

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-

DATE: SEPTEMBER 14, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Dij*
DIVISION OF LEGAL SERVICES (BANKS) *MB JLC*

RE: DOCKET NO. 000968-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4368 ISSUED TO JAMES M. BRACEWELL D/B/A SOUTHERN TELECOMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/26/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000968.RCM

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CASE BACKGROUND

- **01/06/96** - This company was granted PATS Certificate No. 4368.
- **10/15/97** - In a separate proceeding concerning prior unpaid 1996 Regulatory Assessment Fees (RAFs) for the company's PATS certificate, Docket No. 971340-TC was established. On November 25, 1997, the company paid the past due RAF prior to staff filing its recommendation, therefore, the docket was closed with no further action.
- **02/19/99** - In a separate proceeding addressing prior unpaid 1997 RAFs, Order No. PSC-99-0340-AS-TC was issued in Docket No. 981273-TC, accepting the company's settlement offer to pay a \$500 contribution in 10 installments and its proposal to pay

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future RAFs on a timely basis. The company paid the settlement as ordered and the docket was closed.

- **03/29/99** - The Commission received the company's 1998 RAF, along with statutory penalty and interest charges, for the period ended December 31, 1998. The company reported no revenues on its 1998 RAF Return.
- **12/08/99** - The 1999 RAF notice was mailed. Payment was due by January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice to the company.
- **09/05/00** - As of this date, the company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should James M. Bracewell d/b/a Southern Tele-Communications' Pay Telephone Certificate No. 4368 be cancelled for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should cancel James M. Bracewell d/b/a Southern Tele-Communications' Pay Telephone Certificate No. 4368 for apparent violation of Rule 25-4.0161, F.A.C. If the past due fee, including statutory penalty and interest charges, is not received within five business days after the issuance of the Consummating Order, the amount shall be turned over to the Office of the Comptroller for collection. If the Commission's Order is not protested, the company's Certificate No. 4368 should be cancelled 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 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, which implements Section 364.336, Florida Statutes, 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 1999 regulatory assessment fee, plus statutory penalty and interest charges as of September 5, 2000. 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.

James M. Bracewell d/b/a Southern Tele-Communications has a history of late payments. The company's certificate became effective January 6, 1996, and every year the company has paid after the due date. In addition, two other dockets were established for nonpayment of the regulatory assessment fees. In

the latest docket, No. 981273-TC, the company proposed to pay future RAFs on a timely basis, therefore, Southern Tele-Communications is in noncompliance of its previous settlement proposal. Since this is the third docket established for nonpayment of the RAFs, Southern Tele-Communications should be well aware when the fees are due each year. To staff's knowledge, this is the first time a company has had three dockets established for nonpayment of the RAFs. This case is unique in that there is not a comparable previous Commission decision; therefore, staff believes that cancellation of the company's certificate is the appropriate method of completing this docket.

Accordingly, staff recommends that the Commission should cancel James M. Bracewell d/b/a Southern Tele-Communications' Pay Telephone Certificate No. 4368 for apparent violation of Rule 25-4.0161, F.A.C. If the past due fee, including statutory penalty and interest charges, is not received within five business days after the issuance of the Consummating Order, the amount shall be turned over to the Office of the Comptroller for collection. If the Commission's Order is not protested, the company's Certificate No. 4368 should be cancelled administratively.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon 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.
(Banks)

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 cancellation of the certificate.