



Public Service Commission

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REC'D
REPORTING

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RECEIVED

DATE: MAY 31, 2001

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

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

RE: DOCKET NO. 010426-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 2747 ISSUED TO FRED TOSTI FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 06/12/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010426.RCM

CASE BACKGROUND

- **07/02/91** - Fred Tosti obtained Florida Public Service Commission Certificate No. 2747.
- **01/24/00** - The Commission received the company's payment for the 1999 Regulatory Assessment Fee (RAF). The company reported revenues in the amount of \$130 for the period ended December 31, 1999.
- **12/12/00** - The Division of Administration mailed the 2000 RAF return notice. Payment was due by January 30, 2001.
- **02/21/01** - The Division of Administration mailed a delinquent notice for nonpayment of the 2000 RAF.

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- **04/13/01** - Staff wrote the company a letter and explained that a docket had been established and to contact staff if it was interested in resolving the docket.
- **04/16/01** - Mr. Greg Tosti, son of Fred Tosti, called staff and explained that his father had recently passed away. Mr. Tosti stated that he would write the Commission a letter.
- **05/07/01** - The Commission received a letter from Mr. Greg Tosti requesting cancellation of his father's pay telephone certificate.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant a voluntary cancellation of Certificate No. 2747 issued in the name of Fred Tosti?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its Certificate No. 2747 with an effective date of December 31, 2000. In addition, the Division of Administration will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write-off the uncollectible amount should be requested. (Isler; Elliott)

STAFF ANALYSIS: Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

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.

Between April 16 and May 7, 2001, staff had several telephone conversations and e-mails with Mr. Greg Tosti, son of Fred Tosti. On May 7, the Commission received a letter from Mr. Tosti, along with a copy of Fred Tosti's death certificate. Mr. Tosti stated that his father passed away on April 7, 2001, after battling cancer for the past few months. Mr. Tosti stated that his father's pay telephone business became the least of the family's worries. Mr. Tosti stated that his father had only one pay telephone and kept it only as a way of visiting with his son. Mr. Tosti is in the process of removing the phone and having the line disconnected. Due to the extenuating circumstances, Mr. Tosti is requesting a voluntary cancellation of his father's certificate and requesting that the past due 2000 RAF, including penalty and interest charges, be written off.

Therefore, staff believes the Commission should grant the company a voluntary cancellation of its Certificate No. 2747 with an effective date of December 31, 2000. In addition, the Division of Administration will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that

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permission for the Commission to write-off the uncollectible amount should be requested.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (Elliott)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, no other issues remain unresolved and this docket should be closed.