



Public Service Commission

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COMMISSION
CLERK

DATE: DECEMBER 23, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *pi*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *usm*

RE: DOCKET NO. 030717-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PATS CERTIFICATE NO. 5917 ISSUED TO
RESOURCE EXPRESS INC. FOR VIOLATION OF RULE 25-4.0161,
F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS
COMPANIES.

AGENDA: 01/06/04 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030717.RCM

CASE BACKGROUND

- **09/22/98** - This company obtained Florida Public Service Commission Pay Telephone Company (PATS) Certificate No. 5917.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
- **02/21/03** - The Office of the General Counsel mailed a delinquent notice via certified mail for nonpayment of the 2002 RAF. The US Postal Service subsequently returned the certified receipt showing the delinquent notice was signed for and delivered on February 24, 2003.

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- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid its 2002 RAF.
- **05/21/03** - Staff wrote the company and explained that the 2002 RAF had not been paid and that in order to avoid an enforcement docket from being established, the RAF needed to be paid by June 13, 2003.
- **07/29/03** - The company did not pay the past due amount or contact staff; therefore, Docket No. 030717-TC was established for nonpayment of the 2002 RAF.
- **10/08/03** - Order No. PSC-03-1123-PAA-TC was issued, which imposed a \$500 penalty or cancelled the company's certificate. The company had until October 29, 2003, to respond to the Order.
- **10/29/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges, plus payment for the 2003 RAF. In addition, the company included a letter requesting cancellation of its certificate as it was no longer in business. The company reported no revenues for calendar years 2002 and 2003.
- **12/09/03** - As of this date, the company does not have any outstanding consumer complaints.

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 Resource Express Inc. a voluntary cancellation of PATS Certificate No. 5917?

RECOMMENDATION: Yes. The Commission should grant the company a voluntary cancellation of its PATS certificate with an effective date of October 29, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Resource Express Inc. should be required to immediately cease and desist providing pay telephone services in Florida. **(Isler; McKay)**

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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of the Commission Clerk & Administrative Services notified staff that the company had not submitted the 2002 RAFs, along with statutory late payment charges, for the years 2001 and 2002. Therefore, the company had failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

After the docket was opened and a Proposed Agency Action Order issued, the Commission received the company's payment for the outstanding RAFs, including statutory late payment charges, and the 2003 RAF. In addition, the company included a letter with its payment requesting cancellation of its pay telephone certificate in compliance with Rule 25-24.514(2)(a) and (b), Florida Administrative Code.

Accordingly, staff believes the Commission should grant the company a voluntary cancellation of its PATS certificate with an effective date of October 29, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Resource Express Inc. 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: 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. **(McKay)**

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.