

ORIGINAL

DOCKET NO.: 981294-TC - Vertex Enterprize & Investment, Inc.

WITNESS: Direct Testimony of Paula Isler, Appearing on behalf  
of Staff

DATE FILED: September 8, 1999

NFA \_\_\_\_\_  
APP \_\_\_\_\_  
SAF \_\_\_\_\_  
CMU \_\_\_\_\_  
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DOCUMENT NUMBER-DATE

10807 SEP-8 99

PRE-CHAT RECORDS/REPORTING

1 DIRECT TESTIMONY OF PAULA ISLER

2 Q. Please state your name, position, and business address?

3 A. My name is Paula Isler. My position title is Research Assistant in  
4 the Division of Telecommunications. My business address is 2540 Shumard  
5 Oak Boulevard, Tallahassee, Florida, 32399-0850.

6 Q. How long have you been employed at the Florida Public Service  
7 Commission?

8 A. I started employment August 1973.

9 Q. Please explain your responsibilities.

10 A. I am responsible for ensuring that the telecommunications companies  
11 comply with the requirements of the Florida Statutes and Florida  
12 Administrative Code.

13 Q. What is the purpose of your testimony?

14 A. The purpose of my testimony is to establish that Vertex Enterprize &  
15 Investment, Inc. (Vertex) was delinquent on its 1997 regulatory assessment  
16 fees. Furthermore, my testimony addresses whether Vertex should be fined  
17 or have its certificate canceled.

18 Q. Would you please explain the circumstances that brings this matter  
19 before the Commission?

20 A. Vertex was granted Pay Telephone Certificate Number 4606, which  
21 became effective on June 1, 1996. (PI-1)

22 On December 11, 1997, the Division of Administration mailed the 1997  
23 regulatory assessment fee notice by certified mail. The United States  
24 Postal Service (USPS) returned the receipt, which showed the notice was  
25 signed for and delivered on December 18, 1997. (PI-2) Payment was due by

1 | January 30, 1998. The company's payment was not received by the due date.

2 |       On September 28, 1998, the Division of Administration notified staff  
3 | by memorandum that Vertex still had not paid its 1997 regulatory assessment  
4 | fee. (PI-3)

5 |       On October 8, 1998, Docket No. 981294-TC was opened to fine the  
6 | company or cancel its certificate for nonpayment of the 1997 fees.

7 |       The minimum amount due was \$67.00, which consisted of the \$50.00  
8 | minimum regulatory assessment fee, \$12.50 penalty, and \$4.50 interest  
9 | charge. On October 15, 1998, the company mailed a 1997 regulatory  
10 | assessment fee payment of \$55.00, which consisted of a \$50.00 minimum  
11 | regulatory assessment fee and \$5.00 penalty charge. This left an  
12 | outstanding balance of \$12.00 (\$7.50 balance on the penalty charge and  
13 | \$4.50 interest charge).

14 |       On November 24, 1998, I called the first telephone number listed in  
15 | the Master Commission Directory (MCD), 954-894-3997. The person who  
16 | answered the phone advised that no one by the name of Hensley Hewan worked  
17 | there. I then called the second telephone number on file in MCD, 305-628-  
18 | 3997. A recording advised that the telephone number had been disconnected.  
19 | I then called the fax telephone number on file in MCD, 954-981-6380, and a  
20 | recording advised that the number had been disconnected.

21 |       I contacted the Division of Administration and requested any  
22 | telephone number that may have been included with Vertex's payment of  
23 | October 15, 1998. I was advised that the telephone number 800-492-9574 was  
24 | included on the regulatory assessment fee form. I then called the toll  
25 | free number and left a message on the answering machine requesting a return

1 | call.

2 |       On December 7, 1998, at approximately 3:15 p.m., Mr. Hewan, President  
3 | of Vertex, returned my call. I explained that Vertex still owed the \$12.00  
4 | balance. Mr. Hewan advised that he wished to keep his pay telephone  
5 | certificate. I advised that in other similar cases, the Commission had  
6 | accepted a \$100 settlement in lieu of a \$500 fine for late payment of fees.  
7 | Mr. Hewan advised that he would pay the balance and make a settlement  
8 | proposal.

