

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> August 30, 2005	2. <u>BUREAU AGENDA NO.</u> SEPT-2005-L-0093* REV.
3. <u>BUREAU:</u> Law	
4. <u>SECTION(S):</u>	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Director: Mgr/Spvr: Wilmarth 2-8841 Legal Review:	September 9, 2005
7. <u>PERSONS IN CHARGE:</u> Daviston 7-6166	9. <u>EFFECTIVE DATE OF FILING:</u>
8. <u>DOCKET NO.:</u> C-20044008, A-311171	

10. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation

**DOCUMENT
FOLDER**

(a) LBPS v. Winstar of Pennsylvania, LLC (2004.0267)

(b) Before the Commission is a request to rescind the Default Order that was entered on July 22 2005 against Winstar of Pennsylvania, LLC (Winstar or Respondent). On December 6, 2004, Law Bureau Prosecutory Staff filed a Formal Complaint against Winstar for failure to file its 2003 Annual Report. On August 26, 2005, Winstar filed its delinquent annual report and requested rescission of the Default Order.

(c) The Law Bureau recommends that the Commission adopt the proposed Order that rescinds the Default Order.

11. **MOTION BY:** Commissioner Chm. Holland

Commissioner Shane - Yes
Commissioner Pizzingrilli - Yes
Commissioner Fitzpatrick - Yes

SECONDED: Commissioner Cawley

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETED
SEP 15 2005



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
September 12, 2005

REFER TO OUR FILE

C-20044008
A-311171

WINSTAR OF PENNSYLVANIA LLC
1850 M STREET NW
SUITE 300
WASHINGTON DC 20036

DOCKETED
NOV 15 2005

Pennsylvania Public Utility Commission
Law Bureau Prosecutory Staff
v.
Winstar of Pennsylvania, LLC

**DOCUMENT
FOLDER**

To Whom It May Concern:

This is to advise you that a Rescission Order has been adopted by the Commission in Public Meeting on September 9, 2005 in the above entitled proceeding.

A Rescission Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Enclosure
LJM

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held September 9, 2005.

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice-Chairman
Bill Shane
Kim Pizzingrilli
Terrance J. Fitzpatrick

DOCKETED
NOV 15 2005

Pennsylvania Public Utility Commission
Law Bureau Prosecutory Staff

Docket No.
C-20044008

v.

Winstar of Pennsylvania, LLC
(2004.0267)

A-311171

RESCISSION ORDER

BY THE COMMISSION:

**DOCUMENT
FOLDER**

On December 6, 2004, Law Bureau Prosecutory Staff filed a Formal Complaint against Winstar of Pennsylvania, LLC (Winstar), a telecommunications utility certificated at A-311171, for failure to file its 2003 Annual Report. Subsequently, on July 22, 2005, the Commission entered a Default Order that sustained the complaint and cancelled Winstar's certificate. Notice of the Default Order was published August 6, 2005 at 35 Pa. B. 4534 with a 20-day comment period.

The July 22, 2005 Default Order incorrectly stated that it was issued as a result of Respondent's failure to file its 2003 Annual Report. A review of Commission records reveal that Respondent actually filed its 2003 Annual Report on June 8, 2004. However,

at that time, a section of the report was not filled out completely and the report was therefore not accepted by Commission staff. As a result, the above-captioned Complaint and Default Order were issued. In this instance, it appears that no public benefit would inure from requiring Winstar to pay the late-filing fee.

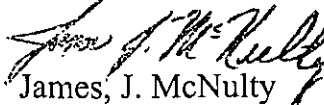
Because Respondent has now filed the remaining section of its annual report within the 20-day comment period stated in the Pa. Bulletin, and its report is now deemed complete, we find it appropriate to rescind the Default Order. However, we caution Respondent that all future Annual Reports must be timely and completely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts Winstar of Pennsylvania, LLC and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate;

THEREFORE,

IT IS ORDERED:

1. That the Default Order entered July 22, 2005 against Winstar of Pennsylvania, LLC at this docket is hereby rescinded.
2. That a copy of this order be published in the Pennsylvania Bulletin.

BY THE COMMISSION,


James, J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: September 9, 2005

ORDER ENTERED: SEP 12 2005