



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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CLERK

DATE: NOVEMBER 7, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PHI*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *MS*
11/2 *UMP*

RE: DOCKET NO. 011146-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5742 ISSUED TO THE MOBILE PHONE COMPANY, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 11/19/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011146.RCM

CASE BACKGROUND

- 12/05/98 - This company obtained Florida Public Service Commission Certificate No. 5742.
- 12/22/99 - In a separate proceeding, Docket No. 992001-TX was established for nonpayment of the 1998 Regulatory Assessment Fee (RAF). The company subsequently paid the past due fee, including penalty and interest, and proposed a settlement. On June 13, 2000, Order No. PSC-00-2037-AS-TX was issued, which accepted the company's \$100 settlement. In addition, the company proposed to pay future RAFs on a timely basis. The company paid the \$100 contribution and the docket was closed.

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- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 RAF notice. The due date was January 30, 2001.
- 02/21/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice.
- 09/10/01 - Mr. Edwin Altamirano, President, called staff and advised that the company would pay the past due amount and propose a settlement. Mr. Altamirano requested that the 2000 RAF return form and the company's options be sent to him. On the same date, staff wrote the company and faxed the 2000 RAF return and options to resolve this docket.
- 09/27/01 - The Commission received the company's payment for the outstanding amount, including statutory penalty and interest charges. The company reported revenues in the amount of \$16,750.53 for the period ended December 31, 2000.
- 10/05/01 - The Commission received the company's proposed settlement.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by The Mobile Phone Company, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 5742 should be canceled administratively. (Isler)

STAFF ANALYSIS: 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 penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

After this docket was opened, but prior to staff filing a recommendation, the Commission received the company's payment for the outstanding regulatory assessment fee, including statutory penalty and interest charges, and a letter from the company which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. In addition, the company's settlement proposal included a waiver of objection to the administrative cancellation of the company's certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of its offer.

This is the second docket established for the same rule violation. In the prior docket, No. 992001-TX, the company paid the past due amount and proposed a \$100 settlement. In addition, the company proposed to pay future RAFs on a timely basis. On June 13, 2000, Order No. PSC-00-2037-AS-TX was issued, which accepted the settlement. The company paid the \$100 contribution and the docket was closed. The recommended settlement amount in this docket is consistent with amounts the Commission has accepted for recent, similar violations.

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Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 5742 should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the certificate.