9 |       On December 10, 1998, I received a letter from the company, which  
10 | enclosed a check for the \$12.00 balance, promised to pay future regulatory  
11 | assessment fees by the due date, and offered a \$100.00 settlement. (PI-4)

12 |       On February 19, 1999, Order No. PSC-99-0339-AS-TC was issued which  
13 | approved the company's \$100 settlement. The company had until February 26,  
14 | 1999 to pay the \$100 settlement. (PI-5)

15 |       On February 26, 1999, I again called the toll free number, which was  
16 | now answered by a recording advising that the telephone number had been  
17 | disconnected. I then called the telephone number listed on the company's  
18 | settlement offer, 305-624-9574. The woman who answered the phone advised  
19 | that she had never heard of Mr. Hewan and confirmed that I had dialed the  
20 | correct telephone number.

21 |       On March 23, 1999, I wrote the company a certified letter concerning  
22 | the \$100 settlement and requested a response by April 7, 1999. (PI-6) On  
23 | April 15, 1999, I composed my recommendation to the Commission to impose  
24 | additional fines since the company had not responded to my letter.

25 |       On April 20, 1999, my letter was returned by the USPS stamped "return

1 | to sender" and "unclaimed." (PI-7)

2 |       On May 21, 1999, Commission Order No. PSC-99-1031-PAA-TC was issued,  
3 | which imposed a \$500 fine for not providing the Commission with up-to-date  
4 | telephone numbers, a \$10,000 fine for not responding to my letter, and a  
5 | \$20,000 fine for not complying with Order No. PSC-99-0339-AS-TC, or  
6 | canceled the company's certificate. The company had until June 11, 1999 to  
7 | protest the Order. (PI-8)

8 |       On June 1, 1999, Mr. Hewan called the Commission's Division of Legal  
9 | Services and advised that he had never received a copy of the Commission's  
10 | Order approving his settlement offer. He asked that a copy of both Orders  
11 | be mailed to him.

12 |       On June 11, 1999, I received a letter from Mr. Hewan's attorney,  
13 | Stanley B. Lewis. The letter advised that Mr. Hewan's address and  
14 | telephone number had not changed and requested a hearing. (PI-9)

15 |       On June 17, 1999, the certified copy of Order No. PSC-99-1031-PAA-TC  
16 | was returned to the Commission by the USPS stamped "return to sender" and  
17 | "unclaimed."

18 | Q.    Do you believe that the Commission should fine Vertex the additional  
19 | fines as outlined in Order No. PSC-99-1031-PAA-TC?

20 | A.    Two of the fines should remain and one is not appropriate.

21 | Q.    Please explain.

22 | A.    Although the company's attorney advised that Mr. Hewan "emphatically"  
23 | stated that his address and telephone number has remained the same, it is  
24 | apparent that Mr. Hewan needs to address the problem I had encountered in  
25 | my attempts to reach the company. Rule 25-24.520, Florida Administrative

1 Code, Reporting Requirements states that each company shall file updated  
2 information, including address and telephone number, within 10 days of a  
3 change. (PI-10) I believe that the \$500 fine imposed for the reporting  
4 requirements violation is proper because I called the telephone numbers Mr.  
5 Hewan had on file with the Commission and each time except once, I either  
6 received a recording that the number had been disconnected or the person  
7 who answered the telephone advised they did not know Mr. Hewan. Also, the  
8 telephone numbers on file in MCD at the time the docket was opened are  
9 different from the telephone number listed on Vertex's 1997 regulatory  
10 assessment fee form and Mr. Hewan's settlement offer. In addition, when  
11 the USPS returns mail stamped "unclaimed", I have been advised that the  
12 addressee chose not to collect the mail. Therefore, the \$500 fine imposed  
13 because the company did not provide its correct telephone number is  
14 appropriate.

15 In addition, I believe that the \$20,000 fine for noncompliance with  
16 Order No. PSC-99-1031-PAA-TC is appropriate. Although the company may not  
17 have received the Order, it was of the company's own accord to not receive  
18 it. The USPS attempted delivery.

