



# Public Service Commission

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RECORDS AND REPORTING

DATE: DECEMBER 3, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Dji*  
DIVISION OF LEGAL SERVICES (MCKINNEY) *gum MCB*

RE: DOCKET NO. 981306-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4171 ISSUED TO RELIABLE PAY-PHONE COMMUNICATIONS, INC. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES

AGENDA: 12/15/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981306.RCM

### CASE BACKGROUND

Reliable Pay-Phone Communications, Inc. obtained Certificate Number 4171 on May 18, 1995. On December 11, 1997, the Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the notice was signed for and delivered on December 13, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of November 23, 1998, this company has not paid the past due amount.

Staff wrote this company two certified letters concerning a consumer complaint. The USPS returned both receipts which showed that the letters were signed for and delivered to the company. The

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company did not respond to either of staff's letters. As of November 23, the company has not responded to the consumer complaint nor paid the regulatory assessment fees and statutory penalties and interest.

Staff believes the following recommendations are appropriate.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel Reliable Pay-Phone Communications, Inc.'s pay telephone certificate number 4171 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 Reliable Pay-Phone Communications, Inc.'s certificate if the fine and the regulatory assessment fees, including 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 regulatory assessment fees, including statutory penalties and interest, are not received, the pay telephone certificate number should be canceled with an effective date of December 31, 1998. (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.

Staff was notified by the Division of Administration that this company had not paid its 1997 regulatory assessment fees, plus statutory penalties and interest charges for the year 1997. Therefore, the company has failed to comply with Rule 25-4.0161,

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Florida Administrative Code, Regulatory Assessment Fees;  
Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's certificate number 4171 if the fine and the regulatory assessment fees, along with 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 regulatory assessment fees, including statutory penalties and interest, are not received, the certificate should be canceled with an effective date of December 31, 1998.

**ISSUE 2:** Should the Commission impose a \$10,000 fine or cancel Reliable Pay-Phone Communications, Inc.'s pay telephone certificate number 4171 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

**RECOMMENDATION:** Yes. The Commission should impose a \$10,000 fine or cancel the company's certificate number 4171 if the company does not respond to staff's request for information as required by Rule 25-4.043, Florida Administrative Code and the fine is 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 required response and fine are not received, pay telephone certificate number 4171 should be canceled with an effective date of December 31, 1998. (Isler)

**STAFF ANALYSIS:** Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Rule 25-4.043, Florida Administrative Code, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

On August 10, 1998, staff wrote the company a certified letter concerning a consumer complaint. A response was requested by August 27, 1998. The USPS returned the receipt which showed that the letter was signed for and delivered on August 15, 1998. When a response was not received, staff wrote the company a second certified letter on September 8, 1998, and requested a response by September 18, 1998. The USPS returned the receipt which showed the certified letter was signed for and delivered on September 24, 1998.

Accordingly, staff recommends that the Commission assess a \$10,000 fine for failure to comply with the Commission rules or

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cancel the company's certificate if the fine and response to staff inquiries as required by Rule 25-4.043, Florida Administrative Code, 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 required information and fine are not received, the certificate should be canceled with an effective date of December 31, 1998.

**ISSUE 3:** 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 and fees, or cancellation of the certificate, this docket should be closed. (McKinney)

**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 and fees, or upon cancellation of the certificate.