

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: JUNE 17, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PIE*
DIVISION OF LEGAL SERVICES (K. PEÑA) *IMP CB*

RE: DOCKET NO. 981314-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 4972 ISSUED TO STARBRITE PAYPHONES, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 06/29/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981314.RCM

CASE BACKGROUND

- **12/11/96** - Starbrite Payphones obtained Florida Public Service Commission PATS Certificate No. 4972.
- **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 receipt, which showed 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.

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- **11/04/98** - Mr. Robert Young, owner, called staff and advised that he thought he had paid the regulatory assessment fees, would check his records, and get back in touch with staff. He stated that if the RAF was not paid, he would make a settlement offer as he wanted to keep his certificate.
- **11/10/98** - 1997 RAF was paid in full. However, a settlement offer was not made.
- **03/09/99** - Staff talked with Mr. Young again on this date. Staff also questioned Mr. Young about the 1998 RAF, since it was now past due. Mr. Young asked that another form be faxed to him and again stated he would submit a settlement offer. The 1998 RAF form was faxed to Mr. Young.
- **04/22/99** - As of this date, the company had not paid the past 1998 RAFs or submitted a settlement offer. Therefore, staff filed a recommendation to impose a fine or cancel the company's certificate.
- **05/04/99** - The Commission approved staff's recommendation to fine the company \$500 for the RAFs violation or cancel its certificate.
- **05/12/99** - The company paid the 1998 RAFs, including statutory penalty and interest charges, and made a settlement offer to pay a \$100 contribution.
- **05/21/99** - Order No. PSC-99-1032-PAA-TC was issued which imposed a \$500 fine or canceled the certificate. The company had until June 11, 1999 to protest the Order and until June 18, 1999 to pay the past due amount and fine or the certificate would be canceled.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Starbrite Payphones 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 received by the Commission within ten business days from the effective date of the Commission Order and should identify the docket number and company name. 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 the Commission Order, 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.

The company's owner, Mr. Robert Young, contacted staff after the docket was opened and stated that he believed he had paid the 1997 RAFs. He stated that he would check his records, pay the past due amount if it had not been paid and make a settlement offer. Mr. Young did pay the 1997 RAFs, however, a settlement offer was not submitted and the 1998 RAFs, plus statutory penalty and interest charges, were now past due. Staff talked with the company twice more about this. Each time, staff was assured a settlement offer would be submitted.

After the May 5, 1999 Agenda Conference, but prior to Order No. PSC-99-1032-PAA-TC being issued on May 21, Mr. Young paid the 1998 RAFs in full, including the penalty and interest charges, made a \$100 settlement offer, and advised that he had implemented "a better way for the company's bills to be paid" and would pay future RAFs on a timely basis.

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Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the effective date of the Commission Order and should identify the docket number and company name. 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 the Commission Order, 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.