



Public Service Commission

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DATE: NOVEMBER 20, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *PJC*
OFFICE OF THE GENERAL COUNSEL (DODSON) *plw b/c*

RE: DOCKET NO. 020765-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 3036 ISSUED TO TEL CON RESOURCES, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/02/02 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020765.RCM

CASE BACKGROUND

- **04/21/92** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 3036.
- **12/12/01** - The Division of the Commission Clerk & Administrative Services mailed the 2001 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2002.
- **02/21/02** - The Office of the General Counsel mailed via certified mail a delinquent notice for nonpayment of the 2001 RAF. The US Postal Service returned the receipt which showed the delinquent notice was signed for and delivered on February 25, 2002.

DOCUMENT NUMBER-DATE

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- **05/28/02** - Staff wrote the company and explained that the 2001 RAF, plus penalty and interest charges, had not been paid. Staff advised that a docket would be established if payment was not received by June 18, 2002.
- **07/19/02** - No response was received, therefore, this docket was established.
- **07/22/02** - The Commission received the company's 2001 RAF return notice with a note advising the company was out of the payphone business since 1999. No payment was included with the RAF return notice.
- **07/31/02** - Staff wrote the company and explained that a telecommunications certificate remains active until cancelled by the Commission and that our records do not show receipt of a request for cancellation from the company.
- **08/19/02** - The Commission received the company's payment for the outstanding amount, including statutory penalty and interest charges, and the 2002 RAF. The company reported no revenues for the period ended December 31, 2001 and 2002. In addition, the company requested cancellation of its certificate.

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 Tel Con Resources, Inc. a voluntary cancellation of Pay Telephone Certificate No. 3036 to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its certificate with an effective date of July 22, 2002. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Tel Con Resources, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Dodson)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, 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.

The Division of the Commission Clerk & Administrative Services notified staff that the company had not submitted the 2001 Regulatory Assessment Fees, along with statutory penalty and interest charges. Therefore, the company had failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code.

DOCKET NO. 020765-TC
DATE: NOVEMBER 20, 2002

After the docket was established, but prior to staff filing a recommendation, Tel Con Resources, Inc. paid the past due amount, paid the 2002 Regulatory Assessment Fee, and requested voluntary cancellation of its certificate in compliance with Rule 25-24.514(2)(a) and (b), Florida Administrative Code, since the company was no longer in the payphone business.

Accordingly, staff believes the Commission should grant the company a voluntary cancellation of its certificate with an effective date of July 22, 2002. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Tel Con Resources, Inc. should be required to immediately cease and desist providing pay telephone services in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission. (Dodson)

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission.