

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: APRIL 8, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) / K. RTK
DIVISION OF LEGAL SERVICES (K. PEÑA) / M.B. / K.P.

RE: DOCKET NO. 981738-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 3961 ISSUED TO BUEHNER-FRY, INC. D/B/A RESORT OPERATOR SERVICES AND D/B/A DIRECTDIAL USA, FOR VIOLATION OF RULE 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\981738.RCM

CASE BACKGROUND

Directdial USA obtained Florida Public Service Commission IXC Certificate No. 3961 on January 4, 1995.

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 15, 1997.

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

DOCUMENT NUMBER DATE

04532 APR-89

FILED IN 981738

This docket was deferred from the February 16, 1999 Agenda Conference at the company's request. The company's attorney, Ms. Susan Davis Morley, contacted staff and advised that the company's records show it had mailed the 1997 RAF form and check on January 30, 1998, which was the due date. However, the company's form and check were never received by the Commission. After the company confirmed that its check had not been cashed by the Commission, it immediately paid all past due charges and refiled the form. Ms. Morley wrote the Commission on March 19, 1999 and stated that the company "respectfully requests resolution of the above docketed matter without further penalty. In the future, Buehner-Fry, Inc. will take additional steps to confirm the Commission's receipt of similar returns and reporting. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

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

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal to pay regulatory assessment fees in a timely manner 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 Directdial USA had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the years 1995 and 1997.

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30, 1998, which was the due date. However, the company's form and check were never received by the Commission. After the company confirmed that its check had not been cashed by the Commission, it immediately paid all past due charges and refiled the form. Ms. Morley wrote the Commission on March 19, 1999 and stated that the company "respectfully requests resolution of the above docketed matter without further penalty. In the future, Buehner-Fry, Inc. will take additional steps to confirm the Commission's receipt of similar returns and reporting.

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

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.