



Public Service Commission

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RECORDS AND REPORTING

DATE: APRIL 6, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *DK*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *WMP/CK*

RE: DOCKET NO. 992013-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE SERVICE CERTIFICATE NO. 5381 ISSUED TO BESTEL, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 04/18/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\992013.RCM

CASE BACKGROUND

- 07/18/97 - This company was granted PATS Certificate No. 5381.
- 12/10/98 - The 1998 regulatory assessment fee (RAF) notice was mailed. Payment was due by February 1, 1999.
- 03/17/99 - The Division of Administration mailed a delinquent letter to the company.
- 04/03/99 - The Commission received a check for the 1998 RAF, which included statutory penalty and interest charges. The company reported no revenues on the 1998 RAF return for the period ended December 31, 1998.
- 06/01/99 - The company's check was returned by its bank. The Division of Administration wrote the company a letter and

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advised that it must replace the payment for the 1998 RAF, penalty, and interest charges.

- 06/08/99 - In a separate proceeding addressing prior unpaid RAFs, Order No. PSC-99-1180-FOF-TC was issued, in Docket No. 981438-TC, accepting the company's settlement offer to pay a \$100 contribution and proposal to pay future RAFs on a timely basis. The company paid the settlement and the docket was closed. The company's check for the \$100 settlement was later returned by its bank. The company repaid the \$100 on August 23, 1999.
- 12/08/99 - The 1999 RAF notice was mailed. Payment was due by January 31, 2000.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$1,000 fine or cancel Bestel, Inc.'s pay telephone certificate for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 fine or cancel the company's certificate if the fine and the 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 Pay Telephone Certificate No. 5381 should be canceled administratively. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

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's records show that the company paid its 1998 regulatory assessment fee, plus statutory penalty and interest charges on April 3, 1999. However, the check was later returned by the company's bank. The Division of Administration wrote the company concerning the returned check on June 1, 1999, and asked for repayment. As of March 29, 2000, the company has not paid the 1998 RAF, and, in addition, the 1999 RAF, plus penalty and interest charges, has not been paid. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

This is the second time a docket has been opened against this company for nonpayment of the regulatory assessment fee. Docket No. 981438-TC was opened for nonpayment of the 1997 RAF. On May 18, 1999, the Commission voted to accept the company's \$100 settlement, and on June 8, 1999, Order No. PSC-99-1180-FOF-TC was issued. The company paid the past due RAF, including statutory penalty and interest charges, and settlement amount, and the docket was closed. On August 18, 1999, the Division of Administration notified staff that the \$100 check had bounced. Staff called Mr. Corsair, the company's president, and he advised he would reissue the check. In addition, staff reminded him that his check for the 1998 RAFs had been returned by his bank and that it needed to be replaced. On August 23, 1999, the Commission received the company's replacement check for the \$100 settlement, but the replacement check for the 1998 RAFs was not received. As of March 29, 2000, the 1998 and 1999 RAFs, including statutory penalty and interest charges, remain unpaid.

Accordingly, staff recommends that the Commission assess a \$1,000 fine for failure to comply with the Commission rules or cancel the company's certificate if the fine and the 1998 and 1999 regulatory assessment fees, along with statutory penalty and interest charges, are not paid within five business days after the issuance of the Consummating Order. 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 Pay Telephone Certificate No. 5381 should be canceled administratively.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves or modifies staff's recommendation on Issue 1, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively. (K. Peña; B. Keating)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or modified, the result will be a proposed agency action order and this docket should be closed upon receipt of the fine and fees or cancellation of the certificate unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively.