



# Public Service Commission

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RECORDS AND REPORTING

**DATE:** APRIL 8, 1999

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAPO)

**FROM:** DIVISION OF COMMUNICATIONS (ISLER) *Dij PTT*  
DIVISION OF LEGAL SERVICES (COX) *WAC LCC for MEB*

**RE:** DOCKET NO. 981561-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 3046 ISSUED TO SOUTH FLORIDA BIOAVAILABILITY CLINIC FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

**AGENDA:** 04/20/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981561.RCM

### CASE BACKGROUND

South Florida Bioavailability Clinic obtained PATS Certificate No. 3046 on 06/02/92. The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the unopened envelope stamped "return to sender" and "unclaimed." The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalty and interest charges for the years 1995 and 1997.

On September 16, 1998, staff called the company and spoke with Mr. Arnold Hantman, who advised he would pay the the past due amount and make a settlement offer. Mr. Hantman asked staff to mail the correct form and the amounts due. Staff mailed the information on September 17, 1998 and requested a response by September 30, 1998.

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The Division of Administration records show that on December 1, 1998, the company paid the 1997 RAFs, a partial amount on the penalty, and none of the interest charge. In addition, the company did not pay the 1995 penalty and interest charge, plus the 1998 RAFs are still outstanding.

Staff called Mr. Hantman on January 28, 1999 and February 4, 1999, but each time he was in a meeting. Messages for a return call was left each time. As of April 1, 1999, the company has not paid the balance of the past due amount, filed a settlement offer, or returned staff's calls.

Staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel South Florida Bioavailability Clinic's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalties and interest, are not received, PATS Certificate No. 3046 should be canceled with an effective date of December 31, 1998. (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.

Staff was notified by the Division of Administration that the company had not paid its 1997 regulatory assessment fees, plus

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statutory penalties and interest. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

On September 16, 1998, staff called the company and spoke with Mr. Arnold Hantman, who advised he would pay the the past due amount and make a settlement offer. The Division of Administration records show that on December 1, 1998, the company paid the 1997 RAFs, a partial amount on the penalty, and none of the interest charge. In addition, the company did not pay the 1995 penalty and interest charge, plus the 1998 RAFs are still outstanding. As of April 1, 1999, the company has not paid the balance of the past due amount, filed a settlement offer, or returned staff's calls.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's certificate if the fine and the regulatory assessment fees, along with statutory penalty and interest charges, are not paid within five business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's certificate should be canceled with an effective date of December 31, 1998.

Staff called Mr. Hantman on January 28, 1999 and February 4, 1999, but each time he was in a meeting. Messages for a return call was left each time. As of April 1, 1999, the company has not paid the balance of the past due amount, filed a settlement offer, or returned staff's calls.

Accordingly, staff recommends that the Commission assess a \$10,000 fine for failure to comply with the Commission rules or cancel the company's certificate if the fine and response to staff inquiries as required by Rule 25-4.043, Florida Administrative Code, are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the required information and fine are not received, the certificate should be canceled.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes, if no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fine and fees, or cancellation of the certificate, this docket should be closed. (Cox)

**STAFF ANALYSIS:** Whether staff's recommendation on Issues 1 and 2 are approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon payment of the fine and fees, or upon cancellation of the certificate.