

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: FEBRUARY 7, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Dji*
OFFICE OF GENERAL COUNSEL (J. ELLIOTT) *JAE*

RE: DOCKET NO. 011024-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5810 ISSUED TO PUBLIC PAYPHONE U.S.A., INC. D/B/A PUBLIC COMMUNICATIONS SERVICES, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 02/19/02 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\011024.RCM

CASE BACKGROUND

- 03/25/99 - This company obtained Florida Public Service Commission Interexchange Company (IXC) Certificate No. 5810.
- 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.
- 02/20/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice.
- 08/16/01 - Staff wrote the company and advised that a docket had been established for nonpayment of the 2000 RAF, including

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statutory penalty and interest charges, and to contact staff if interested in resolving the docket.

- 10/04/01 - Staff filed its recommendation to fine the company \$500 for noncompliance of Rule 25-4.0161, Florida Administrative Code.
- 10/11/01 - Mr. Luis Guzman contacted staff on behalf of the company and requested the RAF form and information on how to resolve this docket. The RAF form and information were faxed on the same date.
- 10/16/01 - The Commission voted to impose a \$500 fine or cancel the company's certificate.
- 11/09/01 - Order No. PSC-01-2193-PAA-TI was issued. The company had until November 30, 2001, to respond to the Order.
- 11/27/01 - 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 \$820,452.70 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 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Public Payphone U.S.A., Inc. d/b/a Public Communications Services, 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 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 staff had filed its recommendation to impose a \$500 fine, the company contacted staff for information on how to resolve this docket. On November 9, 2001, Order No. PSC-01-2193-PAA-TI was issued and the company filed a timely response on November 27, 2001. According to the company, the revenues for its IXC certificate were included on its pay telephone 2000 RAF return. The company included an original IXC return and an amended pay telephone return reflecting the correct revenues for its payphone and IXC operations and enclosed payment for the past due balance. The company requested that no further penalty be assessed since it had previously paid the RAF based on the company's combined pay telephone and IXC revenues.

Staff believes that due to the extenuating circumstances, it would serve no purpose to fine the company. Mr. Luis Guzman, Regulatory Manager, advised that he is now aware that RAFs are due for each certificate 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: If the Commission approves staff's recommendation in Issue 1, this docket should be closed. (J. Elliott)

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