



Public Service Commission

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RECORDS AND REPORTING

DATE: JANUARY 21, 1999

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

FROM: DIVISION OF LEGAL SERVICES (MILLER) *Jdm m03*
DIVISION OF COMMUNICATIONS (BIEGALSKI) *kb*

RE: DOCKET NO. 981868-TI - INITIATION OF SHOW CAUSE PROCEEDING AGAINST COLORADO RIVER COMMUNICATIONS FOR APPARENT VIOLATION OF RULE 25-24.485, FLORIDA ADMINISTRATIVE CODE, TARIFFS AND RULE 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES

AGENDA: 02/02/99 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981868.RCM

CASE BACKGROUND

Colorado River Communications Corp. (Colorado), is a provider of interexchange telecommunications service, certificate number 3565. Colorado received its interexchange telecommunications certificate on July 8, 1994.

The Division of Consumer Affairs received a complaint regarding apparent unauthorized usage charges and a monthly service fee billed to the customer's account. On October 14, 1998, staff sent a certified letter to Colorado informing it of the failure to respond regarding the apparent unauthorized charges. This letter was signed for on October 20, 1998, but to date, no response has been received. In addition, the monthly service charge appearing on the customer's telephone bill is not a charge included in Colorado's tariff on file with the Florida Public Service Commission.

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Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order Colorado River Communications Corp. to show cause in writing why a fine of \$250 for apparent violation of Rule 25-24.485, Florida Administrative Code, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, should not be assessed or certificate number 3565 should not be canceled?

RECOMMENDATION: Yes. The Commission should require Colorado to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be fined \$250 for apparent violation of Rule 25-24.485, Florida Administrative Code, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code or certificate number 3565 should not be canceled. The company's response should contain specific allegations of fact or law. If Colorado fails to respond to the show cause, the fines should be deemed assessed. If the fines are not paid within 5 business days after the Order becomes final, Certificate Number 3565 should be canceled. If the fines are paid, they should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. (Biegalski)

STAFF ANALYSIS: Rule 25-24.485, Florida Administrative Code, Tariffs states, in pertinent part:

(1)(a) Each company shall maintain on file with the Commission tariffs which set forth all of the rates and charges for customer services, the different services available to subscribers and the conditions and circumstances under which services will be furnished.

(I) Companies shall charge only the rates contained in their tariff.

Based on the customer's bill submitted to staff, it appears that Colorado is assessing a \$3.00 monthly service fee that is not contained in its tariff. This charge appears under the long distance charges portion of the bill. Therefore, it appears to be in violation of Rule 25-24.485, Florida Administrative Code.

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In addition, Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

Staff sent a certified letter to Colorado on October 14, 1998, with a response date of October 24, 1998. The letter was signed for and received on October 20, 1998. To date, no response has been received.

Accordingly, staff recommends that the Commission order Colorado to show cause why a \$250 fine for apparent violation of Rule 25-24.485, Florida Administrative Code, and \$10,000 fine for failure to comply with Rule 25-4.043, Florida Administrative Code, should not be assessed or certificate number 3565 should not be canceled if the fines are not submitted within five business days after the Order becomes final.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should remain open pending resolution of the show cause proceeding. If, however, Colorado fails to respond to the Commission's order to show cause, or pay the fines assessed within five business days after the expiration of the show cause response period, the company's certificate should be canceled and this docket closed administratively. (Miller)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, Colorado will have 21 days from the issuance of the Commission's order to respond in writing why it should not be fined in the amounts proposed or have its certificate canceled. This docket, accordingly, should remain open pending resolution of the show cause proceeding.

If, however, Colorado fails to respond to the Commission's show cause order, and the fines remain unpaid five business days after the expiration of the show cause response period, Colorado's certificate should be canceled and this docket closed administratively.