



# 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  
59 JAN - 7 AM 10:09  
RECORDS AND REPORTING

DATE: JANUARY 7, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Pij* *ED*  
DIVISION OF LEGAL SERVICES (MILLER/K. PERA) *Jam* *MLB*

RE: DOCKET NO. 981512-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4338 ISSUED TO DOUGLAS HERMESCH D/B/A BUDGET COMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 01/19/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981512.RCM

### CASE BACKGROUND

Douglas Hermesch d/b/a Budget Communications obtained Certificate Number 4338 on 11/23/95. The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the unopened envelope stamped "return to sender" and "unclaimed." The envelope indicates the USPS attempted delivery on 12/15/97 and 12/27/97. 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 December 30, 1998, this company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

00254 JAN-78

FPSC-RECORDS/REPORTING

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission impose a \$1,000 fine or cancel Douglas Hermes d/b/a Budget Communications' pay telephone certificate number 4338 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should impose a \$1,000 fine or cancel the company'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, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

This is the second time a docket has been opened against this company for nonpayment of the regulatory assessment fees. The first time was Docket No. 961117-TC, in which the company did not pay its 1995 RAFs. The company paid the RAFs after staff filed the recommendation but prior to Agenda. Therefore, the docket was closed administratively.

In previous cases, the Commission has imposed a \$500 fine for failure to pay regulatory assessment fees. However, since this is the second docket to be opened for the same rule violation, staff believes a \$1,000 fine is appropriate.

Accordingly, staff recommends that the Commission assess a \$1,000 fine for failure to comply with the Commission rules or cancel the company's certificate number 4338 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 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. (Miller/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 fine and fees, or upon cancellation of the certificate.