Easy Phone, Inc. d/b/a Easy Tel, Inc. a voluntary cancellation of ALEC Certificate No. 4769?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its ALEC certificate. The Commission should cancel the company's Certificate No. 4769 on its own motion, effective on the date of issuance of the Consummating Order. (Isler)

STAFF ANALYSIS: On July 22, 1999, the Commission received a letter from the company's president, Ms. Lorinda C. Bucchieri, which requested cancellation of ALEC Certificate No. 4769. Ms. Bucchieri's letter stated that she had applied for an IXC certificate, but had never applied for an ALEC certificate. She further stated that she had entered into an agreement with Richard Pollara and his company, TelCom Plus, in December 1997, and that the agreement was cancelled and voided in September 1998. She stated that Mr. Pollara must have applied for the ALEC certificate using her company name. Staff responded to the company's letter on September 20, 1999, and advised that we could not recommend approval of a voluntary cancellation when there is an outstanding balance. Commission records show that as of March 29, 2000, the 1998 and 1999 RAFs, plus accrued penalty and interest charges for both years, remain unpaid.

Ms. Bucchieri believes that fraud was committed in the application process of ALEC Certificate No. 4769. Although it is possible fraud occurred, staff believes that cancellation on the Commission's own motion is the best course of action.

Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30, or the next business day, 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.

Accordingly, the Commission should not grant the company a voluntary cancellation of Certificate No. 4769. The Commission should cancel the company's Certificate No. 4769 on its own motion, effective on the date of issuance of the Consummating Order.

DOCKET NO. 992038-1X

DATE: APRIL 6, 2000

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves or modifies staff's recommendation on Issue 1, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively. (K. Peña; B. Keating)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or modified, the result will be a proposed agency action order and this docket should be closed upon receipt of the fine and fees or cancellation of the certificate unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively.