



Public Service Commission
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COMMISSION CLERK

DATE: MAY 9, 2002
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pxi*
OFFICE OF THE GENERAL COUNSEL (DODSON; TEITZMAN; K. PEÑA; B. KEATING) *ML*
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 020289-TC - BALANCE, INC.
DOCKET NO. 020361-TC - BRANCH ASSOCIATES, INC.
DOCKET NO. 020362-TC - PROLINE COMMUNICATIONS CORPORATION

AGENDA: 05/21/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020289.RCM

CASE BACKGROUND

The companies listed on Attachment A were mailed the 2001 Regulatory Assessment Fee (RAF) return notice and payment was due by January 30, 2002. On February 20, 2002, the Office of the General Counsel mailed a delinquent notice for the 2001 RAF.

The Commission received correspondence from each of the companies listed on Attachment A, which requested cancellation of their respective certificates. Staff wrote each of the companies listed on Attachment A and explained that staff could not recommend

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a voluntary cancellation until each company complied with Rule 25-24.514, Florida Administrative Code. However, each of the companies listed on Attachment A have a past due amount and have not complied with Rule 25-24.514, Florida Administrative Code.

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 grant the companies listed on Attachment A a voluntary cancellation of their respective certificates?

RECOMMENDATION: No. The Commission should not grant the companies a voluntary cancellation of their respective certificates. The Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing pay telephone services in Florida. (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.

Rule 25-24.514(2)(a), and (b), Florida Administrative Code, states:

- (2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.
 - (a) Statement of intent and date to pay Regulatory Assessment Fee.
 - (b) Statement of why the certificate is proposed to be cancelled.

Although each of the companies listed on Attachment A requested cancellation of their respective certificates, the companies have past due RAFs.

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Balance, Inc.
Docket No. 020289-TC

On March 12, 2002, the Commission received correspondence from this company requesting cancellation of its certificate as it was no longer in business. On March 14, 2002, staff wrote the company and explained that prior to granting a voluntary cancellation, the company must either pay the 2002 RAF or provide a date certain it would be paid. On March 20, 2002, Ms. Denise Orff, Office Manager, called staff and advised that the company would not be sending any more money and understood that the unpaid RAF amount would be turned over to collections. As of April 29, 2002, the 2002 RAF amount has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Branch Associates, Inc.
Docket No. 020361-TC

On January 21, 2002, the Commission received the company's 2001 RAF return showing zero revenues. The company did not pay the minimum RAF nor request cancellation of its certificate. On March 5, 2002, the Commission received correspondence from the company, which advised it was not active in the payphone business nor owned any payphones and requested cancellation of its certificate. On March 7, 2002, staff wrote the company and advised that prior to granting a voluntary cancellation, the company must be up-to-date on its RAFs, including statutory penalty and interest charges. Staff advised the company to pay the 2001 RAF, statutory penalty and interest charges for the year 2001, and either pay the 2002 RAF or provide a date certain it would be paid. As of April 29, 2002, the outstanding RAF amount, including statutory penalty and interest charges, has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Proline Communications Corporation
Docket No. 020362-TC

On February 26, 2002, the Commission received the company's 2001 RAF return showing zero revenues and a note which advised the company was out of business as of January 1, 2002. The company did not pay the minimum RAF. On March 4, 2002, staff wrote the company and advised that prior to granting a voluntary cancellation, the company must be up-to-date on its RAFs, including

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statutory penalty and interest charges. Staff advised the company to pay the 2001 RAF, statutory penalty and interest charges for the year 2001, and either pay the 2002 RAF or provide a date certain it would be paid. As of April 29, 2002, the outstanding RAF amount, including statutory penalty and interest charges, has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff believes the Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing pay telephone services in Florida.

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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. These dockets should then be closed upon issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final. (Dodson; Teitzman; K. Peña; B. Keating)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, these dockets should be closed upon issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

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<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
020289-TC	Balance, Inc. \$0 Revenues for Period Ended 12/31/01	7734	03/12/02
020361-TC	Branch Associates, Inc. \$0 Revenues for Period Ended 12/31/00	5579	03/05/02
020362-TC	Proline Communications Corporation \$0 Revenues for Period Ended 12/31/01	4997	02/26/02