

STATE OF FLORIDA

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

Public Service Commission

October 22, 2001

Via E-mail

Mr. Greg Lohrenz, President
ACG, Inc.
64440 Flying Cloud Drive, Suite 101
Eden Prairie, MN 55344-3378

RE: Docket No. 011021-TI

Dear Mr. Lohrenz:

This is a follow up to our telephone conversation concerning the above docket. As information, 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 and the 2000 fee was due January 30, 2001.

Commission records show that the 2000 RAF, including penalty and interest charges, has not been paid. The RAF is .0015% of the company's total Florida gross revenues, or \$50.00, whichever is greater. However, if the company owes only the minimum amount and if payment is postmarked by October 27, 2001, the 2000 total is \$67.00 (\$50.00 fee, \$12.50 penalty, and \$4.50 interest). The interest charge for the 2000 RAF continues to accrue until paid.

Order No. PSC-01-2048-PAA-TI was issued October 18, 2001, which imposed a fine. The company has until November 8, 2001 to protest the Order. Since you told me that the company wishes to keep its certificate active, the company should file a petition, pursuant to Rule 28-106.201, F.A.C., copy attached. This petition must be filed with the Commission by November 8th, which is the end of the protest period. Rule 28-106.201(2)(g), F.A.C., 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." Your petition should include the following elements:

- Docket number;
- Order number and issue date of the Order;
- Payment for the past due amount in full;
- A statement requesting that the Commission consider this a protest and/or offer of

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settlement;

- A statement that the company has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are;
- Make a specific monetary settlement (although the Commission imposed a \$1,000 fine, in other similar cases to yours, the Commission has accepted settlement proposals between \$500 and \$1,000); and
- A waiver of objection to the administrative cancellation of the company's certificate in the event its offer is accepted and it fails to comply with the terms which it has offered. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, Commission staff will bring the matter to the Commission for consideration.

Any petition/correspondence should be addressed to Ms. Blanca Bayó, Director, Division of the Commission Clerk & Administrative Services, 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 regulatory assessment fee, plus 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. An Order will then be issued and you will have 10 business days from the date of the Order to pay the settlement.

The past due amount and petition must be received by November 8, 2001. 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.

Sincerely,



Paula J. Isler, Research Assistant
Bureau of Service Quality

Enclosures

cc: Docket No. 011021-T1
Division of Legal Services (K. Peña)

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.

Paula Isler

From: Paula Isler
Sent: Monday, October 22, 2001 4:43 PM
To: 'gregl@goacg.com'
Subject: Docket No. 011021-T1



Dear Mr. Lohrenz:

Attached is a letter to you which explains how to protest the Order (a WordPerfect document). A signed, hard copy will be mailed to you tomorrow, along with a copy of the attachment mentioned in the letter. However, if your fax starts working again, let me know and I will fax the information also since the last day to protest the Order is November 8th.

Also, I checked with our Division of Legal Services and was told that the correct amount of the fine is \$1,000. An Amendatory Order will be issued tomorrow correcting the amount of the fine from \$500 to \$1,000. If the company wishes to keep its certificate active, it will have to protest the order/propose a settlement.

Let me know if you have any questions. Thanks, Paula.