



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
99 SEP 23 AM 11:45
RECORDS AND REPORTING

DATE: SEPTEMBER 23, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pix*
DIVISION OF LEGAL SERVICES (K. PEÑA; C. BEDELL) *CB*

RE: DOCKET NO. 991117-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4957 ISSUED TO MIRESA INC. D/B/A IN TOUCH TELECOMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 10/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991117.RCM

CASE BACKGROUND

- 10/15/96 - Miresa Inc. d/b/a In Touch Telecommunications was granted Pay Telephone Certificate No. 4957.
- 10/12/98 - Docket No. 981320-TC was opened to fine or cancel the company's certificate for nonpayment of the 1997 regulatory assessment fee (RAF).
- 11/16/98 - The company paid its 1997 RAF, including statutory penalty and interest charge. The company did not report any revenues.
- 12/10/98 - The Division of Administration mailed the 1998 Regulatory Assessment Fee notice. Payment was due by February 1, 1999.

DOCUMENT NUMBER-DATE

11463 SEP 23 99

FPSC-RECORDS/REPORTING

- **02/19/99** - Order No. PSC-99-0338-AS-TC was issued which approved In Touch Telecommunications' settlement offer in Docket No. 981320-TC for nonpayment of the 1997 RAF.
- **03/17/99** - The Division of Administration mailed a delinquent notification letter for nonpayment of the 1998 RAF.
- **09/13/99** - As of this date, the 1998 RAF payment, including statutory penalty and interest charges, has not been paid.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$1,000 fine or cancel In Touch Telecommunications' Pay Telephone Certificate No. 4957 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's pay telephone certificate number should be canceled administratively. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalty and interest charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of Administration's records show that the company had not paid its 1998 regulatory assessment fees, plus statutory penalty and interest charges for 1998 and an interest charge balance from 1996. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

This is the second time a docket has been opened against In Touch Telecommunications for nonpayment of the regulatory assessment fees (RAFs). Docket No. 981320-TC was opened against In Touch Telecommunications for nonpayment of the 1997 RAF and reporting requirements violation. On February 19, 1999, Order No. PSC-99-0338-AS-TC was issued, which accepted the company's \$200 settlement. The company paid the settlement amount and the docket was closed.

Accordingly, staff recommends that the Commission assess a \$1,000 fine for failure to comply with the Commission rule or cancel the company's certificate number if the fine and the regulatory assessment fees, along with statutory penalty and interest charges, are not paid within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, In Touch Telecommunications' pay telephone certificate number should be canceled administratively.

DOCKET NO. 991117-TC
DATE: SEPTEMBER 23, 1999

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. (K. Peña; C. Bedell)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate.