



# 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 12-18-98  
RECORDS AND REPORTING  
DEC 18 PM 4:23

**DATE:** DECEMBER 22, 1998

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

**FROM:** DIVISION OF COMMUNICATIONS (ISLER) *Pji*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *mp mcb*

**RE:** DOCKET NO. 981455-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5351 ISSUED TO JOSEPH WAYNE WATERS FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS

**AGENDA:** 01/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981455.RCM

### CASE BACKGROUND

Joseph Wayne Waters obtained Certificate Number 5351 on May 16, 1997. 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 19, 1997. The Division of Records and Reporting notified staff by memorandum that other mail to this company was returned by the USPS marked "return to sender", "box closed, no forwarding order", and "unable to forward." The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest charges for the year 1997. As of December 9, 1998, the company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

DOCUMENT NUMBER-DATE

14204 DEC 18 98

FPSC-RECORDS/REPORTING

Staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel Joseph Wayne Waters' pay telephone certificate number 5351 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 Joseph Wayne Waters' pay telephone certificate number 5351 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, pay telephone certificate number 5351 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 Joseph Wayne Waters had not paid its 1997 regulatory assessment fees, plus statutory penalties and interest for the year 1997. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel Joseph Wayne Waters' pay telephone certificate number 5351 if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the

DOCKET NO. 981455 C  
DATE: DECEMBER 22, 1998

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, pay telephone certificate number 5351 should be canceled with an effective date of December 31, 1998.

**ISSUE 2:** Should the Commission impose a \$500 fine or cancel Joseph Wayne Waters' pay telephone certificate number 5351 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the information required by Rule 25-24.520, F.A.C. and fine 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, pay telephone certificate number 5351 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.

Pursuant to Rule 25-24.520, Florida Administrative Code, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to Joseph Wayne Waters was returned to the Commission by the USPS. It is been well over 10 days and staff has not been informed of the providers' correct mailing address, phone number, or liaison information, nor has the company requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel the company's certificate if the information required by Rule 25-24.520, F.A.C. and fine 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

DOCKET NO. 981455-AC  
DATE: DECEMBER 22, 1998

is not protested and the required information and fine are not received, pay telephone certificate number 5351 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. (K. Peña)

**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.