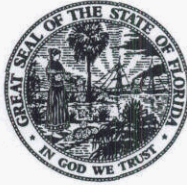


State of Florida



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
MAY 24 AM 11:39
RECORDS AND REPORTING

DATE: MAY 25, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pix*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *WMP*

RE: DOCKET NO. 991256-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5598 ISSUED TO INTELCOM, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 06/06/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991256.RCM

CASE BACKGROUND

- **03/21/98** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 5598.
- **12/10/98** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. In accordance with Florida Statute 350.113(4), the Commission "shall provide each regulated company with written notice of the date that payment of the fee is due at least 45 days prior to such date", which would put the due date to February 1, 1999.
- **03/17/99** - The Division of Administration mailed a delinquent letter.

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FPSC-RECORDS/REPORTING

DATE: MAY 25, 2000

- **12/07/99** - Order No. PSC-99-2387-PAA-TC was issued. The company had until December 28, 1999, to respond to the Order.
- **12/08/99** - The Division of Administration mailed the 1999 RAF notice.
- **12/21/99** - Karen Davis called on behalf of the company and left a voice mail message, which explained that the company had no payphones in 1998 and did not know they owed the RAF. Staff returned the call the same day and left a voice mail message.
- **12/27/99** - Ms. Davis called staff and asked what the minimum amount due was, including penalty and interest charges, and information on how to resolve this docket. This information was faxed to the company on the same date.
- **12/28/99** - The Commission received a letter from the company, which advised it would pay the past due charges, would make a settlement proposal, and had taken steps to prevent future occurrences.
- **01/24/00** - Staff faxed a reminder note to the company that the 1998 RAF and settlement proposal had not been received.
- **02/07/00** - The Commission received the minimum fee for 1998 and 1999, but the company did not pay the statutory penalty and interest charges for either year. The company reported revenues of \$339.87 for the period ended December 31, 1999.
- **02/29/00** - The Division of Administration mailed the delinquent notice for the 1999 RAF.
- **03/16/00** - Staff mailed the company a certified letter and requested a response by April 3, 2000. Staff informed the company that failure to respond would be considered by staff to be a withdrawal of the offer of settlement and the docket would be closed.
- **05/04/00** - The US Postal Service (USPS) returned staff's March 16 unopened letter to the company stamped "unclaimed." The USPS indicated it had attempted delivery on March 20, March 31, and April 20, 2000.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should Order No. PSC-99-2387-PAA-TC be rendered a Final Order and Docket No. 991256-TC closed?

RECOMMENDATION: Yes. The company has not submitted a Response to the Commission's Proposed Agency Action Order in compliance with Rule 28-106.201, Florida Administrative Code. Therefore, Order No. PSC-99-2387-PAA-TC should be rendered a Final Order. If the company fails to pay the fine and 1998 and 1999 statutory penalty and interest charges within five business days of the issuance of the Order from this recommendation, Intelcom, Inc.'s Certificate No. 5598 should be canceled in accordance with Order No. PSC-99-2387-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. Whether or not Intelcom, Inc. pays the required fine and balance due, this docket should be closed upon expiration of the five business days as no further action by the Commission is required. (Isler; K. Peña; B. Keating)

STAFF ANALYSIS: By Order No. PSC-99-2387-PAA-TC issued on December 7, 1999, the company was required to respond to the Order by December 28, 1999. On December 28, 1999, the Commission received a letter from the company, which advised it would pay the past due amount, would propose a settlement, and had taken steps to prevent future late payments of the regulatory assessment fee. Therefore, Order No. PSC-99-2387-PAA-TC was not consummated and the docket was left open to receive the RAF payment and settlement offer.

On January 24, 2000, staff faxed the company a note and reminded Intelcom, Inc. that the 1998 RAF had not been paid and that a settlement offer had not been received. The company paid the minimum RAF fee for 1998 and 1999 on February 7, 2000. However, no settlement offer was forthcoming from the company.

On March 16, 2000, staff mailed the company a certified letter and requested a response by April 3, 2000. In the letter, staff informed the company that failure to respond would be considered by staff to be a withdrawal of the offer of settlement and the docket would be closed. On May 4, the USPS returned staff's March 16 letter stamped "unclaimed." The envelope indicates that the USPS attempted delivery on three separate occasions. As of May 8, the company has not followed through on its December 28, 1999 commitment that a settlement offer would be filed, nor has the past due penalty and interest charges for 1998 and 1999 been paid.

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Staff emphasizes that Intelcom, Inc. did not file a response to the Commission's proposed agency action order as required by Rule 28-106.201, Florida Administrative Code, and did not request a hearing. Instead, the company simply paid the minimum RAF amounts and committed to make a settlement offer. This docket has only been left open in order to receive the settlement offer Intelcom, Inc. indicated that it planned to submit.

Therefore, staff recommends that Order No. PSC-99-2387-PAA-TC should be rendered a Final Order. If the company fails to pay the fine and 1998 and 1999 statutory penalty and interest charges within five business days of the issuance of the Order from this recommendation, Intelcom, Inc.'s Certificate No. 5598 should be canceled in accordance with Order No. PSC-99-2387-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. Whether or not Intelcom, Inc. pays the required fine and balance due, this docket should be closed upon expiration of the five business days as no further action by the Commission is required.