19 And, finally, the fine which imposed the \$10,000 for not responding  
20 to my inquiry is inappropriate because it was eventually returned by the  
21 USPS stamped "unclaimed." Although, again the reason Mr. Hewan did not  
22 receive the letter is because he chose not to receive it, the letter was  
23 returned before the Commission actually voted on the issue but after I had  
24 composed the memorandum.

25 Q. Can the Commission cancel a pay telephone company's certificate on

1 | its own motion?

2 | A. Yes. Rule 25-24.514(1)(b), Florida Administrative Code, Cancellation  
3 | of a Certificate states that the Commission may cancel a company's  
4 | certificate for violation of Commission rules or orders. (PI-11) In this  
5 | case, Mr. Hewan made a settlement offer because he wanted to keep his  
6 | certificate, yet did not follow through on a timely basis. I attempted to  
7 | call Mr. Hewan to remind him about the settlement payment and wrote him a  
8 | letter. I was unsuccessful in reaching Mr. Hewan with the only two methods  
9 | available to me.

10 | Q. Does that conclude your testimony?

11 | A. Yes.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

|                                   |                              |
|-----------------------------------|------------------------------|
| In re: Application for Pay )      |                              |
| Telephone Certificate. )          |                              |
| MARTIN C. CAMPBELL )              | DOCKET NO. 960314-TC         |
| VERTEX ENTERPRIZE & INVESTMENT, ) | DOCKET NO. 960315-TC         |
| INC. )                            |                              |
| RANDALL LYNN BENDING )            | DOCKET NO. 960332-TC         |
| STANLEY PUTMAN )                  | DOCKET NO. 960333-TC         |
| DESTINY COMMUNICATION )           | DOCKET NO. 960334-TC         |
| CORPORATION )                     |                              |
| TRIPLEX, INC. )                   | DOCKET NO. 960335-TC         |
| UNITED PAYPHONES SERVICES, INC. ) | DOCKET NO. 960336-TC         |
| LAURA ROWE D/B/A TELECOM SOUTH )  | DOCKET NO. 960337-TC         |
| )                                 |                              |
| )                                 | ORDER NO. PSC-96-0641-FOF-TC |
| )                                 | ISSUED: May 10, 1996         |

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
 J. TERRY DEASON  
 JOE GARCIA  
 JULIA L. JOHNSON  
 DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING CERTIFICATES TO PROVIDE PAY TELEPHONE SERVICE

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Each of the entities listed in the caption of this Order have filed applications for certificates to provide pay telephone service. These applications were filed pursuant to Section 364.3375, Florida Statutes, which provides that no person may provide pay telephone service without first obtaining from this Commission a certificate authorizing the provision of such service, in accordance with Section 364.335, Florida Statutes, and Rule 25-24.511, Florida Administrative Code.



ORDER NO. PSC-96-0641-FOF-TC  
 DOCKETS NOS. 960314-TC, 960315-TC, 960332-TC, 960333-TC, 960334-TC,  
 960335-TC, 960336-TC, 960337-TC  
 PAGE 2

Upon review, we find that these applications contain the information required for certification as set forth in Sections 364.3375 and 364.335, Florida Statutes, and Rule 25-24.511, Florida Administrative Code. Accordingly, we grant, to each of the entities listed in the caption of this Order, a certificate to provide pay telephone service consistent with the conditions and requirements set forth in Rules 25-24.505 through 25-24.520, Florida Administrative Code. The entities and certificate numbers are listed below.

| <u>NAME</u>                             | <u>CERTIFICATE NUMBER</u> |
|---|---------------------------|
| Martin C. Campbell                      | 4605                      |
| Vertex Enterprize &<br>investment, Inc. | 4606                      |
| Randall Lynn Bending                    | 4607                      |
| Stanley Putman                          | 4608                      |
| Destiny Communication<br>Corporation    | 4609                      |
| Triplex, Inc.                           | 4610                      |
| United Payphones Services,<br>Inc.      | 4611                      |
| Laura Rowe d/b/a Telecom South          | 4612                      |

This Order, if it becomes final and effective, will serve as each entity's certificate. Each entity listed above should retain this Order as evidence of certification by this Commission.

