



Public Service Commission

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RECORDS AND REPORTING

DATE: JANUARY 25, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIJ*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *AK* *mp*

RE: DOCKET NO. 001040-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5602 ISSUED TO J. MERRITT GUTHRIE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 02/06/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001040.RCM

CASE BACKGROUND

- **04/07/98** - This company obtained Florida Public Service Commission Certificate No. 5602.
- **12/08/99** - The Division of Administration mailed the 1999 Regulatory Assessment Fee (RAF) notice. The due date was January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice.
- **09/19/00** - The Commission received the company's payment for the 1999 RAF. The company reported no revenues for the period ended December 31, 1999. The company did not pay the past due penalty and interest charges for the years 1998 and 1999.

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FPSC-RECORDS/REPORTING

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- **09/29/00** - Order No. PSC-00-1784-PAA-TC was issued, which imposed a \$500 fine or cancelled the company's certificate. The company had until October 20, 2000 to respond to the Order.
- **10/13/00** - The Commission received the company's check for the outstanding statutory penalty and interest charges for 1998 and 1999.
- **10/18/00** - The Commission received the company's proposed settlement.
- **10/27/00** - Staff wrote the company and requested that the settlement be amended.
- **11/27/00** - The Commission received the company's amended settlement proposal.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the modified settlement offer proposed by J. Merritt Guthrie to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's modified settlement proposal. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and 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, Certificate No. 5602 should be canceled administratively. (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 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 Order No. PSC-00-1784-PAA-TC was issued on September 29, 2000, the Commission received the company's payment for the outstanding regulatory assessment fee, including statutory penalty and interest charges, and a letter from the company which requested that no further fine or penalty be assessed. In addition, the company proposed to pay future RAFs on a timely basis. Staff wrote Mr. Guthrie and explained that staff could not recommend acceptance of his settlement. On November 27, Mr. Guthrie amended the settlement by offering to pay \$100. This settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

Accordingly, staff believes the terms of the modified settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the date of the Commission Order and 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, Certificate No. 5602 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 \$100 contribution 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 \$100 contribution or cancellation of the certificate.