



Public Service Commission
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COMMISSION
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RECEIVED-FPSC

DATE: JANUARY 9, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (DODSON) *JMD*

RE: DOCKET NO. 020825-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PATS CERTIFICATE NO. 7919 ISSUED TO
L.B. COMPUTER SOLUTIONS, INC. FOR VIOLATION OF RULE 25-
4.0161, F.A.C., REGULATORY ASSESSMENT FEES,
TELECOMMUNICATIONS COMPANIES.

AGENDA: 01/21/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020825.RCM

CASE BACKGROUND

- 10/12/01 - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 7919.
- 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 a delinquent notice for nonpayment of the 2001 RAF. The US Postal Service delivered the delinquent notice on February 25, 2002.
- 06/13/02 - Staff wrote the company and explained that the 2001 RAF, plus penalty and interest charges, had not been paid.

DOCUMENT NUMBER-DATE

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Staff advised that a docket would be established if payment was not received by July 5, 2002.

- **07/26/02** - Having received no response from the company, staff opened this docket to address the nonpayment of RAF.
- **10/09/02** - The Commission received the company's payment for the 2001 RAF, including statutory penalty and interest charges. The company reported no revenues for the period ended December 31, 2001.
- **10/15/02** - Staff wrote the company and advised that just paying the past due amount would not prevent the company's certificate from being cancelled and asked that staff be contacted to resolve this docket.
- **10/23/02** - Mr. Luis Beltran, President, called staff and advised that he wanted to keep his certificate active and asked staff to fax him a sample settlement. This information was faxed to him the same day.
- **11/27/02** - Mr. Beltran called staff and advised that he had decided to cancel the certificate and asked what needed to be done. Staff advised that the company either needed to pay the 2002 RAF or provide a date certain it would be paid and write a letter requesting cancellation of the certificate. Mr. Beltran stated that he would send a check for the \$50 minimum and write the letter.
- **01/03/03** - As of this date, the Commission has not received the company's payment for the 2002 RAF or a letter requesting cancellation of the 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 impose a penalty of \$500 or cancel L.B. Computer Solutions, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a penalty of \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. If the company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company 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, Regulatory Assessment Fees; Telecommunications Companies, 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.

The Division of the Commission Clerk & Administrative Services advised staff that the company had not paid its 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. Staff wrote the company in an attempt to bring it into compliance with the RAF rule. No payment or response was received, therefore, this docket was established. The company subsequently paid the

full amount past due but did not propose a settlement or request cancellation of its certificate.

On October 15, 2002, staff wrote the company and asked the company to contact staff to avoid cancellation of the company's certificate. Mr. Luis Beltran, President called staff and first stated that he would propose a settlement. Mr. Beltran called staff at a later date and stated that he no longer wanted to keep his certificate active and would pay the 2002 RAF and write a letter requesting cancellation. No further response was received. Therefore, it appears the company has 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, and has not requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amount recommended in this docket is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a penalty of \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. If the company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, the company's certificate should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone services in Florida.

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ISSUE 2: Should this docket 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. The docket should then be closed upon receipt of the fine and fees or cancellation of the certificate. (Dodson)

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, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate.