

STATE OF FLORIDA

Commissioners:
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DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

October 17, 2000

Mr. J. Merritt Guthrie
2843 Quailhollow Road
Clearwater, FL 33761-3223

Re: Docket No. 001040-TC

Dear Mr. Guthrie:

This is a follow up to our telephone conversation concerning the above docket. The regulatory assessment fee (RAF) is due each year by January 30 for the previous year, unless the 30th falls on a weekend, then the due date is the next working day. For example, the 1999 fee was due January 31, 2000.

Commission records show that the minimum 1999 RAF was paid on September 19. However, you did not pay the statutory penalty and interest charge of \$16.50. In addition, our records show that you have a penalty and interest balance in the amount of \$2.50 from 1998 that needs to be paid. A breakdown is attached.

On September 29, 2000, Order No. PSC-00-1784-PAA-TC was issued, which imposed a \$500 fine for failure to pay the RAF by the due date. As we discussed, your payment had not posted by the time this docket was voted on at the September 26 Agenda Conference. However, because you did not pay the full amount due, this item would probably not have been deferred. At this point, you have three options.

- (1) Cancel the certificate voluntarily - Pay all past due charges in full, pay the current year's RAF or provide a date certain that it will be paid (such as 30 days from the date of the Commission Order cancelling your certificate), and write a letter requesting cancellation and reference the docket number. A copy of our rule is attached.
- (2) Do nothing - In this case, your certificate will be cancelled on the Commission's own motion. All outstanding RAFs, including penalty and interest charges, will be turned over to the Comptroller's Office for collection. In addition, Rule 25-24.511(5), F.A.C., states that "Only one certificate per applicant will be granted. A new certificate will not be

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granted to any applicant who has previously had a certificate involuntarily cancelled." This means that if you choose this option, you could not reapply for a new certificate at a later date.

- (3) File a petition for a formal proceeding in the form provided by Rule 28-106.201, F.A.C., copy attached. This petition must be filed with the Commission by October 20, which is the end of the protest period. Rule 28-106.201(2)(g) states that the petition must include "A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action." This means that you may wish to propose a settlement. If you propose a settlement, your petition must include the following:

- Docket number;
- A check for the past due amount in full;
- A statement that it has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are; and
- Make a specific monetary settlement.

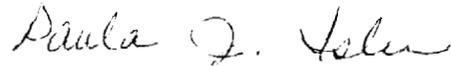
Any settlement offer should be addressed to Ms. Blanca Bayó, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The proposed settlement amount should **not** be paid at this time, instead only the past due penalty and interest charges should be paid. The settlement amount, if approved by the Commission, will become due after the Commissioners vote on this issue.

If you file a timely petition proposing a settlement, a new Agenda Conference date will be scheduled. At that time, the Commissioners will vote on whether or not to accept your settlement offer. If your settlement is approved, an Order will then be issued and you will have 10 business days from the date of the Order to pay the settlement. If the settlement is not paid timely, your certificate will be cancelled.

If you have any questions, just let me know. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at pisler@psc.state.fl.us.

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Sincerely,

A handwritten signature in cursive script that reads "Paula J. Isler".

Paula J. Isler, Research Assistant
Bureau of Service Quality & Compliance

Enclosures

cc: Docket No. 001040-TC
Division of Legal Services (Dandelake)

J. Merrit Guthrie (TG275)
Certificate No. 5602, Effective 04/07/98

Year	Fee	Penalty	Interest	Notes
1998	Paid	\$2.50	\$0.50	Payment was due 02/01/99. The RAF was paid on 02/06/99, but not the penalty and interest, leaving a balance of \$3.00.
1999	Paid	\$12.50	\$4.00	Payment was due 01/31/00. The RAF was paid on 09/19/00, but not the penalty and interest, leaving a balance of \$16.50.
Total	n/a	\$15.00	\$4.50	Total Past Due Balance: 19.50

25-24.514 Cancellation of a Certificate.

- (1) The Commission may cancel a company's certificate for any of the following reasons:
- (a) Violation of the terms and conditions under which the authority was originally granted;
 - (b) Violation of Commission rules or orders;
 - (c) Violation of Florida Statutes; or,
 - (d) Failure to provide service for a period of six (6) months.

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.

- (a) Statement of intent and date to pay Regulatory Assessment Fee.
- (b) Statement of why the certificate is proposed to be cancelled.

(3) Cancellation of a certificate shall be ordered subject to the holder providing the information required by subsection (2).

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 350.127(1), 364.03, 364.285, 364.337, 364.345 FS.

History--New 1-5-87.

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 ½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.