



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

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COMMISSION
CLERK

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RECEIVED FPSC

DATE: AUGUST 23, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIE*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE*

RE: DOCKET NO. 010685-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5016 ISSUED TO THE TRAIN-TEL COMPANY FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/04/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010685.RCM

CASE BACKGROUND

- **12/27/96** - This company was granted Florida Public Service Commission Certificate No. 5016.
- **12/12/00** - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) return form. Payment was due January 30, 2001.
- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice.
- **04/10/01** - Staff faxed the company a copy of the 2000 RAF return form.

DOCUMENT NUMBER-DATE

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- **05/21/01** - Staff wrote the company and advised that this docket had been established for nonpayment of the 2000 RAF and to contact staff for its options.
- **06/11/01** - The Commission received the company's 2000 RAF return. The company reported no revenues for the period ended December 31, 2000. In addition, Mr. Sean Trainor, President, wrote a letter and stated he wished to keep the certificate active until he could "sell off the rest of the equipment." Mr. Trainor stated that he does not believe he owes any past due penalty and interest. Mr. Trainor also stated that he cannot afford a fine since he's already lost \$18,000 and requested that the fine be waived.
- **06/13/01** - Staff wrote Mr. Trainor and explained that the RAF is owed if a certificate is active for any day during a calendar year and whether or not the company had any revenues. Staff also explained that if the company wished to keep its certificate active, it should propose a settlement.
- **07/25/01** - The Commission received the company's payment for the past due amount in full, including statutory penalty and interest charges.
- **07/27/01** - The Commission received the company's proposed settlement, including a check for the proposed settlement amount.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by The Train-Tel Company to resolve the apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. 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, which implements Section 364.336, Florida Statutes, 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.

After this docket was opened, but prior to staff filing a recommendation, the Commission received the company's payment for the outstanding regulatory assessment fee, including statutory penalty and interest charges, and a letter from the company which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. A check for the \$500 was attached. In addition, the company's settlement proposal included a waiver of objection to the administrative cancellation of the company's certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of its offer. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. 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, this docket should be closed. (Elliott)

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