

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: NOVEMBER 4, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (K. PEÑA) *UMP PJK*

RE: DOCKET NO. 991246-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5603 ISSUED TO LUZ T. KALBARCZYK D/B/A GREEN ACRES FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 11/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991246.RCM

CASE BACKGROUND

- 04/07/98 - Green Acres obtained PATS Certificate No. 5603.
- 12/10/98 - The Division of Administration mailed the regulatory assessment fee (RAF) notice.
- 02/01/99 - Payment was due.
- 03/17/99 - The Division of Administration mailed a delinquent notice to the company.
- 04/16/99 - The company responded to staff's request for updated reporting requirements information. The company advised that it had no payphones, and in fact, had only inquired about receiving a pay telephone certificate.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

- 06/24/99 - Staff called Ms. Kalbarczyk, the owner, and was advised that she had never applied for a pay telephone certificate. Staff advised that a copy of the application would be requested from archives and a copy provided to the company.
- 07/14/99 - Staff wrote Ms. Kalbarczyk, included a copy of the application, and requested a response concerning the certificate and past due regulatory assessment fee.
- 07/19/99 - Ms. Kalbarczyk called staff and advised that although she apparently did send in the application, she did not want the certificate and would not pay the regulatory assessment fee.
- 08/11/99 - The Commission received a letter from the company requesting cancellation of its certificate.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Luz T. Kalbarczyk d/b/a Green Acres a voluntary cancellation of PATS Certificate No. 5603?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its PATS certificate. The Commission should cancel the company's certificate on its own motion, effective on the date of issuance of the Consummating Order. (Isler)

STAFF ANALYSIS: Ms. Kalbarczyk, owner of Green Acres, responded to staff's request for updated reporting requirements and advised that she did not have any payphones and had called Tallahassee in April of 1998 and requested information about becoming certificated. Staff called Ms. Kalbarczyk on June 24, 1999 to obtain more information and explained that the 1998 regulatory assessment fee had not been paid. Ms. Kalbarczyk advised that she had never applied for a payphone certificate, therefore, she did not owe the RAF. Staff obtained a copy of the original application and mailed it to the company on July 14. On July 19, Ms. Kalbarczyk called staff and stated that she had no intention of paying the outstanding regulatory assessment fee. Ms. Kalbarczyk followed up her phone call with a letter on August 11 and requested voluntary cancellation of her certificate.

Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30, or the next business day, 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.

As of October 26, 1999, the regulatory assessment fee, including penalty and interest charges, remain unpaid. Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion, effective on the date of issuance of the Consummating Order.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the proposed agency action order. (K. Peña; 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 the issuance of a Consummating Order.