



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
00 OCT -3 PM 2:47
RECORDS AND REPORTING

DATE: OCTOBER 5, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Dix*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE*

RE: DOCKET NO. 001189-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7187 ISSUED TO ALEX LEVY FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 10/17/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001189.RCM

CASE BACKGROUND

- **11/12/99** - This company obtained PATS Certificate No. 7187.
- **12/08/99** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. Payment was due January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice to the company.
- **04/05/00** - The Commission received a letter from the company's owner, Mr. Levy, which advised that he never installed any pay telephones and requested cancellation of his certificate.

DOCUMENT NUMBER-DATE

12546 OCT-38

FPSC-RECORDS/REPORTING

- **07/19/00** - Staff wrote the company and advised that before we could recommend a voluntary cancellation, it needed to pay the 1999 RAF, including penalty and interest charges, and either pay the 2000 fee or advise when it would be paid.
- **07/24/00** - Staff received an e-mail from Mr. Levy, which advised that he had made "numerous attempts to contact" the Commission concerning having his "application cancelled". He further stated that he had no "intention of paying the outstanding charges."
- **07/25/00** - Staff responded by e-mail and advised that to staff's knowledge, his letter dated April 3, 2000, was the only correspondence received and that if he provided the Commission with a copy of prior correspondence, staff would review it.
- **09/27/00** - As of this date, the company has not paid the past due amount or provided staff with prior correspondence requesting cancellation of the certificate.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Alex Levy a voluntary cancellation of Pay Telephone Certificate No. 7187?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its PATS certificate. The Commission should cancel the company's Certificate No. 7187 on its own motion, effective on the date of issuance of the Consummating Order. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, 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.

After the 1999 RAF notice and delinquent notice were mailed, the company wrote the Commission a letter dated April 3, 2000. On July 19, 2000, staff wrote the company and explained that in order to grant a voluntary cancellation, the company needed to pay the 1999 RAF, including statutory penalty and interest charges, and either pay the 2000 fee or advise when it would be paid. Mr. Levy responded via e-mail and advised that he had notified the Commission previously to cancel his certificate and that he would not pay the outstanding fee. He also stated that while he would prefer to be cancelled in good standing with the Commission, it did not matter that "his account" is closed not in good standing as long as it is closed. Staff responded to Mr. Levy's e-mail and explained that his letter of April 3 was the only request for cancellation received and asked him to provide us with a copy of any previous correspondence so that staff could review it. As of September 27, 2000, the company has not paid the 1999 RAF, including statutory penalty and interest charges, or provided staff with a copy of any previous correspondence. Accordingly, the Commission should not grant the company a voluntary cancellation of its PATS certificate. The Commission should cancel the company's Certificate No. 7187 on its own motion, effective on the date of issuance of the Consummating Order.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final 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. The docket should then be closed upon receipt of the fees or cancellation of the certificate. (Elliott)

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 and upon receipt of the fees or cancellation of the certificate.