



Public Service Commission

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DATE: MARCH 16, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER)
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING)

RE: DOCKET NO. 992009-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 1788 ISSUED TO SUNSHINE SHELL FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 03/28/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\992009.RCM

CASE BACKGROUND

- 12/24/87 - This company was granted PATS Certificate No. 1788.
- 12/10/98 - The 1998 regulatory assessment fee (RAF) notice was mailed. Payment was due by February 1, 1999.
- 03/17/99 - The Division of Administration mailed a delinquent letter to the company.
- 03/23/99 - The Commission received a partial payment for the 1998 RAF and none of the statutory penalty and interest charges.
- 09/23/99 - Staff called the owner, Mr. Reuven Zfat. He advised that he would pay the past due balance for 1998, plus

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the penalty and interest charges for the years 1992, 1994, 1995, and 1998.

- 12/23/99 - As of this date, the past due amount was not paid, therefore, this docket was opened.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Sunshine Shell's pay telephone certificate for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 penalty and interest charges, are not received, the company's Pay Telephone Certificate No. 1788 should be canceled administratively. (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 25-4.0161, 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.

The Division of Administration's records show that the company had not paid its 1998 regulatory assessment fee in full, plus statutory penalty and interest charges for 1992, 1994, 1995 and 1998. Before staff opened the docket, the company's owner was contacted and staff was advised that the past due amount would be paid in full. As of March 8, 2000, there has been no further contact and Commission records show that the RAF remains unpaid. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not 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 for failure to comply with the Commission rules or cancel the company's certificate if the fine and the regulatory assessment

fees, along with statutory penalty and interest charges, are not paid within five business days after the issuance of the Consummating Order. 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 penalty and interest charges, are not received, the company's pay telephone certificate should be canceled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves or modifies staff's recommendation on Issue 1, this docket should be closed upon receipt of the fine and fees or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively. (K. Peña; B. Keating)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or modified, the result will be a proposed agency action order and this docket should be closed upon receipt of the fine and fees or cancellation of the certificate unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. If the Commission denies staff's recommendation on Issue 1, this docket should be closed administratively.