



Public Service Commission

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RECORDS AND REPORTING

DATE: JUNE 29, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BA50)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Dji*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *RA*

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: 07/11/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

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

CASE BACKGROUND

- **07/18/97** - Bestel, Inc. 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 notice to the company.
- **04/03/99** - The Commission received a check in the amount of \$70.00 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.
- **05/18/99** - The company's check for \$70.00 for the 1998 RAF was returned by its bank stamped "funds on hold" and "uncollected"

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funds." The Division of Administration wrote the company a letter and advised that it must replace the check for the RAF, penalty, and interest charges, along with a \$15.00 returned check charge.

- **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 12, 1999.
- **12/08/99** - The 1999 RAF notice was mailed. Payment was due by January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice for the 1999 RAF.
- **03/28/00** - The Commission received a check in the amount of \$112.00 for the 1999 RAF, penalty, and interest charges. The check was to pay \$56.00 each for Bestel, Inc. and Yvanne Mesidor. Bestel, Inc. reported no revenues on the 1999 RAF return for the period ended December 31, 1999.
- **04/17/00** - The company's check in the amount of \$112.00 for the 1999 RAF was returned by its bank stamped "account closed."
- **04/18/00** - The Commission voted at the Agenda Conference to fine the company \$1,000 or cancel Bestel's certificate.
- **04/27/00** - Mr. David Corsair, President, called staff and stated that he believed he had repaid the check that was returned, but that he needed additional time to research his records. In addition, he asked staff to fax him information on how to resolve this docket.
- **05/02/00** - Staff faxed information to the company on how to resolve this docket. In addition, Order No. PSC-00-0859-PAA-TC was issued to fine the company \$1,000 or cancel its certificate.

- **05/16/00** - The Commission received a check in the amount of \$85.50 for the 1998 RAF, penalty, interest, and returned check service charge, along with a settlement proposal.
- **06/08/00** - The company's check in the amount of \$85.50 for the 1998 RAF was returned by its bank stamped "account closed."
- **06/16/00** - As of this date, the company's checks for the 1998 and 1999 RAFs, including penalty and interest charges, have been returned by its bank.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Bestel, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: No. The Commission should not accept Bestel, Inc.'s settlement offer, which proposed to pay a \$500 contribution and future regulatory assessment fees on a timely basis. In addition, Order No. PSC-00-0859-PAA-TC proposing to cancel Bestel, Inc.'s certificate should be rendered a Final Order. If the company fails to pay with a cashier's check or money order in full the required 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, the returned check service charges, and \$1,000 fine within five business days of the issuance of the Order from this recommendation, Bestel's Certificate No. 5381 should be canceled in accordance with Order No. PSC-00-0859-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. (Isler)

STAFF ANALYSIS: Order No. PSC-00-0859-PAA-TC, issued on May 2, 2000, was never consummated because the company paid the 1998 RAF, including penalty and interest charges, and proposed a settlement. However, the company's check for the 1998 RAF payment was later returned by its bank. In addition, the company's check for the 1999 RAF payment was returned by its bank.

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Bestel, Inc. did not file a response to the Commission's proposed agency action order as required by Rule 28-106.201, Florida Administrative Code, and did not request a hearing. The settlement letter included its check for the 1998 RAF, but it was later returned by the bank, thereby rendering the account unpaid. Mr. Corsair was previously advised in a telephone conversation that staff could not recommend acceptance of his settlement offer when the RAFs were not paid in full. Bestel, Inc. has a history of late payments and returned checks. In addition, in Docket No. 981438-TC, the company proposed to pay future RAFs on a timely basis, therefore, Bestel is in noncompliance of its previous settlement proposal. As of June 16, 2000, the 1998 and 1999 RAFs, including statutory penalty and interest charges, remain unpaid.

Therefore, staff recommends that the Commission should not accept Bestel, Inc.'s settlement offer, which proposed to pay a \$500 contribution and future regulatory assessment fees on a timely basis. Although the company mailed the Commission checks for the 1998 and 1999 RAFs, all checks were returned by the company's bank and the RAFs remain unpaid as of June 16, 2000. As such, the settlement should be rejected.

In addition, Bestel has failed to respond to Order No. PSC-00-0859-PAA-TC in accordance with Rule 25-22.029, Florida Administrative Code. Therefore, Order No. PSC-00-0859-PAA-TC proposing to cancel Bestel, Inc.'s certificate should be rendered a Final Order. If the company fails to pay with a cashier's check or money order in full the required 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, the returned check service charges, and \$1,000 fine within five business days of the issuance of the Order from this recommendation, Bestel's Certificate No. 5381 should be canceled in accordance with Order No. PSC-00-0859-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation on Issue 1, this docket should be closed upon receipt of the required 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, the returned check service charges, and \$1,000 fine, or cancellation of the certificate. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon receipt of the required 1998 and 1999 regulatory assessment fees, including statutory penalty and interest charges, the returned check service charges, and \$1,000 fine, or cancellation of the certificate.