

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

January 23, 2002

IN RE:

**Avana Communications Corporation)
For Revocation of Authority to Conduct Business))
as a Public Utility in the State of Tennessee)**

**Docket No. 99-00667
Company ID:128424**

**ORDER REVOKING AUTHORITY TO CONDUCT
BUSINESS AS A PUBLIC UTILITY IN THE STATE OF TENNESSEE
FOR NON-PAYMENT OF REGULATORY FEES**

This matter came before the Tennessee Regulatory Authority (hereafter the "Authority" or "TRA") to consider the revocation of authority, due to non-payment of regulatory fees and the failure to comply with Tenn. Code Ann. § 65-4-125, of Avana Communications Corporation (hereafter the "Company") to conduct business in the state of Tennessee as a public utility. This matter was considered by the Authority at a regularly scheduled Authority Conference held on January 23, 2002.

Tenn. Code Ann. § 65-4-301(a) provides:

Every public utility doing business in this state and subject to the control and jurisdiction of the Authority to which the provisions of this chapter apply, shall pay to the state of Tennessee on or before April 1 of each year, a fee for the inspection, control and supervision of the business, service and rates of such public utility.

Pursuant to Tenn. Code Ann. § 65-4-303, the annual inspection fee is based on the intrastate revenues of the utility for the previous year. Should a company not have any Tennessee intrastate gross receipts, a minimum fee of \$100 is due. Tenn. Code Ann. § 65-4-308 provides for a penalty of 10% per month, or fraction thereof, for inspection fees not received by April 1st.

On April 1, 2001, the annual inspection fee (Form UD16) was due from the Company. The inspection fee for 2001 would be based on the Company's Tennessee intrastate revenues for the year ended December 31, 2000. The Authority sent notices on February 12, 2001, and

September 17, 2001, via first class mail, advising the Company of its obligation to file the Form UD16 and pay the annual inspection fee. The Company did not respond in any manner to the Authority's notices.

Further, the Company has not paid its contribution to the Small and Minority Telecommunications Business Assistance Program. Tenn. Code Ann. § 65-5-213 requires telecommunications service providers to contribute annually to the Small and Minority Telecommunications Business Assistance Program Fund. Should a provider not have any Tennessee intrastate revenues, TRA Rule 1220-4-9-.02 requires a minimum contribution of \$100. The Company's contribution was due June 15, 2001, and, pursuant to TRA rules and Tenn. Code Ann. § 65-4-120, a penalty of \$50 per day can be assessed for contributions not received by the due date. Notices advising the Company of this required contribution, and the Company's subsequent delinquency, were mailed on May 9, 2001, and September 17, 2001, via first class mail. Again, the Company did not respond to any of these notices.

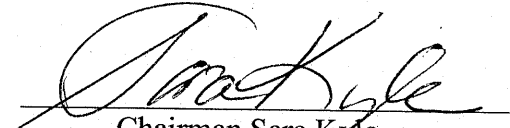
Further, the Company has failed to comply with Tenn. Code Ann. § 65-1-125, Section 3(j) that requires all telecommunications service providers that own and operate equipment facilities in Tennessee with a value of less than five million dollars (\$5,000,000) to file with the Authority a \$20,000 corporate surety bond or irrevocable letter of credit to secure the payment of any monetary sanction imposed in any enforcement proceeding. Notices advising each company of this requirement, and the subsequent default, were mailed on August 15, 2000, via first class mail and on July 17, 2001, via certified mail. The Company has not responded to these notices.

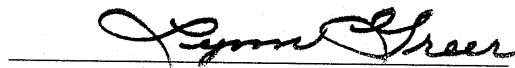
On November 28, 2001, a Notice of Cancellation (hereafter the "Notice") was sent, certified, return receipt requested, to the Company. The Notice advised the Company that if the Authority did not receive a response from the Company by December 31, 2001, regarding its failure to (1) file Form UD16 and to pay the annual inspection fee calculated thereon by April 1, 2001; (2) file Form SMB1 and to pay the calculated contribution to the Small and Minority Telecommunications Business Assistance Fund by June 15, 2001; and (3) to file with the Authority the required \$20,000 corporate surety bond or irrevocable letter of credit; its authority to transact business in the state of Tennessee as a public utility would be subject to cancellation

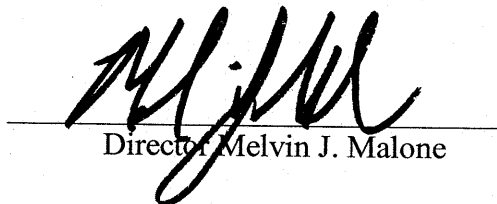
at a regularly scheduled Authority Conference thereafter. The Company did not respond to this Notice.

IT IS THEREFORE ORDERED THAT:

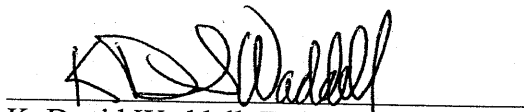
- 1) The authority of Avana Communications Corporation, granted in Docket No. 99-00667, to conduct business in the state of Tennessee as a public utility is hereby revoked,
- 2) Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order; and
- 3) Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


Chairman Sara Kyle


Director Lynn Greer


Director Melvin J. Malone

ATTEST:


K. David Waddell, Executive Secretary