



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

RECEIVED-FPSC
02 SEP 18 PM 3:41
COMMISSION CLERK

DATE: SEPTEMBER 19, 2002
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) OFFICE OF THE GENERAL COUNSEL (DODSON; TEITZMAN)
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALEC CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

- DOCKET NO. 020627-TX - VITCOM CORPORATION
DOCKET NO. 020628-TX - NORTH COUNTY COMMUNICATIONS CORPORATION
DOCKET NO. 020634-TX - NTERA, INC.
DOCKET NO. 020635-TX - MIKETRONICS, INC.
DOCKET NO. 020636-TX - UNIVERSAL BEEPERS EXPRESS, INC. D/B/A UNIVERSAL WIRELESS
DOCKET NO. 020637-TX - US TELECOM SERVICES, INC.

AGENDA: 10/01/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020627.RCM

CASE BACKGROUND

The Division of the Commission Clerk & Administrative Services mailed each of the certificated telecommunications providers listed on Attachment A the 2001 Regulatory Assessment Fee (RAF) notice. When full payment had not been received by the due date, the Office of the General Counsel mailed a delinquent notice to the companies via certified mail. As of September 3, 2002, none of the companies have paid the past due amount.

DOCUMENT NUMBER-DATE
09963 SEP 18 02
FPSC-COMMISSION CLERK

DOCKET NOS. 020627-TX, 020628-TX, 020634-TX, 020635-TX, 020636-TX, 020637-TX
DATE: SEPTEMBER 19, 2002

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.

DOCKET NOS. 020627-TX, 020628-TX, 020634-TX, 020635-TX, 020636-TX, 020637-TX
DATE: SEPTEMBER 19, 2002

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A if the penalty and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing alternative local exchange services in Florida. (Isler; Dodson; Teitzman)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a penalty 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 a 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, 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.

DOCKET NOS. 020627-TX, 020628-TX, 020634-TX, 020635-TX, 020636-TX, 020637-TX

DATE: SEPTEMBER 19, 2002

The Division of the Commission Clerk & Administrative Services' records show that each of the telecommunications providers listed on Attachment A had not paid their 2001 regulatory assessment fees, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.820, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 penalty for failure to comply with the Commission rules or cancel each company's respective certificate as listed on Attachment A if the penalty and the regulatory assessment fees, along with statutory penalty and interest charges, are not paid within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on Attachment A should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing alternative local exchange services in Florida.

DOCKET NOS. 020627-TX, 020628-TX, 020634-TX, 020635-TX, 020636-TX, 020637-TX
DATE: SEPTEMBER 19, 2002

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, 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. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (Dodson; Teitzman)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, these dockets should be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

ATTACHMENT A

DOCKET NOS. 020627-TX, 020628-TX, 020634-TX, 020635-TX, 020636-TX, 020637-TX

DATE: SEPTEMBER 19, 2002

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
020627-TX	Vitcom Corporation No Previous Return Filed	7765	2001	2001
020628-TX	North County Communications Corporation No Previous Return Filed	7764	2001	2001
020634-TX	NTERA, Inc. No Previous Return Filed	7922	2001	2001
020635-TX	Miketronics, Inc. No Previous Return Filed	7874	2001	2001
020636-TX	Universal Wireless No Previous Return Filed	7868	2001	2001
020637-TX	US Telecom Services, Inc. No Previous Return Filed	7875	2001	2001