

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

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COMMISSION CLERK

**DATE:** FEBRUARY 7, 2002

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Aji*  
OFFICE OF GENERAL COUNSEL (K. PEÑA; B. KEATING) *AC KMP*

**RE:** DOCKET NO. 011228-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 7209 ISSUED TO DIALTEK, LLC D/B/A DTK TELECOMMUNICATIONS, LLC FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.835, F.A.C, RULES INCORPORATED.

**AGENDA:** 02/19/02 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\011228.RCM

### CASE BACKGROUND

- 11/12/99 - This company obtained Florida Public Service Commission Certificate No. 7209.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) notice. The due date was January 30, 2001.
- 02/21/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice.

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- **08/07/01** - The Division of the Commission Clerk & Administrative Services notified staff that mail addressed to the company had been returned by the US Postal Service marked "undeliverable." Staff subsequently called the telephone number for the company listed in the Master Commission Directory and a recording advised the number had been disconnected. Staff then called Directory Assistance and was told there was no new listing.
- **09/27/01** - Staff wrote the company and explained that a docket had been established and to contact the Commission if it was interested in resolving this docket.
- **11/29/01** - The Commission received the company's payment for the 2000 RAF, along with statutory penalty and interest charges. The company reported no revenues for the period ended December 31, 2000. In addition, the company provided its updated reporting requirements and proposed a settlement.
- **12/04/01** - This docket was deferred from the December 4, 2001 Agenda Conference.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission accept the settlement offer proposed by DialTek, LLC d/b/a DTK Telecommunications, LLC to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, Florida Administrative Code, Rules Incorporated?

**RECOMMENDATION:** Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) days from the 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. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 7209 should be canceled administratively. (Isler)

**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 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.

Pursuant to Rule 25-24.835, Florida Administrative Code, Rules Incorporated, each company is allowed ten 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.

The Division of the Commission Clerk & Administrative Services' records showed that the company had not paid its 2000 RAF, plus statutory penalty and interest charges; therefore, this docket was established. The company subsequently paid the 2000 RAF, including the penalty and interest charges. In addition, the company provided the Commission with its new address and telephone numbers and proposed to pay a \$200 contribution and future RAFs on a timely basis. The company's settlement proposal included a waiver of objection to the administrative cancellation of the company's certificate in the event the settlement proposal is

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accepted and the company ultimately fails to comply with the terms of its offer. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within fourteen (14) days from the 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. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 7209 should be canceled administratively.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$200 contribution or cancellation of the certificate. (K. Peña; B. Keating)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$200 contribution or cancellation of the certificate.