

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: APRIL 22, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PK*
DIVISION OF LEGAL SERVICES (BROWN) *CB for MCB*

RE: DOCKET NO. 981496-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5103 ISSUED TO ROGER ANTHONY WALDRON, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.

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

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981496.RCM

CASE BACKGROUND

- 03/18/97 - Roger Anthony Waldron obtained Florida Public Service Commission PATS Certificate No. 5103.
- 12/11/97 - The Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the unopened envelope stamped "return to sender" and "attempted, not known."
- 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

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FPSC-RECORDS/REPORTING

- **02/04/99** - Order No. PSC-99-0190-FOF-TC was issued, which imposed a \$500 fine for nonpayment of the RAFs and \$500 for the reporting requirements violation, for a total of \$1,000. The Commission ordered the company to pay the fines and past due amount by March 4, 1999.
- **02/15/99** - Mr. Waldron, owner, called staff and advised that the company wanted to keep its certificate, would pay the 1997 RAFs, plus statutory penalty and interest charges, and would make a settlement offer. He stated that he had paid his 1998 RAFs on a timely basis. During the conversation, staff confirmed the address the Commission had on file. Mr. Waldron stated he could not understand why the USPS had returned the RAF notice since it was mailed to the proper address.
- **04/05/99** - Staff received a settlement offer of \$50. Staff then contacted Mr. Waldron and explained that in other similar cases, the Commission had accepted settlement proposals of \$100 for the same rule violation and asked if he would reconsider his offer.
- **04/12/99** - Staff received Mr. Waldron's offer to increase the settlement to \$100.
- **04/15/99** - The Division of Administration's records reflect that the company has now paid the past due amount.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Roger Anthony Waldron 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 February 4, 1999, Order No. PSC-99-0190-FOF-TC was issued which imposed a \$500 fine for nonpayment of the RAFs and \$500 for the reporting requirements violation, for a total of \$1,000. The Commission ordered the company to pay the fines and past due amount by March 4, 1999. On February 15, Mr. Waldron, owner, called staff and advised that the company wanted to keep its certificate, would pay the 1997 RAFs, plus statutory penalty and interest charges, and would make a settlement offer. He stated that he had paid his 1998 RAFs on a timely basis. During the conversation, staff confirmed the address the Commission had on file. Mr. Waldron stated he could not understand why the USPS had returned the RAF notice since it was mailed to the proper address. Staff subsequently received a settlement offer of \$50. Staff then contacted Mr. Waldron and explained that in other similar cases, the Commission had accepted settlement proposals of \$100 for the same rule violation and asked if he would reconsider his offer. Mr. Waldron verbally agreed to a \$100 settlement and subsequently submitted the agreement in

writing. The Division of Administration's records reflect that the company has now paid the past due amount.

In similar cases, the Commission has accepted a \$100 settlement for each rule violation. However, since the company confirmed that the address the Commission had on file was correct, staff does not believe it appropriate to pursue the reporting requirements violation.

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. (Brown)

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