

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 (BAYO)

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP BK*

RE: DOCKET NO. 991228-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 1415 ISSUED TO PEPE'S AMERICAN, INC. 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\991228.RCM

CASE BACKGROUND

- 01/10/87 - Pepe's American, Inc. obtained PATS Certificate No. 1415.
- 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.
- 04/01/99 - The Commission received a letter from this company requesting voluntary cancellation of its certificate. The company included a check for the regulatory assessment fee.

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FPSC-RECORDS/REPORTING

but did not pay the statutory penalty and interest charges. Pepe's American reported no revenues for the period ending December 31, 1998.

- **04/02/99** - Staff called Mr. Jose Gonzalez, President, and explained that in order to recommend a voluntary cancellation of his certificate, he would have to pay the past due penalty and interest charges. Mr. Gonzalez stated he would consider paying the charges.
- **04/13/99** - Staff wrote Mr. Gonzalez concerning the outstanding balance.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Pepe's American, Inc. a voluntary cancellation of PATS Certificate No. 1415?

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: After staff received a letter from this company which advised that it was no longer in the pay telephone business and requested cancellation of its certificate, staff called the President, Mr. Jose Gonzalez on April 2, 1999. Staff explained that although the company had paid the 1998 regulatory assessment fees, he paid after the due date of February 1, 1999; therefore, statutory penalty and interest charges were applicable. Mr. Gonzalez advised staff that he would consider paying the charges. Staff then followed up the phone call with a letter on April 13.

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 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)

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.