



Public Service Commission

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RECORDS AND REPORTING

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RECEIVED-FPSC

DATE: NOVEMBER 20, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAR* *Dew*

RE: DOCKET NO. 001230-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3994 ISSUED TO K & S INTERNATIONAL COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480(2) (A) AND (B), F.A.C., RECORDS & REPORTS; RULES INCORPORATED.

AGENDA: 12/05/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001230.RCM

CASE BACKGROUND

- **04/29/95** - This company obtained Florida Public Service Commission IXC Certificate No. 3994.
- **11/23/98** - Docket No. 981726-TI was established for nonpayment of the 1997 Regulatory Assessment Fee (RAF). On March 9, 1999, Order No. PSC-99-0495-AS-TI was issued, which accepted the company's proposal to pay future RAFs on a timely basis and offer to pay a \$400 settlement. The company paid the past due amount and \$400 settlement and the docket was closed.
- **01/12/99** - The company returned its 1998 RAF return and reported no revenues for the period ended December 31, 1998.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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- **12/08/99** - The Division of Administration mailed the 1999 RAF notice. Payment was due January 31, 2000.
- **02/29/00** - The Division of Administration mailed the delinquent notice.
- **05/18/00** - The United States Postal Service (USPS) returned other correspondence stamped "Forward order expired."
- **11/15/00** - As of this date, the Commission has not received payment of the company's 1999 RAF.

The Commission is vested with jurisdiction over this matter through the provision of Section 364.336 and Section 364.183, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$1,000 fine or cancel K & S International Communications, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 and regulatory assessment fees, including statutory penalty and interest charges, are not received, Certificate No. 3994 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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 25-24.474, Florida Administrative Code, establishes the requirements for cancellation of an interexchange telecommunications certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

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 penalty and interest charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff was notified by the Division of Administration that the company had not paid its 1999 regulatory assessment fees, plus statutory penalty and interest charges. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.474, Florida Administrative Code. This fine amount is consistent with amounts used for recent, similar violations.

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This is the second docket opened against K & S International Communications, Inc. for nonpayment of the RAF. On March 9, 1999, Order No. PSC-99-0495-AS-TI was issued in Docket No. 981726-TI, which accepted the company's proposal to pay future RAFs on a timely basis and offer to pay a \$400 contribution. The company paid the past due fees and the \$400 contribution, and the docket was closed.

Accordingly, staff recommends that the Commission assess a \$1,000 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 and regulatory assessment fees, including statutory penalty and interest charges, are not received, Certificate No. 3994 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should the Commission impose a \$500 fine or cancel K & S International Communications, Inc.'s certificate for apparent violation of Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. 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 and required information are not received, Certificate No. 3994 should be canceled administratively. (Isler)

STAFF ANALYSIS: Pursuant to Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, each company is allowed ten 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. Mail sent to the company was returned to the Commission by the USPS. It is been well over ten days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has the company requested cancellation of its certificate in compliance with Rule 25-24.474, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel the company's certificate if the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. 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 and required information are not received, Certificate No. 3994 should be canceled administratively.

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ISSUE 3: Should this docket 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. The docket should then be closed upon receipt of the fines, fees, and required information or cancellation of the certificate. (Elliott)

STAFF ANALYSIS: Whether staff's recommendation on Issues 1 and 2 are 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 issuance of a Consummating Order and upon receipt of the fines, fees, and required information or cancellation of the certificate.