

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

**DATE:** JANUARY 6, 2000

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *Pji*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *MP* *Ducperse*

**RE:** DOCKET NO. 981375-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5041 ISSUED TO PAY-TEL SERVICES INC. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES.

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

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981375.RCM

CASE BACKGROUND

- **01/07/97** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 5041.
- **12/13/97** - The United States Postal Service (USPS) returned the receipt, which showed the 1997 RAF notice was signed for and delivered on this date.
- **12/18/97** - Staff mailed the company a letter concerning service evaluation violations and requested a response by January 2, 1998.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

- **01/09/98** - Staff mailed the company a certified letter concerning the service evaluation violations and requested a response by January 26, 1998.
- **01/20/98** - The USPS returned the receipt which showed that the certified letter was signed for and delivered on this date.
- **10/21/98** - As of this date, the company had not paid its 1997 RAF nor responded to staff's inquiries; therefore, staff opened this docket.
- **11/04/98** - Mr. Luis Alfaro, Vice President of Pay-Tel Services Inc. called staff and advised that he wanted to keep his certificate active and would make a settlement offer.
- **11/14/98** - The company paid the past due amount in full, including statutory penalty and interest charges.
- **11/18/98** - The company wrote and responded to staff's inquiries, proposed to pay future regulatory assessment fees by the due date of each year and offered a \$50 settlement to resolve this case.
- **11/20/98** - Staff called Mr. Alfaro and explained that we could not recommend approval of the settlement offer as proposed since it was not in line with other, similar settlements. Mr. Alfaro stated that he would file a revised settlement.
- **01/25/99** - The company timely paid its 1998 regulatory assessment fee. The company reported \$19,207 in revenues for the period ending December 31, 1998.
- **01/28/99** - Staff called Mr. Alfaro and left a message for a return call since the revised settlement had not been received.
- **02/01/99** - Staff called Mr. Alfaro and left another message for a return call. Mr. Alfaro called later the same day and stated he would get the letter out in the near future.
- **03/11/99** - Staff called Mr. Alfaro and left another message since the revised settlement had not been received. Mr. Alfaro returned the call and stated he would send the offer. The settlement offer was received on this date by fax. Mr. Alfaro proposed to pay a settlement of \$2,500 in installments, stated he would pay future regulatory assessment fees by the

due date of each year, and would respond to any Commission inquiry on a timely basis.

- **03/30/99** - The Commission approved the company's settlement offer at the Agenda Conference. Staff called Mr. Alfaro and advised that the settlement had been approved and reminded him that the initial \$500 installment was due by April 30, 1999.
- **04/21/99** - Order No. PSC-99-0809-AS-TC was issued, which approved the company's \$2,500 settlement offer. The company was to pay \$500 by April 30, 1999 and \$100 in monthly installments by the last working day of each month until paid in full.
- **05/21/99** - Staff called Mr. Alfaro and reminded him the \$500 initial payment was past due.
- **05/24/99** - A \$600 payment was received, which represented the \$500 initial payment and the May 1999 installment.
- **07/20/99** - Staff called Mr. Alfaro and left a message for a return call concerning the June and July installments.
- **07/21/99** - Staff wrote Mr. Alfaro a certified letter, which explained that June and July's installment payments must be received by July 30, 1999, to avoid staff taking another recommendation back to the Agenda Conference to recommend cancellation of his certificate for not complying with Commission Order No. PSC-99-0809-AS-TC.
- **07/26/99** - The USPS returned the receipt, which showed staff's July 21 certified letter was signed for and delivered on this date.
- **07/30/99** - The company's June and July installment payments totaling \$200 were received on this date.
- **10/07/99** - Staff filed a recommendation to cancel the company's certificate for noncompliance with Order No. PSC-99-0809-AS-TC.
- **10/12/99** - The Division of Administration notified staff that a check for \$100 was received, which represented the August 1999 installment.

- **10/13/99** - Mr. Alfaro called staff and expressed concern about his docket going back to the Agenda Conference. It was explained to Mr. Alfaro that a proposed agency action would be issued based on the Commission's vote at the October 19, 1999, Agenda Conference and that he would have 21 days to protest the Order.
- **10/19/99** - The Commission voted to cancel the company's certificate for not complying with its Order.
- **10/22/99** - Mr. Alfaro called staff and provided a new address.
- **11/10/99** - Order No. PSC-99-2216-PAA-TC was issued, which preliminarily canceled the company's certificate. The company had until December 1, 1999 to protest the Order.
- **11/23/99** - Mr. Alfaro called staff concerning receipt of the Order. Staff provided Mr. Alfaro the information required on how to protest the Order.
- **12/01/99** - Mr. Alfaro protested the Order and requested a hearing. Mr. Alfaro stated that if his certificate were canceled, it would put him out of business. He stated that he would pay the full balance of the settlement within 30 days.
- **12/03/99** - Staff called Mr. Alfaro and acknowledged receipt of his protest to the Order. During this conversation, Mr. Alfaro asked if he could pay the balance of the settlement in two installments since the holidays were coming up. Staff advised Mr. Alfaro to write the Commission an amended settlement and provide the two dates he would make the installments.
- **12/14/99** - Mr. Alfaro called and advised he would mail the amended settlement today.
- **12/16/99** - The company's amended settlement was received, which proposed to pay \$800 in January and balance of \$800 in February.

Staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the amended settlement offer proposed by Pay-Tel Services Inc. to resolve the apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries?

**RECOMMENDATION:** Yes. The Commission should accept the company's amended settlement proposal. The first \$800 contribution should be received by the Commission by January 31, 2000, and the balance of \$800 should be received by the Commission by February 29, 2000. The payments 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. (Isler)

**STAFF ANALYSIS:** Staff has had many conversations with Mr. Alfaro concerning the late payments of his original settlement offer. Mr. Alfaro advised staff that his company is small, with only approximately 15 pay telephones. He advised that if the Commission canceled his certificate, it would put him out of business. He requested consideration of his amended proposal to pay the \$1,600 balance of the original \$2,500 contribution in two installments.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. The first \$800 contribution should be received by the Commission by January 31, 2000, and the balance of \$800 should be received by the Commission by February 29, 2000. The payments 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.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the final installment of the \$1,600 contribution balance or cancellation of the certificate. (K. Peña; B. Keating)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the final installment of the \$1,600 contribution balance or cancellation of the certificate.