

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECEIVED-FPSC
APR 21 PM 3:39
RECORDS AND REPORTING

DATE: APRIL 22, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Dir*
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP CB*

RE: DOCKET NO. 981438-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5381 ISSUED TO BESTEL, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES.

AGENDA: 05/04/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981438.RCM

CASE BACKGROUND

- 07/18/97 - Bestel, Inc. obtained Florida Public Service Commission PATS Certificate No. 5381.
- 12/11/97 - The Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail.
- 12/13/97 - The United States Postal Service (USPS) returned the receipt, which showed that the RAF notice was signed for and delivered.
- 01/30/98 - The RAFs payment was due. 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 year 1997.

DOCUMENT NUMBER-DATE

05-126 APR 21 99

FPSC-RECORDS/REPORTING

- **01/26/99** - Order No. PSC-99-0160-FOF-TC was issued, which imposed a \$500 fine for nonpayment of the RAFs and required payment of the fine and past due amount by February 23, 1999.
- **02/23/99** - Staff was advised that the company had paid its 1997 RAFs on January 6, which was after the January 5, 1999 Agenda Conference, but prior to the Order being issued. Staff contacted the company's president, Mr. David Corsair, who advised that the company wanted to keep its certificate, would pay the 1998 RAFs, and would make a settlement offer.
- **04/12/99** - The company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.
- **04/15/99** - The Division of Administration's records reflect that the company has now paid the 1998 RAFs.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Bestel, Inc. 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. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate should be canceled administratively with an effective date of December 31, 1998. (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 the company had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the year 1997.

On January 26, 1999, Order No. PSC-99-0160-FOF-TC was issued which imposed a \$500 fine for nonpayment of the RAFs and required payment of the fine and past due amount by February 23, 1999. On February 23, staff was advised that the company had paid its 1997 RAFs on January 6, which was after the January 5, 1999 Agenda Conference, but prior to the Order being issued. Staff contacted the company's president, Mr. David Corsair, who advised that the company wanted to keep its certificate, would pay the 1998 RAFs, and would make a settlement offer. The Division of Administration's records reflect that the company has now paid the 1998 RAFs. In addition, the company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate should be canceled administratively 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, this docket should be closed.