

State of Florida

REVISED RECOMMENDATION



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

RECEIVED-FPSC
9 MAY 26 AM 11:26
RECORDS AND REPORTING

DATE: MAY 6, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PIF*
DIVISION OF LEGAL SERVICES (K. PEÑA) *vmf CB*

RE: DOCKET NO. 981438-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5381 ISSUED TO BESTEL, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES.

AGENDA: 05/18/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981438.RCM

CASE BACKGROUND

- 07/18/97 - Bestel, Inc. obtained Florida Public Service Commission PATS Certificate No. 5381.
- 12/11/97 - The Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail.
- 12/13/97 - The United States Postal Service (USPS) returned the receipt, which showed that the RAF notice was signed for and delivered.
- 01/30/98 - The RAFs payment was due. The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalty and interest charges for the year 1997.

DOCUMENT NUMBER-DATE

05745 MAY-6 99

FPSC-RECORDS/REPORTING

DATE: MAY 6, 1999

- **01/26/99** - Order No. PSC-99-0160-FOF-TC was issued, which imposed a \$500 fine for nonpayment of the RAFs and required payment of the fine and past due amount by February 23, 1999.
- **02/23/99** - Staff was advised that the company had paid its 1997 RAFs on January 6, which was after the January 5, 1999 Agenda Conference, but prior to the Order being issued. Staff contacted the company's president, Mr. David Corsair, who advised that the company wanted to keep its certificate, would pay the 1998 RAFs, and would make a settlement offer.
- **04/12/99** - The company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.
- **04/15/99** - The Division of Administration's records reflect that the company has now paid the 1998 RAFs.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission reinstate Bestel, Inc.'s PATS Certificate No. 5381 and accept the settlement offer to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should reinstate Bestel, Inc.'s PATS Certificate No. 5381 and accept the company's settlement proposal. 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. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate should be canceled administratively with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: On January 26, 1999, Order No. PSC-99-0160-FOF-TC was issued which imposed a \$500 fine for nonpayment of the RAFs and required payment of the fine and past due amount by February 23,

1999. Since the past due regulatory assessment fees were not paid or the Order protested, the certificate was canceled and the docket closed.

After the docket was closed, staff was advised that the company had paid its 1997 RAFs on January 6, which was after the January 5, 1999 Agenda Conference, but prior to the Order being issued. Staff then contacted the company's president, Mr. David Corsair, who advised that the company wanted to keep its certificate, would pay the 1998 RAFs, which were still outstanding, and would make a settlement offer. The Division of Administration's records reflect that the company has now paid the 1998 RAFs. In addition, the company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.

On April 30, staff was made aware that this company's certificate had been canceled on February 23, after the original Order was issued. Staff's April 22nd recommendation on the settlement was deferred from the May 4, 1999 Agenda Conference in order for staff to address the cancellation.

Accordingly, staff believes the Commission should reinstate Bestel, Inc.'s PATS Certificate No. 5381 and accept the company's settlement proposal. 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. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate should be canceled administratively with an effective date of December 31, 1998.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.