

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-

RECEIVED-FPSC
3 AUG 20 AM 11:24
RECORDS AND REPORTING

DATE: AUGUST 20, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *DJC*
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP MCB*

RE: DOCKET NO. 980812-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3408 ISSUED TO ZEPHYRHILLS CINEMA 6, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/01/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: 3:\PSC\CMU\WP\980812.RCM

CASE BACKGROUND

Zephyrhills Cinema 6, obtained Florida Public Service Commission Pay Telephone Certificate Number 3408 on August 25, 1993.

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 showing that the RAF notice was signed for and delivered on December 15, 1997.

By memorandum dated June 29, 1998, the Division of Administration advised staff that Zephyrhills Cinema 6 had not paid its 1997 RAF, plus statutory penalties and interest for the years

DOCUMENT NUMBER-DATE

08948 AUG 20 98

FPSC-RECORDS/REPORTING

1993, 1994, 1995, and 1997. On July 29, 1998, the Commission received the minimum \$50 for 1997 RAF; however, the company did not pay the statutory penalties and interest for the years 1993, 1994, 1995, and 1997. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Zephyrhills Cinema 6's pay telephone certificate number 3408 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and statutory penalties and interest are not received by the Commission within five 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 statutory penalties and interest, are not received, certificate number 3408 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.

On June 29, 1998, staff learned that Zephyrhills Cinema 6 had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the years 1993, 1994, 1995, and 1997.

After staff opened this docket but prior to filing the recommendation, on July 29, 1998, Zephyrhills Cinema 6 paid the regulatory assessment fees for 1997. However, the company did not pay the past due statutory penalties and interest charges. Therefore, staff believes the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and that a fine is appropriate.

DOCKET NO. 980812
DATE: AUGUST 20, 1998

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel certificate number 3408 if the fine and the statutory penalties and interest, are not paid within five 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 statutory penalties and interest, are not received, certificate number 3408 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 fine and fees, or cancellation of the certificate, this docket should be closed. (Peña)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Zephyrhills Cinema 6 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.