

State of Florida



Public Service Commission

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

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REPORTING

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RECEIVED PSC

DATE: OCTOBER 22, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *APC*
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP MCB*

RE: DOCKET NO. 980813-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3446 ISSUED TO CARMAN COMMUNICATION, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 11/03/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980813.RCM

CASE BACKGROUND

Carman Communication, Inc., obtained Florida Public Service Commission Pay Telephone Certificate Number 3446 on October 1, 1993.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. Staff received the return receipt from the United States Postal Service (USPS) which showed that the RAF notice was signed for and delivered on December 13, 1997.

By memorandum dated June 29, 1998, the Division of Administration advised staff that Carman Communication, Inc. had

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PSC RECORDS REPORTING

not paid its 1997 RAFs, plus statutory penalties and interest for the year 1997.

On September 1, 1998, the same date of the Agenda Conference at which the Commission voted on this item, the Commission received a letter from the company apologizing for the oversight and promising to abide by Commission rules in the future. On September 22, 1998, the Commission issued Order No. PSC-98-1258-FOF-TC imposing a \$500 fine and requiring payment of the past due regulatory assessment fees or Carman Communications' certificate would be canceled. On September 16, 1998, the company paid its RAFs plus all statutory penalties and interest due. In addition, Carman Communication 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 Carman Communication, Inc. to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept Carman Communication, Inc.'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.

On June 29, 1998, staff learned that Carman Communication, Inc. had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges.

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On September 1, 1998, the same date of the Agenda Conference at which the Commission voted on this item, the Commission received a letter from the company. (ATTACHMENT A) The letter apologized for the oversight in its failure to pay the regulatory assessment fees and asked for consideration and an opportunity to "do better in the future."

On September 16, 1998, the company paid the full amount due to the Commission and proposed a settlement offer of \$100 in lieu of being required to pay the \$500 fine or having its certificate canceled. (ATTACHMENT B) The company stated that even paying the \$100 contribution would be a hardship, however, paying the \$500 fine would represent over two months' profit. In addition, the company again promised to submit all fees on time in the future.

On September 22, 1998, the Commission issued Order No. PSC-98-1258-FOF-TC, which required the company to pay a \$500 fine and the past due regulatory assessment fees, including statutory penalties and interest, or have its certificate canceled. The company had already paid the past due regulatory assessment fees by the time the Order was issued.

In recognition of its apparent violation of Rule 25-4.0161, Florida Administrative Code, the company formally responded to the Commission Order on October 12 by requesting that its previous correspondence dated September 14, 1998, be used as its response to the Order. (ATTACHMENT C) The company agreed to pay future regulatory assessment fees in a timely manner and contribute \$100 to the State General Revenue Fund. 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.

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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. (K. Peña)

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.

ORIGINAL

Carran Communication, Inc.
124 146th. Ave.
Madera Beach, FL 33708 - 2120

Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399 - 0850

August 27, 1998

Dear sirs:

This letter is in reference to your letter August 21 letter to me concerning my failure to pay PSC regulatory fees on time and the proposed penalties for this.

(Item No. 19**PAA Docket No. 980813 - TC)

This letter to you is not a 'protest', because in fact I did not pay the \$50.00 fee on time and there is no one to blame but myself for not paying and submitting the paperwork as required. All I can do is ask the consideration (or mercy) of the commission, offer an explanation of (NOT an excuse for) my failure, and promise to try to do better in the future.

In form of an explanation of the situation (there is no real excuse) my mother died last August 16 after many years of debilitating ill health at home. I was her primary caregiver and this did occupy me day and night. Since her death, it has fallen to me alone as executor to deal with her property (a real mess beyond belief) and the legion of squabbling relatives. I did simply become physically and emotionally overwhelmed and ignored many important aspects of my personal business as a result.

I realize that I am not unique; many people have elderly sick mothers die, and settle estates and deal with much more and still manage to keep up with their personal business.... but I fell behind and ignored many things that needed attention. My fault only.

As to the phone business, in 1993 I was taken in by a 800 Number business opportunity scam (make money with payphones!) I have only 15 payphone locations, many of which are marginal at best. The predatory aspects of the business have moved here from S. Florida and hardly a month goes by without an unscrupulous locator trying to forcibly remove one or more of the few phones I have left. The reality is that the \$500. fine you have proposed represents 2 months plus of very slim profits.... and I simply do not have \$500. to pay. I am otherwise employed by the Wackenhut Corp. as a security guard, and it requires nearly everything to just get by.

I realize that business is business, and that I have no one to blame but myself for falling behind. I can only ask for the consideration and mercy of the Commission and the opportunity of another chance to do better in the future.

Thank you for your consideration.....

Sincerely,

Michael R. Sheldon

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APP _____
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CMU _____
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DOCKET NO. 980813-TC
DATE: OCTOBER 1, 1998
ATTACHMENT B

DEPOSIT

DATE

DOOR

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10.50 P
4.50 I
9/15/98
A0

Carman Communication, Inc.
5125 8th. St. N.
St. Petersburg, FL 33703

Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399 - 0850

September 14, 1998

Dear sirs:

After speaking to Paula Isler today, I learned that my letter to the Commission of August 27 did not arrive in time for your September 1 agenda meeting.

In that letter, I offer some explanation for my laxity in paying my \$50. fee on time, but mostly I asked the forbearance and understanding of the Commission as the failure was no one's fault but my own. I also promised to do better in the future and submit all fees on time.

As mentioned in my letter, I have only 15 payphone locations....many marginal at best...and even these locations are under constant attack by predatory and unscrupulous competitors. I must again ask the mercy of the commission as a fine of \$500. would represent over 2 months profits....money that I just do not have to pay.

With due respect to the Commission, could I suggest a settlement amount of \$100. that I would be able to pay out of what I have coming in....? That will be difficult and cause hardship, but at least it is possible to do.

I realize that I did not submit the \$50. fee on time and there really is no valid excuse for this failure. I have now paid the overdue assessment fee with penalty and interest. I can only once again ask for the consideration of the Commission and the chance to do better and pay fees as due in the future.

Thank you for your consideration.....

Sincerely,

C. Boza Isler

Michael R. Sheldon

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SEP 16 1998
TALLAHASSEE

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DATE: OCTOBER 2 1998
ATTACHMENT C

P. 92

Carman Communication, Inc.
5125 8th. St. N.
St. Petersburg, FL 33703

Public Service Commission
2540 Shamard Oak Blvd.
Tallahassee, FL 32399 - 0850

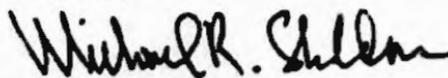
October 12, 1998

Dear sirs:

Would you please use my previous letter to the Commission (dated September 14, 1998) as my protest and settlement offer for order # PSC - 98 - 125B - FOF - TC.

Again, I just ask the patience and forbearance of the Commission on this matter...and I promise faithfully never to repeat this omission. Thank you for your consideration.....

Sincerely,



Michael R. Sheldon