

State of Florida



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-

DATE: OCTOBER 4, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *BK VMP*

RE: DOCKET NO. 010656-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7504 ISSUED TO BUSINESS TELECOM, INC. D/B/A BTI FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 10/16/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010656.RCM

CASE BACKGROUND

- 07/18/00 - This company obtained Florida Public Service Commission Certificate No. 7504.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) notice. Payment was due January 30, 2001.
- 02/21/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice.
- 05/21/01 - Staff wrote the company and advised that a docket had been established for nonpayment of the 2000 RAF, including statutory penalty and interest charges, and to contact staff for its options.

DOCUMENT NUMBER-DATE

12382 OCT-15

FPSC-COMMISSION CLERK

- **06/07/01** - Ms. Stephanie Raiford and Mr. David Yoakley called staff on behalf of the company and advised that the company had received the RAF return forms for its Interexchange and Alternative Local Exchange Telecommunications certificates, but that the Pay Telephone RAF return form was not received. Staff was advised that the company's pay telephone revenues were included on its IXC and ALEC returns.
- **07/27/01** - The Commission received the company's payment for the minimum RAF, including statutory penalty and interest charges, for the Pay Telephone certificate. The company reported revenues in the amount of \$1,717.50 for the period ended December 31, 2000. In addition, the company proposed a settlement.

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 accept the settlement offer proposed by Business Telecom, Inc. d/b/a BTI 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 settlement proposal to pay future regulatory assessment fees on a timely basis. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, 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.

According to Commission records, the company had not submitted the regulatory assessment fee for 2000, along with statutory penalty and interest charges. Therefore, staff established this docket. After the docket was opened, the company contacted staff and advised that the 2000 RAF notice was never received. Mr. David Yoakley advised that BTI has three certificates, Pay Telephone, Interexchange Carrier, and Alternative Local Exchange Carrier certificates. Since the pay telephone RAF notice was not received, the company had originally included the pay telephone revenues on its other two certificates. The company subsequently paid the minimum RAF, including statutory penalty and interest charges on the Pay Telephone certificate.

Before staff processes applications, each applicant must sign and return an affidavit attesting that the Commission's rules and regulations had been read and understood. In addition, the RAF rule requires payment even if a company does not receive a RAF notice. However, because the company included its pay telephone revenues on its other two RAF returns, which were paid in full, staff believes that due to the extenuating circumstances, it would serve no purpose to fine the company. The company is now fully aware of the RAF rule and has proposed to pay future RAFs on a timely basis.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted.

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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. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.