

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0050

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

DATE: NOVEMBER 19, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (ISLER) *1/7* *100*
DIVISION OF LEGAL SERVICES (K. PEÑA) *VMP* *NYF*

RE: DOCKET NO. 981158-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3096 ISSUED TO BEUFORD B. WENTWORTH, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/01/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981158.RCM

CASE BACKGROUND

Beuford B. Wentworth, obtained Florida Public Service Commission Pay Telephone Certificate Number 3096 on August 28, 1992.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. Staff received the return receipt from the United States Postal Service (USPS) which showed that the RAF notice was signed for and delivered on December 13, 1997.

The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalties and interest for the years 1992, 1995, and 1997.

DOCUMENT NUMBER DATE

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DIVISION OF RECORDS AND REPORTING

After the docket was opened, Mr. Wentworth called staff and stated that his records show that he had mailed his 1997 RAF form and check on January 15, 1998, which was by the January 30, 1998 deadline. (ATTACHMENT A) However, Mr. Wentworth's form and check was never received by the Commission. As soon as Mr. Wentworth confirmed with his bank that the check had not been cashed by the Commission, he immediately paid all past due charges and refiled the form. In addition, Mr. Wentworth authored a letter dated October 22, 1998, (ATTACHMENT B) and assured the Commission he would not only pay regulatory assessment fees in a timely manner in the future, but would follow up to insure that the fees were received by the Commission. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Beuford B. Wentworth to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept Beuford B. Wentworth's settlement proposal to pay regulatory assessment fees by January 30 of each year and follow up to insure that the fees were received. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, 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.

The Division of Administration notified staff by memorandum that Beuford B. Wentworth had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the years 1992, 1995, and 1997.

After staff opened this docket but prior to filing the recommendation, Mr. Wentworth called staff on September 28, 1998, and stated that his records showed that he had sent his 1997 RAF form and check to the Commission on January 15, 1998, which was by

the January 30, 1998 deadline. On October 5, 1998, Mr. Wentworth called back and stated that he had gone through all of his records, including bank statements, and found that the check to the Commission never cleared his bank. He stated that he would immediately pay what was due and make a settlement proposal. On October 6, 1998, the company paid the full amount due and owing for 1997 regulatory assessment fees, plus all statutory penalties and interest.

Mr. Wentworth wrote the Commission a letter dated October 22, 1998, and stated, in part:

I have never been fined, ordered to show cause for any rule violation or subject to any adverse action by any authority. Please be assured that in the future I will follow up to ensure that any and all returns and fees due are paid on time, received by the Commission and properly recorded. I would also request, first, that you NOT impose any fine since I did indeed file my return in good faith. Or, secondly, if the Commission feels that a fine is in order, that it be minimal, i.e. no more than \$100.00.

Due to the extenuating circumstances, staff believes that Beuford B. Wentworth did attempt to comply with Commission rules by paying the regulatory assessment fees by January 30, 1998. Although, the Commission did not receive Mr. Wentworth's check and 1997 RAF form, staff believes it would serve no purpose to fine Mr. Wentworth.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.

DOCKET NO. 981158-TC
 DATE: NOVEMBER 19, 1998
 ATTACHMENT A

Public Provider Regulatory Assessment Fee Return

Florida Public Service Commission
 (See Filing Instructions on back of form)

TATUS:

Actual Return
 Estimated Return

TE660 P173 097 159
 Beuford B. Wentworth
 12609 Condor Drive
 Jacksonville, FL 32223-2715

PERIOD COVERED:
 1/01/1997 TO 12/31/1997

FOR PSE USE ONLY
 Check# _____
 \$ _____
 \$ _____
 \$ _____
 Postmark Date _____
 Initials of Preparer _____

Please Complete Below If Address Has Changed

(Name of Company)

(Address)

(City/State)

(Zip)

LINE NO	ACCOUNT CLASSIFICATION	AMOUNT
1.	Gross Operating Revenue	\$ 107,660
2.	Gross Intrastate Revenue	75,361
3.	LESS: Amounts Paid for Services to Local Telephone Companies (Attach Listing)*	32,259
4.	TOTAL REVENUES for Regulatory Assessment Fee Calculation (Line 2 less Line 3)	\$ 43,102
5.	Regulatory Assessment Fee Due — (Multiply Line 4 by 0.0015)	\$ 64.65
6.	Penalty for Late Payment	
7.	Interest for Late Payment	
8.	TOTAL AMOUNT DUE	\$ 64.65

*Paid 1-15-98
 CK # 4177*

AS PROVIDED IN SECTION 364.125 FLORIDA STATUTES, THE MINIMUM ANNUAL FEE IS \$50

THIS FORM MUST BE COMPLETED AND RETURNED REGARDLESS OF THE AMOUNT OF REVENUES REPORTED

2. Number of pay telephones in operation at close of period covered by this Return 95

Paid 10-5-98 CK # 403 (\$76.19)

*Each amount paid by a pay telephone company to a telecommunications company providing local service for use of the local network shall be deducted from interstate revenue for purposes of determining the amount of the regulatory fee assessed the pay telephone company.

I, the undersigned owner/officer of the above named company, have read the foregoing and declare that to the best of my knowledge and belief, the above information is a true and correct statement. I am aware that pursuant to section 857.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead is liable for and in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

Beuford B. Wentworth
 (Signature of Company Official)
Beuford B. Wentworth
 (Please Print Name)

OWNER (Title)
1-15-98 (Date)
 Telephone Number 904-268-9169
 F.E.I. No _____

DOCKET NO. 98115-TC
DATE: NOVEMBER 19, 1998
ATTACHMENT B

TE680
Beuford B. Wentworth
12609 Condor Drive
Jacksonville, FL 32223

Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Re: Docket 981158-TC

October 22, 1998

Dear Commissioners,

It has come to my attention that you did not have a record of my filing of my PAY TELEPHONE SERVICE PROVIDER REGULATORY ASSESSMENT FEE RETURN for the period of 01/01/97 to 12/31/97; and therefore my Pay Telephone Certificate No. 3096 is subject to cancellation.

Please be advised that I mailed my Return with payment in the amount of \$84.85 (check #4177) on January 15, 1998. It never occurred to me to follow up to ensure that it was received. I have checked my records and although I conceded that the check never cleared my bank, I DID pay fee and filed my return in good faith. Upon learning of this, I immediately mailed a copy of my return and promptly paid the appropriate fee, penalties and interest in the amount of \$76.19 (check #4755) on October 5, 1998. Please see copy enclosed.

I plead with you to not cancel my certificate. I have tried to operate my business in a professional manner, providing the public with pay telephone service at charges less than the market average. My equipment is regularly maintained in a clean and operable condition. Each of my phones are visited by me at least every seven to ten days. I have been responsive to all directives and notices issued by the Commission, FCC and other regulatory agencies. I have never been fined, ordered to show cause for any rule violation or subject to any adverse action by any authority. Please be assured that in the future I will follow up to ensure that any and all returns and fees due are paid on time, received by the commission and properly recorded. I would also request, first, that you NOT impose any fine since I did indeed file my return in good faith. Or, secondly, if the Commission feels that a fine is in order, that it be minimal, i.e. no more than \$100.00.

Your consideration in this matter is greatly appreciated.

Sincerely,


Beuford B. Wentworth

RECEIVED
OCT 20 1998
CMTU