



Public Service Commission  
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DATE: JANUARY 23, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER)  
OFFICE OF THE GENERAL COUNSEL (TEITZMAN)

RE: DOCKET NO. 020807-TC - CANCELLATION BY FLORIDA PUBLIC  
SERVICE COMMISSION OF PATS CERTIFICATE NO. 7424 ISSUED TO  
PHONEXPERT, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C.,  
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 02/04/03 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020807.RCM

CASE BACKGROUND

- 06/02/00 - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 7424.
- 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 on February 26, 2002.
- 06/06/02 - 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 27, 2002.

- **07/24/02** - No response was received, therefore, this docket was established.
- **11/25/02** - Order No. PSC-02-1619-PAA-TC was issued, which imposed a \$500 penalty or cancelled the company's certificate.
- **11/27/02** - Mr. Frank Paglianti, President, called the Commission and advised he wanted to resolve this docket to keep his certificate active. Mr. Paglianti asked staff to fax the 2001 RAF return form and any other information needed to resolve the docket. The information was faxed on the same date.
- **12/19/02** - The Commission received the company's payment for the outstanding amount, including statutory penalty and interest charges. The company reported no revenues for the period ended December 31, 2001. In addition, the Commission received the company's proposed settlement.

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 Phonexpert, 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. 7424 should be canceled administratively. If Phonexpert, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Phonexpert, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Teitzman)

**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.

After Order No. PSC-02-1619-PAA-TC was issued on November 25, 2002, the Commission received the company's payment for the outstanding Regulatory Assessment Fee, including statutory penalty and interest charges, and 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 any portion of the calendar year, including the year of cancellation.

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Accordingly, staff believes 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. 7424 should be canceled administratively. If Phonexpert, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Phonexpert, 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. (Teitzman)

**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.