

State of Florida



Public Service Commission

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

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

DATE: NOVEMBER 19, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Dif* *120*
DIVISION OF LEGAL SERVICES (K. PERA) *mcB* *1/19*

RE: DOCKET NO. 981218-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4314 ISSUED TO M.C. TRADING & ASSOCIATES, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.

AGENDA: 12/01/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981218.RCM

RECEIVED-FPSC
 NOV 19 AM 10:41
 RECORDS AND REPORTING

CASE BACKGROUND

M.C. Trading & Associates obtained Florida Public Service Commission Pay Telephone Certificate Number 4314 on November 28, 1995.

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 31, 1997.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalties and interest for the years 1996 and 1997.

After the docket was opened, Mr. Edward Nnadi called staff and stated that he wanted to keep his certificate and would pay all past due charges and make a proposed settlement offer. The company has since paid the 1997 RAFs, plus statutory penalties and interest charges for 1996 and 1997, and made a proposed settlement offer to pay a \$30 contribution and pay future regulatory assessment fees by January 30 of each year. (ATTACHMENT A) Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by M.C. Trading & Associates, Inc. to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and Rule 25-24.520, F.A.C., Reporting Requirements?

RECOMMENDATION: No. The Commission should impose a \$500 fine for violation of Rule 25-4.0161, F.A.C., and a \$500 fine for violation of Rule 25-24.520, F.A.C., for a total of \$1,000, or cancel the company's certificate if the fines are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fines 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 fines are not received, pay telephone certificate number 4314 should be canceled. (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.

The Division of Administration notified staff by memorandum that M.C. Trading & Associates, Inc. had not submitted the

regulatory assessment fees for 1997, along with statutory penalties and interest charges for the years 1996 and 1997.

In addition, pursuant to Rule 25-24.520, Florida Administrative Code, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission.

Staff called the telephone number listed in the Master Commission Directory. The phone was answered by someone other than the company. Staff then called Directory Assistance and was unable to obtain a new listing for either the company or the liaison.

After the docket was opened but prior to filing the recommendation, the company liaison, Mr. Edward Nnadi called staff and stated he wanted to keep his certificate, would pay all past due charges, and make a settlement offer. In addition, Mr. Nnadi stated that the address on file in MCD was correct, however, his telephone number had changed. Mr. Nnadi provided staff with the correct telephone number.

On October 30, 1998, the company paid all outstanding charges, promised to pay the regulatory assessment fees by the due date in the future, and offered to make a \$30 contribution in lieu of having its certificate canceled or paying the full amount of the fine. (ATTACHMENT A)

In previous cases, the Commission has accepted a \$100 settlement for each violation in lieu of pay telephone companies having their certificate canceled or paying the full amount of the fines. In this case, the company's reason for "forgetting" to pay his regulatory assessment fees was "poor record keeping". In addition, the company did not offer any explanation of why it did not inform the Commission of its change of telephone number. Staff called the company to see if it was willing to revise its settlement proposal but was told no. Therefore, staff believes the company's proposed settlement offer should not be accepted.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should not be accepted. Instead, staff recommends that the Commission should impose a \$500 fine for violation of Rule 25-4.0161, F.A.C., and a \$500 fine for violation of Rule 25-24.520, F.A.C., for a total of \$1,000 or cancel the company's certificate if the fines are not

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received by the Commission within five business days after the conclusion of the 21-day protest period. The fines 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 fines are not received, pay telephone certificate number 4314 should be canceled.

ISSUE 2: 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 fines or cancellation of the certificate, this docket should be closed. (K. Peña)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is 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 fines or upon cancellation of the certificate.

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ATTACHMENT A

MC Trading & Asso. Inc
Box 170644
Hialeah FL 33017
ph 305-829-7215

Docket # 981218-TC

Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RECEIVED
PUBLIC SERVICE COMMISSION
OCT 30 AM 8 07
MAIL ROOM

Dear Mrs. L. Isher.

I spoke you this morning in reference to my certificate, Docket # 981218-TC, please forgive me for my poor record keeping, that is the reason why I forget to pay my annual fee of \$50.00.

However, I am no longer in pay phone business, but I really want to keep my certificate active and there by promise to pay my Annual fees on time. I also make offer of \$30.00 in that regards, to keep my certificate active.

Thanks very much for your
Sincerely cooperations
faithfully

Edward H. H. H.

RAF = 50.00

PJI = 23.00