

Talbott : *WV*  
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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

December 4, 1997

RECEIVED

DEC 04 1997

11:25

FPSC-Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB RIT*  
DIVISION OF ADMINISTRATION (LAKE) *LAKE*  
DIVISION OF LEGAL SERVICES (PELLEGRINI) *GMB*

RE: DOCKET NO. 971331-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4283 ISSUED TO NAUM ITSKOV FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 12/16/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971331TC.RCM

CASE BACKGROUND

- Naum Itskov (Mr. Itskov) obtained Florida Public Service Commission Pay Telephone certificate number 4283 on October 12, 1995.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Mr. Itskov that he was delinquent on his regulatory assessment fees for the year 1996. The letter was signed for and received, but to date, no response has been received by staff (Attachment A, Page 4).
- As of December 1, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by Mr. Itskov.

DOCUMENT NUMBER-DATE

12380 DEC-45

FPSC-RECORDS/REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Mr. Itskov's Pay Telephone Certificate No. 4283 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel Mr. Itskov's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine 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 fine and the regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 4283 should be canceled. (Biegalski)

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 December 1, 1997, staff learned that Mr. Itskov had not submitted the regulatory assessment fees for the year 1996, along with statutory penalties and interest charges. Therefore, he has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 4283 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: 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 and fees, or cancellation of the certificate, this docket should be closed. (Pellegrini)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Mr. Itskov will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees, or upon cancellation of the certificate.

Is your RETURN ADDRESS completed on the reverse side?

<b>SENDER:</b> <ul style="list-style-type: none"><li>• Complete items 1 and/or 2 for additional services.</li><li>• Complete items 3, 4a, and 4b.</li><li>• Print your name and address on the reverse of this form so that we can return this card to you.</li><li>• Attach this form to the front of the mailpiece, or on the back if space does not permit.</li><li>• Write "Return Receipt Requested" on the mailpiece below the article number.</li><li>• The Return Receipt will show to whom the article was delivered and the date delivered.</li></ul>		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: <b>TF 479</b>	4a. Article Number	4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print name)	7. Date of Delivery <b>6/6/97</b>	8. Addressee's Address (Only if requested and fee is paid)
6. Signature: (Addressee or Agent) <b>X [Signature]</b>		

PS Form 3811, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

December, 1996, for the period of January 1, 1996, through December 31, 1996. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fee are due to the Florida Public Service Commission by January 30 of the subsequent year. Mr. Itskov was notified of his delinquency on June 3, 1997. The Commission's correspondence regarding the regulatory assessment fees was received but not acknowledged. The company has been given adequate opportunity to pay. To date, Mr. Itskov has not paid the required fee.

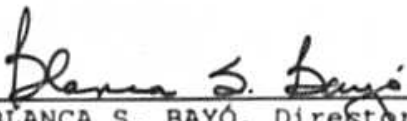
For the reason described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Mr. Itskov's certificate, unless Mr. Itskov pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, and remits the past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. Mr. Itskov must comply with these requirements within five business days from the date this Order becomes final. The fine will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fee, statutory penalties, interest charges, and fine are received, this docket shall be closed. Should Mr. Itskov fail to comply with this Order within five business days from the date this Order becomes final, Mr. Itskov shall have his certificate canceled and the docket will be closed. The cancellation of the certificate and the closing of the docket in no way diminishes Mr. Itskov's obligation to pay the applicable delinquent regulatory assessment fee, statutory penalties, and interest charges.

Should Mr. Itskov's certificate be canceled, all certificated local exchange companies are instructed to discontinue service to Mr. Itskov, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. Any certificated local exchange company providing service to Mr. Itskov must contact the Commission at the conclusion of the response period indicated herein in order to determine if Mr. Itskov's certificate has been canceled.

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By ORDER of the Florida Public Service Commission this 6th  
day of January, 1998.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

AED

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 27, 1998.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.