



Public Service Commission

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RECORDS AND REPORTING

DATE: MAY 25, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *ump*

RE: DOCKET NO. 991980-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5275 ISSUED TO USA TELE CORP. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 06/06/00 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991980.RCM

CASE BACKGROUND

- **11/24/97** - This company was granted ALEC Certificate No. 5275.
- **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.
- **01/12/00** - The Commission received a check for the 1999 RAF. The company reported revenues in the amount of \$8,200.95 for the period ended December 31, 1999.
- **03/16/00** - Staff wrote the company and advised that although the 1999 RAF had been paid, the 1998 RAF remained unpaid and that the company had a statutory penalty and interest balance

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from 1997 and 1998. Staff provided the company information on how to resolve the docket.

- **04/10/00** - In Docket No. 000234-TX, Order No. PSC-00-0664-SC-TX was issued, which ordered the company to show cause why it should not be fined \$10,000 or have its certificate canceled for apparent violation of Section 364.183(1), F.S., Access to Company Records. The company did not respond to the Show Cause Order, therefore, the company's certificate was canceled.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should USA Tele Corp. be ordered to show cause why a fine of \$500 for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, should not be imposed?

RECOMMENDATION: Yes. The Commission should order USA Tele Corp. to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be fined \$500 for apparent violation of Rule 25-4.0161, F.A.C. The company's response should contain specific allegations of fact or law. If USA Tele Corp. fails to respond to the show cause order, the fine should be deemed assessed. If the fine is not paid within ten business days after the Order becomes final, it should be forwarded to the Office of the Comptroller for collection. 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. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of an alternative local exchange company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

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's records show that the company had not paid its 1998 regulatory assessment fee, plus statutory penalty and interest charges for 1997 and 1998. On January 12, 2000, the company paid the 1999 RAF. Therefore, staff wrote the company a letter on March 16 and explained that if the company wished to keep its certificate active, the past due balance for 1997 and 1998 would need to be paid, along with a settlement proposal. As of May 17, 2000, the company has not paid the past due RAF, penalty and interest charges, or proposed a settlement. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.820, Florida Administrative Code.

In Docket No. 000234-TX, the Commission canceled the company's certificate for failure to respond to Order No. PSC-00-0664-SC-TX

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for apparent violation of Section 364.183(1), F.S., Access to Company Records. Since this docket, No. 991980-TX, has not previously been scheduled for the Agenda Conference, staff believes that a show cause issue is the appropriate method of completing this docket.

Accordingly, staff recommends that the Commission should order USA Tele Corp. to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be fined \$500 for apparent violation of Rule 25-4.0161, F.A.C. The company's response should contain specific allegations of fact or law. If USA Tele Corp. fails to respond to the show cause order, the fine should be deemed assessed. If the fine is not paid within ten business days after the Order becomes final, it should be forwarded to the Office of the Comptroller for collection. 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.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, the company will have 21 days to respond in writing to the Commission's show cause order explaining why it should not be fined in the amount proposed. If the company timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the company fails to respond to the show cause order, and the fine and fees, including statutory penalties and interest, are not received within ten business days after the expiration of the show cause response period, then the fine should be imposed for the violation cited in Issue 1 and forwarded to the Comptroller's Office for collection. This docket can then be closed. (K. Peña; B. Keating)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, the company will have 21 days to respond in writing to the Commission's show cause order explaining why it should not be fined in the amount proposed. If the company timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the company fails to respond to the show cause order, and the fine and fees, including statutory penalties and interest, are not received within ten business days after the expiration of the show cause response period, then the fine should be imposed for the violation cited in Issue 1 and forwarded to the Comptroller's Office for collection. This docket can then be closed.