These dockets will be closed following the expiration of the period specified in the Notice of Further Proceedings or Judicial Review section of this Order unless an appropriate petition, protesting a specific application, is filed by one whose substantial interests may or will be affected by this proposed agency action, as provided in Rules 25-22.029 and 25-22.036(7)(a), Florida Administrative Code. A petition protesting a specific application filed by one whose substantial interests are affected will not prevent our proposed action from becoming final as to any other application listed in this Order.

ORDER NO. PSC-96-0641-FOF-TC  
DOCKETS NOS. 960314-TC, 960315-TC, 960332-TC, 960333-TC, 960334-TC,  
960335-TC, 960336-TC, 960337-TC  
PAGE 3

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby grant, to each of the applicants listed in the caption of this Order, a certificate to provide public pay telephone service subject to the conditions stated in the body of this Order. It is further

ORDERED that each entity shall operate under the appropriate certificate number as listed in the body of this Order. It is further

ORDERED that any petition protesting any particular application shall not prevent the action proposed herein from becoming final as to the other applications listed in the caption of this Order. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, the certificates shall become effective on the following date and these dockets shall be closed.

By ORDER of the Florida Public Service Commission, this 10th day of May, 1996.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

( S E A L )

SCL

ORDER NO. PSC-96-0641-FOF-TC  
DOCKETS NOS. 960314-TC, 960315-TC, 960332-TC, 960333-TC, 960334-TC,  
960335-TC, 960336-TC, 960337-TC  
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 31, 1996.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Is your RETURN ADDRESS completed on the reverse side?

**SENDER**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
  
TF 672

4a. Article Number

- 4b. Service Type
- Registered
  - Express Mail
  - Return Receipt for Merchandise
  - Certified
  - Insured
  - COD

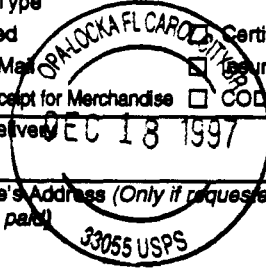
7. Date of Delivery DEC 18 1997

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

*[Handwritten Signature]*



Thank you for using Return Receipt Service.



# Public Service Commission

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

---

DATE: September 28th, 1998  
TO: Paula Isler  
FROM: Jackie Knight *JK*  
RE: RAF non payments - *First set of 30*

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Paula, attached are thirty communication companies (first set) that I am forwarding to your attention who have not paid their RAF for 1997 as of today's date. Interest through the end of October is \$5.00 and Penalty is \$12.50. I have a total on the bottom of each sheet as to what amount a utility owes the Commission. I have not made copies, therefore you will need to keep the data for your files.

|    |         |    |         |
|----|---------|----|---------|
| 1  | TF532   | 16 | TF629   |
| 2  | TF535   | 17 | TF631   |
| 3  | TF536   | 18 | TF632   |
| 4  | TF539   | 19 | TF635   |
| 5  | TF540   | 20 | TF638   |
| 6  | TF547   | 21 | TF639   |
| 7  | TF564   | 22 | TF644   |
| 8  | TF570 - | 23 | TF645   |
| 9  | TF574 - | 24 | TF647   |
| 10 | TF580   | 25 | TF656   |
| 11 | TF583   | 26 | TF659   |
| 12 | TF585   | 27 | TF666 - |
| 13 | TF586   | 28 | TF672   |
| 14 | TF600   | 29 | TF673   |
| 15 | TF622   | 30 | TF675   |

Should you have any questions, please let me know.  
G:\pi3.mpl



"ALWAYS TO EXCEL"

**VERTEX ENTERPRIZE & INVESTMENT INC.**

WE ARE THE LEADER IN DESK TOP PAY PHONES, VENDING MACHINE AND VIDEO GAMES

981294-ic

1033  
12.00 PFI  
12/8/98  
PA

DEPOSIT DATE  
D043 DEC 10 1998

12/7/98

PUBLIC SERVICE COMMISSION

To : Paula Isler

Enclose is the pass due amount of my regulatory fee which was a penalty for late payment in the amount of \$12.00 .

