

State of Florida



**Public Service Commission**

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION  
CLERK

**DATE:** FEBRUARY 5, 2004

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*  
OFFICE OF THE GENERAL COUNSEL (MCKAY) *vsm B/L*

**RE:** DOCKET NO. 031012-TS - CANCELLATION BY FLORIDA PUBLIC  
SERVICE COMMISSION OF STS CERTIFICATE NO. 5248 ISSUED TO  
EXECUTIVE BUSINESS CENTERS, INC. FOR VIOLATION OF RULE 25-  
24.0161, F.A.C., REGULATORY ASSESSMENT FEES;  
TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 02/17/04 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\031012.RCM

**CASE BACKGROUND**

- **10/22/97** - This company obtained Florida Public Service Commission Shared Tenant Service (STS) Certificate No. 5248.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF notice. The due date was January 30, 2003.
- **02/21/03** - The Office of the General Counsel sent a delinquent notice via certified mail. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered.

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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.
- **04/28/03** - Staff wrote the company and explained that payment for the RAF needed to be paid by May 19, 2003, to avoid an enforcement docket from being established.
- **06/18/03** - Staff faxed the company a note requesting that payment for the 2002 RAF, including statutory late payment charges, be made.
- **08/12/03** - A representative from the company called staff and advised the company wished to keep its certificate active and asked that any information required to resolve this docket be faxed to the company, which was faxed the same date. In addition, the company provided the Commission with its updated reporting requirements.
- **10/28/03** - Payment was not received; therefore, this docket was established.
- **12/04/03** - A representative from the company called staff and advised that the employee staff spoke with in August is no longer with the company and asked that any information necessary to resolve the docket be refaxed. The information was faxed on December 5, 2003.
- **12/16/03** - The Commission received the company's payment for the 2002 RAF, along with statutory late payment charges. The company reported revenues in the amount of \$49,376 for the period ended December 31, 2002. In addition, the company proposed a settlement.
- **12/22/03** - Staff faxed the company a note and explained that staff could not recommend acceptance of its settlement because it was not consistent with prior Commission decisions and asked that the settlement be amended.
- **01/12/04** - The Commission received the company's payment for the 2003 RAF. The company reported revenues in the amount of \$36,102 for the period ended December 31, 2003. In addition, the Commission received the company's amended settlement proposal.

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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 25-24.585, 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 364.339, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Executive Business Centers, 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. Any contribution should be received by the Commission within fourteen (14) calendar 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 Florida Department of Financial Services 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. 5248 should be cancelled administratively. If Executive Business Centers, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing shared tenant services in Florida. **(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

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charges 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 late payment charges, and a letter from the company which offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. In addition, the company has paid the 2003 RAFs. The recommended settlement amount 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. Any contribution should be received by the Commission within fourteen (14) calendar 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 Florida Department of Financial Services 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. 5248 should be cancelled administratively. If Executive Business Centers, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing shared tenant services in Florida.

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

**RECOMMENDATION:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate. **(McKay)**

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.