

State of Florida



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-

RECORDS AND
REPORTING

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RECEIVED-FPSC

DATE: APRIL 8, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Dig RMT*
DIVISION OF LEGAL SERVICES (K. PEÑA) *MCB for KP*

RE: DOCKET NO. 981436-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5356 ISSUED TO N.T. ENTERPRISE GROUP, INC. D/B/A HARRIS & CO THE RESTAURANT, FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 04/20/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981436.RCM

CASE BACKGROUND

Harris & Co The Restaurant obtained Florida Public Service Commission PATS Certificate No. 5356 on June 11, 1997.

The Division of Administration mailed the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt, which showed 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 the 1997 statutory penalty and interest charges.

DOCUMENT NUMBER-DATE

04526 APR-89

FPSC-RECORDS/REPORTING

On January 26, 1999, Order No. PSC-99-0160-FOF-TC was issued, which imposed a \$500 fine and required payment of the fine and past due fees by February 23, 1999. The Division of Administration notified staff that the company's 1998 RAF form was returned by the company. The form was signed by the treasurer, Mr. Henry Brusino, and stated that the company had previously requested that its certificate be canceled. Staff contacted the company and requested a copy of the company's previous correspondence since the Commission has no record of it. As of April 1, 1999, the company has not paid the past due amount or provided staff a copy of its previous correspondence. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Harris & Co The Restaurant a voluntary cancellation of its PATS Certificate No. 5356?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its PATS certificate. The Commission should involuntarily cancel Harris & Co The Restaurant's certificate with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Rule 25-24.514, Florida Administrative Code, Cancellation of a Certificate, provides that the Commission may cancel a company's certificate for violation of Commission rules and orders or Florida Statutes. In addition, Rule 25-24.514(2)(a) and (b), F.A.C., states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be canceled.

The Division of Administration's records show that as of April 1, 1999, Harris & Co The Restaurant has not paid the past due fees or provided staff with a copy of its previous correspondence. Since the company's certificate remains active until it requests a

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voluntary cancellation and complies with the cancellation rule, or the Commission involuntarily cancels the certificate for a rule violation, Harris & Co The Restaurant is responsible for the regulatory assessment fees. The company continues to be in violation of Commission rules by not paying the regulatory assessment fees; therefore, a voluntary cancellation would be inappropriate. Since the company is no longer in business, staff believes that no purpose would be served in requiring the company to pay a fine. By involuntarily cancelling this company's certificate, staff would be able to track this company should it apply for another certificate with the Commission in the future.

Accordingly, staff believes the company's certificate should be involuntarily canceled with an effective date of December 31, 1998.

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, no other issues remain unresolved and this docket should be closed.