

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-

RECEIVED-PSC  
MAY 6 AM 11:25  
RECORDS AND REPORTING

DATE: MAY 6, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *DIC*  
DIVISION OF LEGAL SERVICES (WATTS) *CON CB*

RE: DOCKET NO. 981487-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5232 ISSUED TO FLORIDA COAST SYSTEMS INC., 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: 05/18/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981487.RCM

CASE BACKGROUND

- 10/08/97 - This company obtained Florida Public Service Commission PATS Certificate No. 5232.
- 12/11/97 - The Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) did not return the receipt or unopened envelope.
- 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

05738 MAY-6 99

RECEIVED-PSC

- **10/27/98** - Staff attempted to call the company at the telephone number listed in the Master Commission Directory, but the telephone number had been disconnected. Directory Assistance could not provide a new listing.
- **01/20/99** - Order No. PSC-99-0100-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 company had until February 10, 1999, to protest the Order and until February 17, 1999, to pay the fines and past due amount.
- **02/02/99** - The company's president, Johanna R. Vogelsang, responded to the Order by letter dated January 27, 1999. The company provided proof that it had paid the 1997 regulatory assessment fees on a timely basis. The company's letter did not respond to the reporting requirements violation, provide its correct address and telephone number, or pay the \$500 fine associated with this violation.

The Division of Administration advised staff that the payment had been misapplied.

- **02/09/99** - Staff attempted to call the company again, but was unsuccessful.

Staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should Order No. PSC-99-0100-FOF-TC, issued January 20, 1999, be vacated for that portion of the Order which imposed a \$500 fine for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should vacate that portion of Order No. PSC-99-0100-FOF-TC, issued January 20, 1999, which imposed a \$500 fine for apparent violation of the regulatory assessment fees rule. (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 20, 1999, Order No. PSC-99-0100-FOF-TC was issued which imposed a \$500 fine for nonpayment of the regulatory assessment fees and \$500 for the reporting requirements' violation. The company had until February 10, 1999 to respond to the Order and until February 17, 1999 to pay the fine and provide staff with its correct telephone number and address.

On February 2, 1999, staff received the company's letter dated January 27, 1999, which provided proof that the 1997 RAFs were paid on a timely basis. However, the company's response did not provide the information required in the Order concerning the reporting requirements violation or pay the \$500 fine.

On February 9, 1999, staff called the telephone number listed in the Master Commission Directory (MCD), and received a recording which advised the number had been disconnected. Staff then called Directory Assistance, but no new listing was provided.

The company provided a different telephone number on its 1998 RAF form. Staff called that telephone number on April 26, 1999, and a recording advised that the number had been temporarily disconnected. Based on this information, staff believes that the

DOCKET NO. 981487-TC  
DATE: MAY 6, 1999

portion of Order PSC-99-0100-FOF-TC imposing a \$500 fine for the reporting requirements violation is valid.

However, staff believes the Commission should vacate that portion of Order No. PSC-99-0100-FOF-TC, issued January 20, 1999, which imposed a \$500 fine for apparent violation of the regulatory assessment fees rule based on the filing of proof of the payment of the 1997 RAFs.

**ISSUE 2:** Should this docket be closed?

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

**STAFF ANALYSIS:** This docket should be closed if the Commission approves staff's recommendation in Issue 1.