

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-**

RECEIVED-FPSC  
MAY 6 AM 11:25  
RECORDS AND REPORTING

**DATE:** MAY 6, 1999

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP CB*

**RE:** DOCKET NO. 981436-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 5356 ISSUED TO N.T. ENTERPRISE GROUP, INC. D/B/A HARRIS & CO THE RESTAURANT, FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 05/18/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981436.COM

### CASE BACKGROUND

- 06/11/97 - Harris & Co The Restaurant obtained Florida Public Service Commission PATS Certificate No. 5356.
- 12/11/97 - The Division of Administration mailed the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt, which showed the RAF notice was signed for and delivered on 12/13/97.
- 01/26/99 - Order No. PSC-99-0160-FOF-TC was issued, which imposed a \$500 fine and required payment of the fine and past due fees by February 23, 1999 or canceled the company's certificate.

DOCUMENT NUMBER-DATE

05739 MAY-6 99

FPSC-RECORDS/REPORTING

- 03/04/99 - The Division of Administration notified staff that the company's 1998 RAF form was returned by the company and was received by the Commission on February 8, 1999. The form was signed by the treasurer, Mr. Henry Bruscano, and stated that the company had previously requested that its certificate be canceled.
- 03/08/99 - Staff wrote the company a letter and requested a copy of its previous letter requesting cancellation of its certificate and payment of the past due regulatory assessment fees.
- 04/20/99 - The Commission voted to deny the company's request for a voluntary cancellation since the regulatory assessment fees had not been received.

Staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission reinstate PATS Certificate No. 5356 and grant Harris & Co The Restaurant a voluntary cancellation of its certificate?

**RECOMMENDATION:** Yes, the Commission should reinstate PATS Certificate No. 5356 and grant the company a voluntary cancellation of the certificate with an effective date of October 25, 1998. (Isler)

**STAFF ANALYSIS:** Order No. PSC-99-0160-FOF-TC was issued on January 26, 1999, which imposed a \$500 fine, required payment of the fine and past due regulatory assessment fees, or canceled the certificate. The company had until February 16 to respond to the Order and until February 23 to pay the fine and past due fees or the company's certificate would be canceled. When the Order had not been protested or the past due amount paid, the certificate was canceled and the docket closed.

However, on March 4, staff learned that on February 8, the Division of Administration, had received a copy of the company's 1998 RAF form. The form had a note which stated that the company

had previously requested its certificate be canceled. As soon as staff learned of the note, staff requested the Division of Records and Reporting to reopen the docket since the note on the RAF form was received within the protest period.

On March 8, 1999, staff wrote the company and asked for a copy of its letter where it had previously requested cancellation of its certificate and explained that, depending upon the date of its previous letter, regulatory assessment fees would still be due. By April 8, 1999, the company had not provided a copy of its previous correspondence or paid the past due fees, therefore, a recommendation was filed. The Commission denied the company a voluntary cancellation of its certificate at the April 20, 1999 Agenda Conference.

On April 23, 1999, the company paid the 1997 and 1998 regulatory assessment fees, including penalty and interest charges, and provided staff a copy of its letter dated October 25, 1998, which requested voluntary cancellation of its certificate.

Accordingly, staff believes the Commission should reinstate PATS Certificate No. 5356 and grant the company a voluntary cancellation of the certificate with an effective date of October 25, 1998.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, no other issues remain unresolved and this docket should be closed.