

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-

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COMMISSION CLERK

DATE: DECEMBER 5, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pix* *no*
DIVISION OF LEGAL SERVICES (J. ELLIOTT) *He for*

RE: DOCKET NO. 011130-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4769 ISSUED TO EASY PHONE, INC. D/B/A EASY TEL, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/17/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011130.RCM

CASE BACKGROUND

- 01/08/97 - This company obtained Florida Public Service Commission Certificate No. 4769.
- 12/30/99 - In a separate proceeding, Docket No. 992038-TX was established for nonpayment of the 1998 Regulatory Assessment Fee (RAF). On September 19, 2000, Order No. PSC-00-1679-AS-TX was issued, which accepted the company's proposal to pay a \$100 contribution and pay future RAFs on a timely basis. The company paid the past due amount in full, including statutory penalty and interest charges, and the \$100 settlement, and the docket was closed.

DOCUMENT NUMBER-DATE

15082 DEC-30

FPSC-COMMISSION CLERK

DOCKET NO. 011130-TX
DATE: DECEMBER 5, 2001

- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 RAF notice. Payment was due January 30, 2001.
- 02/21/00 - The Division of the Commission Clerk & Administrative Services mailed the delinquent notice.
- 09/18/01 - Staff wrote the company and explained that a docket had been established for nonpayment of the 2000 RAF and to contact the Commission if it was interested in resolving this docket.
- 09/21/01 - Mr. Peter Bucchieri called staff and provided a different mailing address and asked that the 2000 RAF return be faxed to him. This was faxed the same date. Mr. Bucchieri verbally advised staff that the company would propose a settlement to resolve this docket.
- 11/07/01 - As of this date, the Commission had not received payment for the 2000 RAF or a settlement proposal. Therefore, staff filed its recommendation to fine the company \$1,000 or cancel its certificate.
- 11/16/01 - The Commission received the company's payment for the 2000 RAF, including statutory penalty and interest charges, and its settlement proposal. On the same date, staff requested deferral of this docket from the November 19, 2001 Agenda Conference.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Easy Phone, Inc. d/b/a Easy Tel, 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. 4769 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 staff filed its recommendation to fine the company \$1,000 for nonpayment of the 2000 RAF, 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 \$500 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.

This is the second docket established for the same rule violation. In the prior docket, No. 992038-TX, Order No. PSC-00-1679-AS-TX was issued on September 19, 2000, which accepted the company's proposal to pay a \$100 contribution. In addition, the company proposed to pay future RAFs on a timely basis. The company subsequently paid the \$100 contribution and the docket was closed.

DOCKET NO. 011130-TX
DATE: DECEMBER 5, 2001

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. 4769 should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 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 \$500 contribution or cancellation of the certificate.