We have now made all our payments up to date and promised to make all future payments by January of every year as required ,by the commission.

In-Lue of a cancellation of our certificate #4606 , we would like to make a settlement of ( \$100.00 ) and maintain our privilege of the certificate .

Please give this matter your kind consideration.

Sincerely,

RECEIVED

DEC 10 1998

Hensly H. Hewan /PRES.

CMU

98 DEC 10 AM 8:33

MAIL ROOM

Paula Isler  
RAR

VERTEX ENTERPRIZE & INVESTMENT, INC.  
P.O. BOX 552540  
OPA LOCKA, FL 33055-5540

1033

63-469/631  
8

12-7-98

PAY TO THE ORDER OF

Public Service Commission \$12.00/12.00

DOLLARS

**Barnett**  
040-008  
15001 North Florida Avenue  
Tampa, Florida 33613

FOR Regulatory Fee

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 4606  
issued to Vertex Enterprize &  
Investment, Inc. for violation  
of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 981294-TC  
ORDER NO. PSC-99-0339-AS-TC  
ISSUED: February 19, 1999

The following Commissioners participated in the disposition of  
this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT

Vertex Enterprize & Investment, Inc. (Vertex Enterprize) currently holds Certificate of Public Convenience and Necessity No. 4606, issued by the Commission on June 1, 1996, authorizing the provision of pay telephone service. The Division of Administration advised our staff by memorandum that Vertex Enterprize had not paid the regulatory assessment fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1997, nor statutory penalties and interest charges for late RAFs payments for the year 1997.

Under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual regulatory assessment fee (RAF) of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. All entities that apply for certification receive a copy of our rules governing pay telephone service and an affidavit in which the applicants attest

ORDER NO. PSC-99-0339-AS-TC  
DOCKET NO. 981294-TC  
PAGE 2

that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed. The RAF form was mailed to Vertex Enterprize for the period of January 1, 1997, through December 31, 1997. Our correspondence regarding the RAFs was signed for and delivered to Vertex Enterprize on December 18, 1997.

After this docket was opened, our staff received a call from Mr. Hensly H. Hewan, Vertex Enterprize's president. He stated that the company would pay all the past due charges and would propose a settlement offer. Vertex Enterprize paid all the past due statutory penalties and interest charges, and submitted a settlement offer. Vertex Enterprize agreed to pay future regulatory assessment fees in a timely manner and contribute \$100 to the State General Revenue Fund.

We believe that the terms of the settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. Vertex Enterprize must comply with these requirements within five business days from the date this Order becomes final. The contribution will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. Upon remittance of the \$100 contribution, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Vertex Enterprize & Investment, Inc.'s settlement proposal summarized in the body of this Order is hereby approved. It is further

ORDERED that this docket shall remain open pending receipt of the \$100 contribution. The contribution will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that upon receipt of the \$100 contribution, this docket shall be closed.



ORDER NO. PSC-99-0339-AS-TC  
DOCKET NO. 981294-TC  
PAGE 3

By ORDER of the Florida Public Service Commission this 19th  
day of February, 1999.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed  
copy of the order may be obtained by  
calling 1-850-413-6770.

( S E A L )

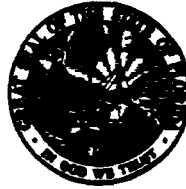
KMP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.



DIVISION OF  
TELECOMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(850) 413-6600

## Public Service Commission

March 23, 1999

### Certified Mail

Mr. Hensly H. Hewan, President  
Vertex Enterprize & Investment Inc.  
P. O. Box 552540  
Miami, FL 33055-5540

**Re: Docket No. 981294-TC**

Dear Mr. Hewan:

On February 19, 1999, Order No. PSC-99-0339-AS-TC was issued, which approved your \$100 settlement offer to resolve the issues in the above docket. Payment was due by February 26, 1999. As of this date, payment has not been received.

