



# 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-

RECORDING  
3 NOV 18 PM 4:11  
REC'D - RECORDS & REPORTING

**DATE:** NOVEMBER 19, 1998

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF COMMUNICATIONS (ISLER) *PIF*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP MCB*

**RE:** DOCKET NO. 981059-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3485 ISSUED TO DATACOMM INTERNATIONAL COMPANY LTD. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480(2)(A) AND (B), F.A.C., RECORDS AND REPORTS; RULES INCORPORATED

**AGENDA:** 12/01/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981059.RCM

### CASE BACKGROUND

Datacomm International Company LTD., obtained Florida Public Service Commission Interexchange Telecommunications Certificate Number 3485 on October 29, 1993.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the unopened envelope stamped "return to sender" and "unclaimed." The envelope indicates the USPS attempted delivery on December 16, 1997 and December 22, 1997.

Staff wrote the company two certified letters and called the telephone number listed in the Master Commission Directory (MCD)

DOCUMENT NUMBER-DATE

12977 NOV 18 98

FPSC-RECORDS/REPORTING

but was unsuccessful in reaching the company by phone. Staff then called Directory Assistance and was provide a new telephone number for Datacomm. When staff called that number, a recording answered which advised that the number had been disconnected.

The Division of Administration records showed that Datacomm had not paid its 1997 regulatory assessment fees, plus statutory penalties and interest charges for the years 1996 and 1997. After the docket had been opened but before a recommendation was filed, the company called staff and immediately paid all past due charges and provided its correct address and telephone number. The company advised staff that it would pay whatever fines imposed by the Commission in order to keep its certificate.

Staff believes the following recommendations are appropriate.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel the interexchange telecommunications certificate issued to Datacomm International Company LTD. for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel Datacomm's certificate number 3485 if the fine is not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine 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 fine is not received, interexchange telecommunications certificate number 3485 should be canceled. (Isler)

**STAFF ANALYSIS:** Rule 25-4.0161, Florida Administrative Code, 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.



**ISSUE 2:** Should the Commission impose a \$500 fine or cancel the Datacomm International Company LTD.'s certificate for apparent violation of Rule 25-24.480(2)(a) and (b), F.A.C., Records and Reports; Rules Incorporated?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel the company's certificate number for not providing staff with its correct address and telephone number within 10 days of the change as required by Rule 25-24.480(2)(a) and (b), F.A.C. if the fine is not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine 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 fine is not received, Datacomm's certificate number 3485 should be canceled. (Isler)

**STAFF ANALYSIS:** 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 company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rule 25-24.520, Florida Administrative Code, each company is allowed 10 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.

Staff wrote the company certified letters on June 11, 1998 and August 3, 1998. The USPS did not return the receipts or unopened envelopes. In addition, staff called the telephone number listed in MCD and each time received a ring, no answer. Staff then called Directory Assistance and was provided a new telephone number. Staff called the new number and received a recording which advised that the number had been disconnected.

When Datacomm received the case assignment and scheduling record, its president, Mr. Anthony Harper, called staff and provided staff with the correct information. At first, Mr. Harper indicated that he would make a settlement offer. In a later

DOCKET NOS. 98105, 98106, 98107, 98108, 98109, 98110, 98111  
DATE: NOVEMBER 19, 1998

conversation, Mr. Harper stated that he would just pay whatever fine amount the Commission imposed.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's certificate number if the fine is not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine 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 fine is not received, certificate number 3485 should be canceled.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes, if no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines or cancellation of the certificate, this docket should be closed.  
(Peña)

**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, this docket should be closed upon payment of the fines or upon cancellation of the certificate.