



# 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-

**DATE:** NOVEMBER 20, 2003

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER)  
OFFICE OF THE GENERAL COUNSEL (MCKAY) *VSIM BIC*

**RE:** DOCKET NO. 030733-TC - CANCELLATION BY FLORIDA PUBLIC  
SERVICE COMMISSION OF PATS CERTIFICATE NO. 8097 ISSUED TO  
COLONY 14 COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-  
4.0161, F.A.C., REGULATORY ASSESSMENT FEES;  
TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 12/02/03 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\030733.RCM

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COMMISSION CLERK  
*[Handwritten signature]*

### CASE BACKGROUND

- **05/21/02** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 8097.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
- **02/21/03** - The Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 25, 2003.

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FPSC-COMMISSION CLERK

- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **05/21/03** - Staff wrote the company and explained that payment for the RAF needed to be paid by June 13, 2003, to avoid an enforcement docket from being established.
- **07/30/03** - Payment was not received; therefore, this docket was established.
- **09/18/03** - Staff filed a recommendation to penalize the company \$500 for nonpayment of the 2002 RAF or cancel its certificate.
- **09/25/03** - Ms. Khadija Cabey called staff and advised that she thought the RAF had been paid. She stated the company wished to keep its certificate active and would resolve the docket.
- **09/30/03** - The Commissioners approved staff's recommendation to penalize the company \$500 or cancel its certificate. Later on September 30, 2003, the Commission received the company's payment for the 2002 RAF, including statutory late payment charges, and a settlement proposal. The company reported revenues in the amount of \$8,334 for the period ended December 31, 2002.
- **10/08/03** - Order No. PSC-03-1123-PAA-TC was issued, which imposed a \$500 penalty. The protest period ended October 29, 2003.
- **10/23/03** - The Commission received the company's amended settlement proposal.
- **11/06/03** - The Commission received payment of the \$100 contribution.

In Issue 1 of this recommendation, staff identifies Rule 25-4.0161, Florida Administrative Code, as that apparently violated by the company. The rule is incorporated by Rule 25-24.505, Florida Administrative Code. To avoid redundancy, hereafter, the recommendation refers only to Rule 25-4.0161, Florida Administrative Code.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Colony 14 Communications, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** The Commission should accept the company's settlement proposal. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. **(Isler; McKay)**

**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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

At the September 30, 2003, Agenda Conference, the Commission voted to penalize the company \$500 for violation of the RAF rule. Later on the same date, the Commission received the company's payment for the outstanding RAF, including statutory late payment charges. The payment included a letter from the company which offered to pay a \$50 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. On October 8, 2003, Order No. PSC-03-1123-PAA-TC was issued, which imposed a \$500 penalty for violation of the RAF rule. Staff contacted the company since the proposed settlement amount was not consistent with prior Commission

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decisions. On October 23, 2003, the company amended its offer by proposing a \$100 settlement and subsequently paying the \$100 contribution. The recommended settlement amount in this docket is consistent with amounts the Commission has accepted for recent, similar violations.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission. **(McKay)**

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.