In addition, I attempted to call you at the toll free telephone number listed on the Regulatory Assessment Fee form, 800-492-9574, and received a recording that the number has been disconnected. I then attempted to call you at the telephone number listed on your letterhead, 305-624-9574. A woman answered the phone and stated that there was no one who lived there by the name of Hensly Hewan. She also confirmed that I had dialed the correct number.

Please respond, in writing, by April 7, 1999, and explain why you did not pay the settlement of \$100 as ordered by the Commission. Also, it appears you are in violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements, which states:

- (1) Each pay telephone service company shall file with the Commission's Division of Telecommunications updated information for the following items within ten days after a change occurs:
  - (a) The street address of the certificate holder including number, street name, city, state and zip code, and the mailing address if it differs from the street address.

Mr. Hensly H. Hewan, President

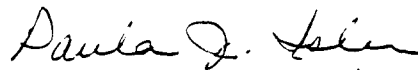
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March 23, 1999

- (b) Name, title, and phone number of the individual responsible for contact with the Commission.

If you have any questions, just let me know. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at [pisler@psc.state.fl.us](mailto:pisler@psc.state.fl.us).

Sincerely,



Paula J. Isler, Research Assistant  
Bureau of Service Evaluation

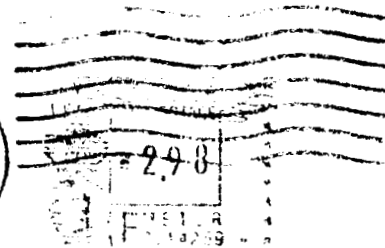
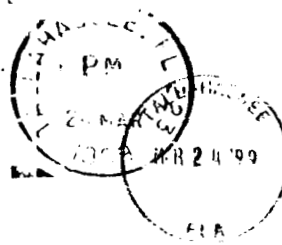
- c: Division of Legal Services (K. Peña)  
Docket No. 981294-TC

State of Florida  
**Public Service Commission**  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**CERTIFIED**

Z 425 828 836

**MAIL**



**RECEIVED**  
**APR 20 1999**  
CMU

**UNCLAIMED**  
OPA LOCKER  
3/24  
4/1  
4/11

~~Mr. Hensly H. Hewan, President  
Vertex Enterprize & Investment Inc.  
P.O. Box 552540  
Miami, FL - 33055-5540~~

**UNCLAIMED**  
**OPA LOCKER**  
**RETURN RECEIPT**

32399/0850

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 4606  
issued to Vertex Enterprize &  
Investment, Inc. for violation  
of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 981294-TC  
ORDER NO. PSC-99-1031-PAA-TC  
ISSUED: May 21, 1999

The following Commissioners participated in the disposition of  
this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION  
ORDER IMPOSING FINES AND REQUIRING INFORMATION IN ACCORDANCE WITH  
RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, OR CANCELING  
PAY TELEPHONE CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the action discussed herein is preliminary in  
nature and will become final unless a person whose interests are  
substantially affected files a petition for a formal proceeding,  
pursuant to Rule 25-22.029, Florida Administrative Code.

Vertex Enterprize & Investment, Inc. (Vertex) obtained Pay  
Telephone Certificate No. 4606 on June 1, 1996. The Division of  
Administration determined that Vertex had not paid the regulatory  
assessment fees (RAF) as required by Section 364.336, Florida  
Statutes, and Rule 25-4.0161, Florida Administrative Code, for the  
year 1997. Also, accrued statutory penalties and interest charges  
for the year 1997 had not been paid. Pursuant to Section 364.336,  
Florida Statutes, certificate holders must pay a minimum annual RAF

ORDER NO. PSC-99-1031-PAA-TC  
DOCKET NO. 981294-TC  
PAGE 2

of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the RAFs form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year.

After this case was docketed, the company's president, Mr. Hensley Hewan, contacted this Commission and advised that he would pay the past due amount; pay future RAFS on a timely basis; and make a settlement offer. On December 8, 1998, the Division of Administration's records reflected the payment of the past due amount in full. By letter dated December 12, 1998, the company proposed to pay a \$100 settlement and asserted that it would pay future RAFs on a timely basis. We approved Vertex's settlement proposal by Order No. PSC-99-0339-AS-TC, issued on February 19, 1999. The Order required Vertex to pay the contribution by February 26, 1999.

However, since that time Vertex has failed to comply with Rule 25-24.520, Florida Administrative Code; Rule 25-4.043, Florida Administrative Code; and Order No. PSC-99-0339-AS-TC.

Rule 25-24.520, Florida Administrative Code, Reporting Requirements

On February 26, 1999, our staff sought to contact Vertex by telephone to inform that we had not received payment of the \$100 contribution. All attempts were unsuccessful. The phone number in our data bank had been disconnected and the other phone number Vertex had provided in the settlement proposal proved to be a wrong number.

It appears that Vertex may have violated Rule 25-24.520, Florida Administrative Code, which requires the reporting to the Commission of an address change and/or a change in the name, title, or telephone number of the individual responsible for Commission contacts, within ten (10) days of its effectiveness. It has been well over 10 days and Vertex has not provided the information required by Rule 25-24.520, Florida Administrative Code, nor has it requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries

Rule 25-4.043, Florida Administrative Code, states:

ORDER NO. PSC-99-1031-PAA-TC  
DOCKET NO. 981294-TC  
PAGE 3

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.

On March 23, 1999, our staff attempted to contact Vertex by certified mail asking about the company's intention to pay the \$100 contribution; advising that the company may be in violation of the reporting requirements; and requesting a response by April 7, 1999. As of the date of this vote, Vertex has not responded. Thus, it appears that Vertex has violated Rule 25-4.043, Florida Administrative Code.

Order No. PSC-99-0339-AS-TC

On February 19, 1999, Order No. PSC-99-0339-AS-TC, was issued approving Vertex's offer to contribute \$100 to the State General Revenue Fund. The contribution was due by February 26, 1999. When the contribution was not paid as required by Order No. PSC-99-0339-AS-TC, our staff attempted to contact Vertex via telephone and certified mail. All attempts were unsuccessful. As of the date of this vote, Vertex has not remitted the contribution and therefore, has not complied with Order No. PSC-99-0339-AS-TC.

Conclusion

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 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a pay telephone certificate. The Rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Accordingly, for the reasons described above, pursuant to Section 364.285, Florida Statutes and Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Vertex's certificate, effective December 31, 1998, for failure to comply with Rule 25-24.520, Florida Administrative Code; Rule 25-4.043, Florida Administrative Code; and Order No. PSC-99-0339-AS-TC, unless Vertex pays the fines specified below and provides the information required by Rule 25-24.520, Florida Administrative Code, to the Florida Public Service Commission. Vertex must pay for non-compliance with:

ORDER NO. PSC-99-1031-PAA-TC  
 DOCKET NO. 981294-TC  
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| <u>RULE OR ORDER VIOLATION</u>              | <u>FINE</u> |
|---|-------------|
| Rule 25-24.520, Florida Administrative Code | \$500       |
| Rule 25-4.043, Florida Administrative Code  | \$10,000    |
| Order No. PSC-99-0339-AS-TC                 | \$20,000    |

Vertex must comply with these requirements within five business days from the date this Order becomes final. The three fines, totaling \$30,500, will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

Upon receipt of the required information and fines, this Docket shall be closed. Should Vertex fail to comply with this Order within five business days from the date this Order becomes final, Vertex shall have its certificate canceled, effective December 31, 1998, and the Docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Vertex Enterprize & Investment, Inc. must provide the correct mailing address, liaison information, and other information in accordance with Rule 25-24.520, Florida Administrative Code, and pay a \$500 fine to the Florida Public Service Commission, for failure to comply with Rule 25-24.520, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that Vertex Enterprize & Investment, Inc. must pay a \$10,000 fine to the Florida Public Service Commission, for failure to comply with Rule 25-4.043, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that Vertex Enterprize & Investment, Inc. must pay a \$20,000 fine to the Florida Public Service Commission, for failure to comply with Order No. PSC-99-0339-AS-TC, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further



