



**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** OCTOBER 4, 2001

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *PK* *MP*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *MP*

**RE:** DOCKET NO. 010557-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 6017 ISSUED TO JESUS SOLE D/B/A ADVANCE TELEPHONE USA COMPANY 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\010557.RCM

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**CASE BACKGROUND**

- **03/02/99** - This company obtained Florida Public Service Commission Certificate No. 6017.
- **12/12/00** - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) notice. The due date was January 30, 2001.
- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice.
- **05/08/01** - Staff wrote the company and explained that a docket had been established and to contact staff if it was interested in resolving this docket.

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- **07/09/01** - Ms. Maria Sole called staff and stated that the company has had problems with someone stealing their mail, therefore, they now have a Post Office Box to prevent this. Ms. Sole requested the 2000 RAF return notice and the company's options to resolve this case. On the same date, staff wrote the company and faxed the 2000 RAF return notice.
- **07/31/01** - The Commission received the company's payment for the outstanding amount, including statutory penalty and interest charges. The company reported no revenues for the period ended December 31, 2000.
- **09/04/01** - The Commission received the company's proposed 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 Jesus Sole d/b/a Advance Telephone USA Company 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. 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. 6017 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 this docket was opened, but prior to staff filing a recommendation, 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 offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. In addition, the company's settlement proposal included a waiver of objection to the administrative cancellation of the company's certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of its offer. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

Accordingly, staff believes the terms of the 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. 6017 should be canceled administratively.

**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.