

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of U.S. Paytel Optima, L.L.C. for apparent violation of Rule 25-4.019, F.A.C., Records and Reports in General.

DOCKET NO. 040215-TC
ORDER NO. PSC-04-1038-AS-TC
ISSUED: October 25, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

FINAL ORDER ACCEPTING SETTLEMENT OFFER

Pursuant to Section 364.285, Florida Statutes, this Commission may impose a penalty or cancel a certificate if a company refuses to comply with this Commission's rules. Rule 25-24.505(1), Florida Administrative Code, Scope, incorporates Rule 25-4.019, Florida Administrative Code, by reference into rules applicable to pay telephone service companies. Rule 25-4.019(1), Florida Administrative Code, Records and Reports in General, states:

Each utility shall furnish to the Commission at such times and in such form as the Commission may require the results of any required tests and summaries of any required records. The utility shall also furnish the Commission with any information concerning the utility's facilities or operations which the Commission may reasonably request and require. All such data, unless otherwise specified, shall be consistent with and reconcilable with the utility's annual report to the Commission.

U.S. Paytel Optima, L.L.C. (U.S. Paytel) is a certificated pay telephone service provider based in Omaha, Nebraska that provides pay telephone services in Florida. The company reported to this Commission gross intrastate revenue of \$201,246.47 on its Regulatory Assessment Fee (RAF) Return for the calendar year 2002 and paid a RAF in the amount of \$168.94. On September 5, 2003, our staff notified U.S. Paytel, via first class mail, that the company had been randomly selected for a RAF audit of its 2002 RAF Return. Between December 1, 2003, and February 3, 2004, our staff requested several times, via telephone, facsimile, first class mail, and certified mail, that U.S. Paytel provide documentation

DOCUMENT NUMBER-DATE

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substantiating the intrastate revenues reported to the Commission on its 2002 Pay Telephone Service Provider RAF Return.

On March 11, 2004, after not receiving the requested information from the company, our staff opened this docket to recommend that this Commission impose a penalty of \$10,000 upon U.S. Paytel for its apparent violation of Rule 25-4.019, Florida Administrative Code. We voted to impose the recommended penalty of \$10,000 against U.S. Paytel on April 20, 2004. On May 28, 2004, our staff received a letter from Mr. Ed Otto of U.S. Paytel protesting the imposed penalty. After receiving the letter, our staff later contacted Mr. Otto and suggested that he submit the requested information along with a proposed settlement offer to resolve the company's apparent rule violation.

Between May 28, 2004, and September 9, 2004, our staff communicated with Mr. Otto, via telephone, facsimile, and first class mail, regarding this issue. U.S. Paytel provided the requested information to our staff on August 17, 2004. On August 31, 2004, our staff determined that the information submitted by the company was sufficient to complete the RAF audit. U.S. Paytel submitted a check in the amount of \$2,500 as a proposed settlement offer to resolve its apparent violation of Rule 25-4.019, Florida Administrative Code, on September 13, 2004. The payment was forwarded to the Division of Financial Services to be deposited into the General Revenue Fund.

U.S. Paytel has provided the information requested to complete the RAF audit. U.S. Paytel has also submitted a check in the amount of \$2,500 as a proposed settlement offer to resolve its apparent rule violation. Therefore, we find that U.S. Paytel has taken the necessary actions to correct the problems causing the apparent violation of Rule 25-4.019, Florida Administrative Code, and hereby accept the company's settlement proposal.

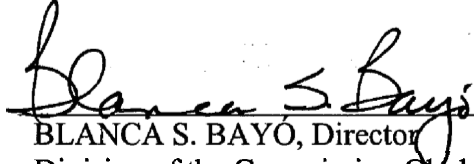
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that U.S. Paytel has taken the necessary actions to correct the problems causing the apparent violation of Rule 25-4.019, Florida Administrative Code, and hereby accept the company's settlement proposal. It is further,

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 25th day of October, 2004.



BLANCA S. BAYO, 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.