

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: February 16, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler) *Pig*
Office of the General Counsel (Scott) *KPW*

RE: Docket No. 050676-TC – Compliance investigation of Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division, PATS Certificate No. 8063, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

AGENDA: 02/28/06 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050676.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission accept the settlement offer proposed by Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division to resolve the apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

Recommendation: Yes, the Commission should accept the company's settlement proposal as listed on Attachment A. (Isler, Scott)

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Docket No. 050676-TC
Date: February 16, 2006

Staff Analysis: See attached proposed Order. In Docket No. 050378-TP, Rule 25-4.0161, Florida Administrative Code, was amended effective October 6, 2005, to automatically impose a penalty for late payment of the Regulatory Assessment Fee. The amended rule does not apply to the 2004 Regulatory Assessment Fee but will apply to future Regulatory Assessment Fees.

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. (Scott)

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Broward
County Board of County Commissioners d/b/a
Broward County Telecommunications
Division, PATS Certificate No. 8063, for
apparent violation of Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 050676-TC
ORDER NO.
ISSUED:

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO R. ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

Pursuant to Section 364.336, Florida Statutes, pay telephone companies must pay a minimum annual Regulatory Assessment Fee of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for certification receive a copy of our rules governing pay telephone service.

Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division currently holds Certificate No. 8063, issued by this Commission on April 5, 2002, authorizing the provision of Pay Telephone service. The Division of the Commission Clerk and Administrative Services advised our staff that Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division had not paid the Regulatory Assessment Fee required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2004. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for the years 2002, 2003, and 2004 had not been paid. The entity was scheduled to remit its 2004 Regulatory Assessment Fee by January 31, 2005. In addition, on July 29, 2005, our staff wrote the company and advised that payment of the 2004 Regulatory Assessment Fee should be paid by August 19, 2005, to avoid a docket

from being established. Prior to a recommendation being filed, our staff was contacted by a company representative. The unpaid Regulatory Assessment Fee and past due late payment charges were subsequently paid, along with the 2005 Regulatory Assessment Fee. In addition, the company proposed to pay future Regulatory Assessment Fees on a timely basis and offered to pay a \$100 contribution to resolve this docket. This amount is consistent with amounts the Commission has accepted for recent, similar violations. While the company proposed to pay future RAFs on a timely basis, we add that Rule 25-4.0161, F.A.C., as amended, will automatically impose a penalty for late payment of future RAFs.

We believe that the terms of the settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division must comply with these requirements within 14 days from the date of issuance of this Order. The contribution should be identified with the docket number and the company name. Upon timely receipt, the contribution will be deposited in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Upon remittance of the \$100 contribution or cancellation of the certificate, this docket shall be closed. If Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division's certificate is cancelled in accordance with this Order, Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division shall immediately cease and desist providing pay telephone services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.3375, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division's settlement proposal set forth in the body of this Order is hereby approved. It is further

ORDERED that the settlement amount must be received within 14 days of the issuance of this Order. It is further

ORDERED that this docket shall remain open pending timely receipt of the \$100 contribution, which will be applied to the cost of collection. The contribution will be deposited in the Florida Public Service Regulatory Trust Fund. It is further

ORDERED that if Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division fails to comply with this Order, its certificate will be cancelled administratively. It is further

ORDERED that if Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division's certificate is cancelled in accordance with this Order, Broward County Board of County Commissioners d/b/a Broward County Telecommunications Division shall immediately cease and desist providing pay telephone services in Florida. It is further

ORDERED that upon receipt of the \$100 contribution or cancellation of the certificate, this docket shall be closed.

By ORDER of the Florida Public Service Commission this _____ day of _____, _____.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas, or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.