

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: DECEMBER 3, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Pyx RD*
DIVISION OF LEGAL SERVICES (WATTS) *Carly MLB*

RE: DOCKET NO. 981171-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 2924 ISSUED TO I.R.F., INC. D/B/A FERNANDEZ AMOCO, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/15/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981171.RCM

*RECEIVED
DEC 11 1998
11:30 AM
RECORDS AND REPORTING*

CASE BACKGROUND

Fernandez Amoco obtained Florida Public Service Commission Pay Telephone Certificate Number 2924 on March 5, 1992.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) did not return the receipt or unopened envelope.

The Division of Administration advised staff by memorandum that this company paid only a portion of its 1997 RAFs and none of the statutory penalties and interest for the year 1997.

DOCUMENT NUMBER-DATE

13448 DEC-1 88

FPSC-RECORDS/REPORTING

After the docket was opened, but prior to staff filing a recommendation, Mario Fernandez called and advised he wanted to keep his certificate, would pay the past due amount, and make a settlement proposal. This company has since paid all past due charges, including penalties and interest, submitted a proposed settlement offer of \$100, and agreed to take the necessary corrective action. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by I.R.F., Inc. d/b/a Fernandez Amoco to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept Fernandez Amoco's settlement offer. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. 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. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, 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.

The Division of Administration notified staff by memorandum that Fernandez Amoco did not pay the full amount of the regulatory assessment fees for the RAF year 1997 and none of the statutory penalties and interest charges.

On October 5, 1998, Mr. Mario Fernandez of Fernandez Amoco, called and stated that he wanted to keep his pay telephone certificate, would pay the past due amount, and make a settlement proposal. On October 13, 1998, the Commission received the company's past due charges in full (payment postmarked October 6, 1998) and a settlement proposal from the company. (ATTACHMENT A) The letter advised that the "unintentional error" was caused by an

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oversight on the part of the company and its accounting service in its failure to pay the full amount of the regulatory assessment fees. The company promised to pay the fee before January 30th of each year and offered to pay a \$100.00 settlement in lieu of having its certificate canceled.

Staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. 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.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1 and upon remittance of the \$100 contribution, this docket should be closed. (Watts)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, and upon remittance of the \$100 contribution, this docket should be closed. The contribution should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Chapter 364.285(1), Florida Statutes.

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ATTACHMENT A

I.R.F. Inc. dba
FERNANDEZ AMOCO
1390 N.W. 27th AVE.

October 5, 1998

To: Florida Public Service Commission

This letter is to state my regret that an unintentional error was made in the payment of the Regulatory Assessment Fees for Fernandez Amoco, pay telephone certificate no. 2924. This error was an oversight by both our accounting services and myself. At this time I have enclosed a check for the outstanding balance plus applicable interest and late fees(\$60.06). In addition, I would like to extend a good faith offer of settlement in the amount of \$100.00 in lieu of a fine or reprimand. I hope you will accept my apology for the inconvenience this mistake has caused. In the future I promise to pay this fee at the appropriate time, before January 30th of each year.

For your convenience please refer to the docket number I was given:

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Please contact me for any question or comment at (305) 635-6618.

Sincerely,



Mario Fernandez
Owner