



Public Service Commission - FPSC

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-M-E-M-O-R-A-N-D-U-M- COMMISSION CLERK

DATE: DECEMBER 23, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *VS m*

RE: DOCKET NO. 030727-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 7818 ISSUED TO FEDERAL CORRECTIONAL INSTITUTION MIAMI 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\030727.RCM

CASE BACKGROUND

- 05/30/01 - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 7818.
- 12/12/02 - The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF return notice. Payment was due by January 30, 2003.
- 02/21/03 - The Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 24, 2003.

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FPSC-COMMISSION CLERK

- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **05/21/03** - Staff wrote the company and explained that payment for the RAF needed to be paid by June 13, 2003, to avoid an enforcement docket from being established.
- **07/30/03** - Payment was not received; therefore, this docket was established.
- **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.
- **10/27/03** - Mr. Mike Holland, Controller, called staff and advised the company wished to resolve this docket and requested that the 2002 RAF return and information be faxed to him. The requested information was faxed to the company the same date.
- **10/29/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges, along with a letter proposing a settlement. The company reported revenues in the amount of \$147 for the period ended December 31, 2002.
- **12/15/03** - The Commission received the company's amended settlement proposal.

In Issue 1 of this recommendation, staff identifies Rule 25-4.0161, Florida Administrative Code, as that apparently violated by the company. The rule is incorporated by Rule 25-24.505, Florida Administrative Code. To avoid redundancy, hereafter, the recommendation refers only to Rule 25-4.0161, Florida Administrative Code.

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 Federal Correctional Institution Miami to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: 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 Florida Department of Financial Services 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. 7818 should be cancelled administratively. If Federal Correctional Institution Miami'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; 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.

On October 8, 2003, Order No. PSC-03-1123-PAA-TC was issued, which imposed a \$500 penalty or cancelled the company's certificate. The company responded timely to the Order by paying the past due amount in full and proposing a settlement. The company subsequently amended its settlement to include a \$100 contribution amount. In addition, the company's settlement letter 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.

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

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Commission should forward the contribution to the Florida Department of Financial Services 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. 7818 should be cancelled administratively. If Federal Correctional Institution Miami'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.

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.

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.