



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: JANUARY 9, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *api*
OFFICE OF THE GENERAL COUNSEL (BANKS) *pub*

RE: DOCKET NO. 020790-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PATS CERTIFICATE NO. 5991 ISSUED TO
HITSU, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

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

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020790.RCM

CASE BACKGROUND

- 01/26/99 - This company obtained Florida Public Service Commission Pay Telephone (PAT) Certificate No. 5991.
- 12/12/01 - The Division of the Commission Clerk & Administrative Services mailed the 2001 Regulatory Assessment Fee (RAF) notice. The due date was January 30, 2002.
- 02/21/02 - The Office of the General Counsel mailed a delinquent notice via certified mail. The US Postal Service subsequently returned the receipt, which showed the delinquent notice was signed for and delivered to the company.
- 06/04/02 - 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 June 25, 2002.

- **07/23/02** - Having received no response from the company, staff opened this docket to address the nonpayment of RAF.
- **11/05/02** - At the November 5, 2002 Agenda Conference, the Commission voted to impose a \$500 penalty or cancel the company's certificate.
- **11/15/02** - The Commission received the company's payment for the past due amount in full, including statutory penalty and interest charges. The company reported revenues in the amount of \$695.45 for the period ended December 31, 2001.
- **11/25/02** - Order No. PSC-02-1619-PAA-TC was issued, which imposed a \$500 penalty.
- **12/05/02** - The Commission received the company's settlement proposal.

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 accept the settlement offer proposed by Hitsu, Inc. 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 accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar 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. 5991 should be cancelled administratively. If Hitsu, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Hitsu, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Banks)

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.

After the November 5, 2002 Agenda Conference but prior to the Proposed Agency Action Order being issued, the Commission received the company's payment of the 2001 RAF, including statutory penalty and interest charges. On November 25, 2002, Order No. PSC-02-1619-PAA-TC was issued, which imposed a \$500 penalty. On December 5, 2002, the Commission received a letter from the company which offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. The recommended settlement amount is consistent with amounts the Commission has accepted 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

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any portion of the calendar year, including the year of cancellation.

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 fourteen (14) calendar 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. 5991 should be cancelled administratively. If Hitsu, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Hitsu, 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 in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate. (Banks)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.