



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

DATE: AUGUST 23, 2001
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIJ* *100*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING; ELLIOTT) *112* *KMP*
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

- DOCKET NO. 010555-TC - CORALCOM, INC.
- DOCKET NO. 010569-TC - PAYTELE COMMUNICATION SERVICE OF AMERICA
- DOCKET NO. 010625-TC - JACK F. SCHARF
- DOCKET NO. 010627-TC - BAY COM COMMUNICATIONS, INC.
- DOCKET NO. 010665-TC - MARIO RAMIREZ D/B/A ENTEL - COMMUNICATIONS
- DOCKET NO. 010666-TC - WAYNE KURTA
- DOCKET NO. 010680-TC - KEVIN CHARLES BERTRAM

AGENDA: 09/04/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010555.RCM

CASE BACKGROUND

The companies listed on Attachment A were mailed the 2000 Regulatory Assessment Fee (RAF) return notice and payment was due by January 30, 2001. On February 21, 2001, the Division of the Commission Clerk & Administrative Services mailed a delinquent letter for the 2000 RAF.

DOCUMENT NUMBER-DATE

10432 AUG 23 01

FPSC-COMMISSION CLERK

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After the dockets were opened, staff wrote each of the companies listed on Attachment A and explained that a docket had been established and to contact staff if the companies were interested in resolving the dockets. The companies listed on Attachment A contacted the Commission and requested cancellation of their certificates. However, the companies listed on Attachment A have a past due amount.

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 grant the companies listed on Attachment A a voluntary cancellation of their respective certificates?

RECOMMENDATION: No. The Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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.

The Division of the Commission Clerk & Administrative Services notified staff that each company listed on Attachment A had not submitted the 2000 regulatory assessment fees, along with statutory penalty and interest charges, for the year 2000. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida

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Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Staff wrote each of the companies listed on Attachment A and explained that a docket had been established. Staff advised the companies to contact staff if they were interested in resolving the dockets. Each company listed on Attachment A contacted the Commission and requested cancellation of their respective certificates.

CoralCom, Inc. - Docket No. 010555-TC

On May 21, 2001, the Commission received a letter from Mr. Kenneth Mitchell, President, requesting voluntary cancellation and which included a check for the 2000 RAF and penalty and interest charges. On June 7, staff advised Mr. Mitchell via fax that Rule 25-24.514, Florida Administrative Code, states that a company must provide its intent and date to pay the current year's RAF, along with its written request for cancellation. The 2001 RAF return was also faxed. As of August 17, 2001, the company has not complied with Rule 25-24.514, Florida Administrative Code.

PayTele Communication Service of America - Docket No. 010569-TC

On May 21, 2001, Mr. Ellis Brown called on behalf of the company and advised that he had sent in a request for voluntary cancellation to the Commission twice. Staff explained that our records do not reflect receipt of a written request for cancellation and asked Mr. Brown to provide us with copies so that it could be reviewed. On May 23, 2001, the Commission received a letter from Mr. Brown, which stated that the company will no longer be in business as of June 2001.

On June 7, 2001, staff wrote Mr. Brown and advised that Rule 25-24.514, Florida Administrative Code, states that along with its request for cancellation, the company must provide its intent and date to pay the current year's RAF. As of August 17, 2001, the company has not complied with Rule 25-24.514, Florida Administrative Code.

Jack F. Scharf - Docket No. 010625-TC

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On May 26, 2001, staff received a voice mail message from Mr. Scharf, which advised he received staff's May 14, 2001 letter and wishes to cancel his certificate. Staff returned Mr. Scharf's call on May 30. He stated that he will write a letter requesting cancellation but cannot pay the RAFs. He stated that he did not believe it was fair that he had to pay the fees since he never actually started operations. He also stated that he would "challenge" the fees. On June 6, 2001, the Commission received Mr. Scharf's letter requesting cancellation, which advised he could not afford to pay the fees. As of August 17, 2001, the fees remain unpaid.

Bay Com Communications, Inc. - Docket No. 010627-TC

On June 1, 2001, the Commission received a request for cancellation of its certificate, which stated that it was "no longer in payphone or any other business." On June 5, 2001, staff wrote the company and advised that Rule 25-24.514, Florida Administrative Code, states that along with its request for cancellation, the company must provide its intent and date to pay the current year's RAF. As of August 17, 2001, the company has not complied with Rule 25-24.514, Florida Administrative Code.

Mario Ramirez d/b/a ENTEL - Communications, Docket No. 010665-TC

On March 8, 2001, the Commission received this company's 2000 RAF return, its payment for the RAF, and a note to cancel the certificate. On March 12, 2001, staff wrote the company and advised that Rule 25-24.514, Florida Administrative Code, states that along with its request for cancellation, the company must provide its intent and date to pay the current year's RAF. In addition, staff advised that since the 2000 RAF payment was received after the due date, statutory penalty and interest charges were applicable and should be paid. As of August 17, 2001, the company has not complied with Rule 25-24.514, Florida Administrative Code.

Wayne Kurta - Docket No. 010666-TC

On March 5, 2001, the Commission received this company's 2000 RAF return, its payment for the RAF, and a note to cancel the certificate. On March 6, 2001, staff wrote the company and advised

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that Rule 25-24.514, Florida Administrative Code, states that along with its request for cancellation, the company must provide its intent and date to pay the current year's RAF. In addition, staff advised that since the 2000 RAF payment was received after the due date, statutory penalty and interest charges were applicable and should be paid. As of August 17, 2001, the company has not complied with Rule 25-24.514, Florida Administrative Code.

Kevin Charles Bertram - Docket No. 010680-TC

On June 7, 2001, Mr. Bertram called staff and advised he had received staff's May 21 letter and stated that although he had received the certificate several years ago, he had never started operations and wanted to cancel the certificate. He asked that the necessary forms and information on how to cancel the certificate be faxed to him. The forms and information were faxed on June 8, 2001. As of August 17, 2001, the company has not complied with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff believes the Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. 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. These dockets should then be closed upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (K. Peña; B. Keating; Elliott)

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 issuance of a Consummating Order and upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

ATTACHMENT A

DOCKET NOS. 010555-TC, 010569-TC, 010625-TC, 010627-TC, 010665-TC, 010666-TC, 010680-TC
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<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
010555-TC	CoralCom, Inc. \$0 Revenues for Period Ended 12/31/00	6012	05/21/01
010569-TC	PayTele Communication Service of America \$0 Revenues for Period Ended 12/31/99	7083	05/23/01
010625-TC	Jack F. Scharf No Previous Return Filed	7411	06/06/01
010627-TC	Bay Com Communications, Inc. No Previous Return Filed	7467	06/01/01
010665-TC	ENTEL - Communications \$0 Revenues for Period Ended 12/31/00	6030	03/08/01
010666-TC	Wayne Kurta \$0 Revenues for Period Ended 12/31/00	7051	03/05/01
010680-TC	Kevin Charles Bertram \$0 Revenues for Period Ended 12/31/99	3625	06/07/01