

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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DATE: NOVEMBER 7, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Di...*
DIVISION OF LEGAL SERVICES (J. ELLIOTT) *JAE*

RE: DOCKET NO. 010576-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 7069 ISSUED TO USA COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 11/19/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010576.RCM

CASE BACKGROUND

- 08/03/99 - This company obtained Florida Public Service Commission Certificate No. 7069.
- 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.
- 05/14/01 - Staff wrote the company and explained that this docket had been established for nonpayment of the 2000 RAF, plus statutory penalty and interest charges for the years 1999

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and 2000. Staff asked the company to contact staff if it was interested in resolving this docket.

- 05/25/01 - Mr. Elliott Foy called staff and stated he had received staff's letter, would resolve the docket, and asked that the 2000 RAF return notice be faxed to him. The form was faxed the same day.
- 09/04/01 - The Commission did not receive the 2000 RAF payment, therefore, at the September 4, 2001 Agenda Conference, the Commissioners voted to impose a \$500 fine. Later on the same date, Mr. Foy called staff.
- 09/12/01 - Staff wrote Mr. Foy and provided information on how to respond to the Proposed Agency Action Order once it was issued.
- 09/18/01 - The Commission received the company's payment for the outstanding amount, including statutory penalty and interest charges. The company reported revenues in the amount of \$23,837.05 for the period ended December 31, 2000.
- 09/24/01 - Order No. PSC-01-1890-PAA-TC was issued, which imposed a \$500 fine. The company had until October 15, 2001 to respond to the Order.
- 10/09/01 - The Commission received the company's timely filed response to the Order.

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 USA Communications, Inc. 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. 7069 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.

On September 18, 2001, the Commission received the company's payment for the outstanding RAF, including statutory penalty and interest charges for the years 1999 and 2000. After Order No. PSC-01-1890-PAA-TC was issued on September 24, 2001, the Commission received a timely filed protest to the Order in which the company offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. 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. 7069 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. (J. Elliott)

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.