



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-FPSC
RECORDS AND REPORTING
JAN - 6 AM 10:20

DATE: JANUARY 6, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Dji* *RD*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *KMP* *Director DE*

RE: DOCKET NO. 991132-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5050 ISSUED TO ST. LUKE'S HOSPITAL ASSOCIATION FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 01/18/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991132.RCM

CASE BACKGROUND

- **01/29/97** - This company was granted PATS Certificate No. 5050.
- **12/10/98** - The 1998 Regulatory Assessment Fee (RAF) notice was mailed. Payment was due 02/01/99.
- **03/17/99** - The Division of Administration mailed a delinquent letter for the 1998 RAF.
- **10/12/99** - Ms. Gloria Smith called staff and advised the company wanted to keep its certificate active, requested a regulatory assessment fee (RAF) form, and stated she would pay the outstanding balance. A RAF form was faxed to the company.
- **10/19/99** - At the Agenda Conference on this date, the Commission approved staff's recommendation to fine the company

DOCUMENT NUMBER-DATE

00164 JAN-6 2000

FPSC-RECORDS/REPORTING

\$500 or cancel its certificate. Later the same day, the Division of Administration notified staff that the Commission had received a settlement offer, a check for the 1998 RAF, penalty and interest charges, and the company's check for the \$100 settlement. The company reported \$589.50 in revenues for the period ending December 31, 1998.

- **11/09/99** - Order No. PSC-99-2206-PAA-TC was issued, which imposed a \$500 fine or canceled the company's certificate.
- **11/17/99** - The Commission received a letter from the company, which attached a copy of the 1998 RAF form that was dated January 14, 1999, a copy of the check dated January 12, 1999 for the fee. The letter stated that its records showed this was previously mailed, but apparently, the Commission had never received it.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by St. Luke's Hospital Association 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 to pay regulatory assessment fees in a timely manner and follow up to insure that the fees were received. (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. Since January 30, 1999, fell on a weekend, the due date for the 1998 fees was February 1, 1999.

According to Commission records, this company had not submitted the regulatory assessment fee for 1998, along with statutory penalty and interest charges.

On November 17, 1999, the Commission received a letter from Ms. Smith, which enclosed a copy of the company's 1998 regulatory assessment fee form, along with a copy of its check dated January 12, 1999. Ms. Smith advised that she does not believe that the Commission should assess a monetary fine since the return and form had been mailed to the Commission. Ms. Smith advised that a tracking system had been implemented to prevent this from happening in the future.

Due to the extenuating circumstances, staff believes that the company did attempt to comply with Commission rules by mailing the return and regulatory assessment fee on January 14, 1999. Although the Commission did not receive the company's check and return, staff believes it would serve no purpose to fine the company. This recommendation is consistent with other Commission decisions under similar circumstances.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted.

DOCKET NO. 991132-TC
DATE: JANUARY 6, 2000

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; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.