ORDER NO. PSC-99-1031-PAA-TC  
DOCKET NO. 981294-TC  
PAGE 5

ORDERED that should Vertex Enterprize & Investment, Inc. fail to comply with this Order, Vertex Enterprize & Investment, Inc.'s Certificate No. 4606 shall be canceled, effective December 31, 1998, and this Docket shall be closed. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon the furnishing of the required information and payment of the fines, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 21st day of May, 1999.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( S E A L )

KMP

ORDER NO. PSC-99-1031-PAA-TC  
DOCKET NO. 981294-TC  
PAGE 6

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 11, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a consummating order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

*CMU*

Exhibit PI-9 (Page 1 of 1)  
481244

**STANLEY B. LEWIS**  
ATTORNEY AT LAW  
P.O. Box 69-3692  
Miami, Florida 33269-3692

Admitted in Florida and Arkansas

Telephone: (305) 654-8011  
Facsimile: (305) 999-0034

June 10, 1999

Director  
Division of Records and Reporting  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: Order No. PSC-99-1-31-PAA-TC  
Docket Order #981294-TC

Dear Sir/Madam:

On behalf of Vertex Enterprize & Investment, Inc., please accept this letter as a protest of the above-referenced Order which was issued on May 21, 1999.

Henley Hewan, president of Vertex Enterprize, emphatically states that the address and telephone number for his business has remained the same and he had not previously received information from your office regarding the settlement that was agreed to.

We therefore respectfully request a hearing in this matter on behalf of Vertex Enterprize.

Thank you for your consideration in this matter.

Sincerely,  
*Stanley B. Lewis*  
Stanley B. Lewis  
Attorney At Law

AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU    \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG    \_\_\_\_\_  
MAS \_\_\_\_\_  
OPC \_\_\_\_\_  
RRR \_\_\_\_\_  
SEC    \_\_\_\_\_  
WAW \_\_\_\_\_  
OTH \_\_\_\_\_

cc: Henley Hewan

**JUN 14 1999**

~~DOCUMENT NUMBER-DATE~~  
~~07162 JUN 11 99~~

**25-24.520 Reporting Requirements.**

(1) Each pay telephone service company shall file with the Commission's Division of Telecommunications updated information for the following items within ten days after a change occurs:

(a) The street address of the certificate holder including number, street name, city, state and zip code, and the mailing address if it differs from the street address.

(b) Name, title, and phone number of the individual responsible for contact with the Commission.

*Specific Authority 350.127(2) FS.*

*Law Implemented 350.115, 350.117, 364.17, 364.18, 364.185, 364.3375 FS.*

*History--New 1-5-87, Amended 1-2-91, 12-29-91, 2-1-99.*

**25-24.514 Cancellation of a Certificate.**

- (1) The Commission may cancel a company's certificate for any of the following reasons:
  - (a) Violation of the terms and conditions under which the authority was originally granted;
  - (b) Violation of Commission rules or orders;
  - (c) Violation of Florida Statutes; or,
  - (d) Failure to provide service for a period of six (6) months.
- (2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.
  - (a) Statement of intent and date to pay Regulatory Assessment Fee.
  - (b) Statement of why the certificate is proposed to be cancelled.
- (3) Cancellation of a certificate shall be ordered subject to the holder providing the information required by subsection (2).

*Specific Authority 350.127(2) FS.*

*Law Implemented 350.113, 350.127(1), 364.03, 364.285, 364.337, 364.345 FS.*

*History--New 1-5-87.*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

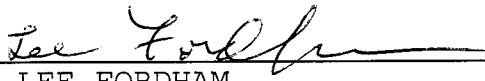
In re: Cancellation by Florida  
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Telecommunications Companies.

DOCKET NO. 981294-TC  
FILED: September 8, 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Direct Testimony of Paula Isler, Appearing on behalf of Staff, has been furnished by U.S. Mail, this 8th day of September, 1999, to the following:

Stanley B. Lewis, Esquire  
P. O. Box 69-3692  
Miami, FL 33269-3692

  
\_\_\_\_\_  
C. LEE FORDHAM  
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(850) 413-6199