



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) *dji*
OFFICE OF THE GENERAL COUNSEL (ROJAS) *JR*

RE: DOCKET NO. 030710-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5909 ISSUED TO PUBLICALL TELECOMMUNICATIONS INC. FOR VIOLATION OF RULE 25-4.161, 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\030710.RCM

CASE BACKGROUND

- **09/15/98** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 5909.
- **05/07/01** - In a separate proceeding, Docket No. 010691-TC was established for nonpayment of the 2000 Regulatory Assessment Fee (RAF). The company subsequently paid the past due fee, including statutory late payment charges, and proposed a settlement. On October 8, 2001, Order No. PSC-01-1989-AS-TC was issued, which accepted the company's \$150 settlement. In addition, the company proposed to pay future RAFs on a timely basis. The company paid the \$150 contribution and the docket was closed.

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FPSC-COMMISSION CLERK

- **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 unopened delinquent notice stamped "unclaimed."
- **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.
- **07/28/03** - Payment was not received; therefore, this docket was established.
- **10/17/03** - Order No. PSC-03-1151-PAA-TC was issued, which imposed a \$1,000 penalty or cancelled the company's certificate. The company had until November 7, 2003, to respond to the Order.
- **10/28/03** - Ms. Jackie Cumberbatch called staff and advised she wished to resolve this docket and requested that the 2002 RAF return and information be faxed to her. The requested information was faxed to the company the same date.
- **11/06/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges, along with a letter proposing a \$500 settlement and payment of the \$500 contribution. The company reported no revenues for the period ended December 31, 2002.

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 Publicall Telecommunications Inc. 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. 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. **(Isler; Rojas)**

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 17, 2003, Order No. PSC-03-1151-PAA-TC was issued, which imposed a \$1,000 penalty for violation of the RAF rule for a second offense. On November 6, 2003, the Commission received the company's payment for the outstanding Regulatory Assessment Fee, including statutory late payment charges, and a letter from the company which offered to pay a \$500 contribution, along with payment of the \$500 contribution. In addition, the company proposed to pay future RAFs on a timely basis. The recommended settlement amount in this docket 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. 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.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission. **(Rojas)**

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission.