

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: NOVEMBER 19, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pix*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *KMP*

RE: DOCKET NO. 010611-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7356
ISSUED TO MICHAEL R. KRAUS D/B/A M.C. COMMUNICATIONS FOR
VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT
FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/04/01 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010611.RCM

CASE BACKGROUND

- 03/17/00 - This company was granted Florida Public Service Commission Certificate No. 7356.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2001.
- 02/21/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice for nonpayment of the 2000 RAF.
- 05/14/01 - Staff wrote the company and explained a docket had been established and to contact staff if it was interested in resolving this docket.

DOCUMENT NUMBER-DATE

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- **05/16/01** - Mr. Michael Kraus, Owner, called staff and stated that he had been out of the payphone business since the first of the year, but failed to notify the Commission. He stated that he would pay the 2000 and 2001 RAFs and write a letter requesting cancellation of his certificate. On the same date, staff mailed the 2000 and 2001 RAF returns to the company.
- **08/02/01** - As of this date, the company had not paid the past due amount or requested cancellation of its certificate in writing. Therefore, staff filed its recommendation to fine the company \$500 or cancel its certificate.
- **08/10/01** - The Commission received the company's payment for the 2000 and 2001 RAFs, along with a letter requesting cancellation of its certificate. The company reported no revenues for the 2000 and 2001 RAF years.
- **08/14/01** - The Commission approved staff's recommendation to fine the company \$500 at the August 14, 2001 Agenda Conference.
- **08/21/01** - Order No. PSC-01-1710-PAA-TC was issued, which imposed a \$500 fine or cancelled the company's certificate.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission vacate, in part, Order No. PSC-01-1710-PAA-TC and grant a voluntary cancellation of Michael R. Kraus d/b/a M.C. Communications' Certificate No. 7356?

RECOMMENDATION: Yes. The Commission should vacate, in part, Order No. PSC-01-1710-PAA-TC, as it pertains to this docket, and grant Michael R. Kraus d/b/a M.C. Communications a voluntary cancellation effective August 10, 2001. (Isler; K. Peña; B. Keating)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, 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.

This docket was established for nonpayment of the 2000 RAF, plus statutory penalty and interest charges. After staff filed its recommendation, but before the Commission considered the recommendation at Agenda, the company paid the past due amount and requested voluntary cancellation of its certificate. However, due to the timing of the payment and the internal routing of the request, staff assigned to this case were not aware of it until after the Commission had voted. Order No. PSC-01-1710-PAA-TC was issued on August 21, 2001, to reflect the Commission's vote. It was anticipated by staff that the company's request for cancellation could be treated as a protest to the Order. However, because the company's payment and request were received prior to the Commission's vote, staff now believes that the Commission should instead vacate, in part, that decision.

Therefore, staff believes the Commission should vacate, in part, Order No. PSC-01-1710-PAA-TC and grant Michael R. Kraus d/b/a M.C. Communications a voluntary cancellation effective August 10, 2001.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission.