

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-**

RECORDED-PPSC  
DEC 20 AM 11:16  
RECORDS AND REPORTING

**DATE:** DECEMBER 20, 2000

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *PK* *BD*  
DIVISION OF LEGAL SERVICES (BANKS) *PKB* *E.J.F.*

**RE:** DOCKET NO. 001037-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5569 ISSUED TO TIMOTHY J. BRYANT D/B/A BRYTEL COMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 01/02/01 - REGULAR AGENDA - FINAL ACTION

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\001037.RCM

**CASE BACKGROUND**

- **02/07/98** - This company was granted Pay Telephone Certificate No. 5569.
- **02/11/99** - The Commission received this company's 1998 RAF Return. The company reported no revenues for the period ended December 31, 1998.
- **12/08/99** - The 1999 Regulatory Assessment Fee (RAF) Notice was mailed. Payment was due 01/31/00.
- **02/29/00** - The Division of Administration mailed the Delinquent Notice.
- **09/29/00** - Order No. PSC-00-1787-PAA-TC was issued, which imposed a \$500 fine or cancelled the company's certificate. The company had until October 20 to protest the Order.

DOCUMENT NUMBER-DATE

16244 DEC 20 00

FPSC-RECORDS/REPORTING

DOCKET NO. 001037-TC  
DATE: DECEMBER 20, 2000

- **10/06/00** - The Commission received a letter from Mr. Bryant, owner, responding to the Order.
- **10/30/00** - Staff wrote the company and requested a copy of its 1998 correspondence.
- **12/13/00** - As of this date, the company has not paid the past due balance or contacted staff.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes. Accordingly, staff believes the following recommendation is appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should Order No. PSC-00-1787-PAA-TC be rendered a Final Order and Docket No. 001037-TC closed?

**RECOMMENDATION:** Yes. The company has not submitted a Response to the Commission's Proposed Agency Action Order in compliance with Rule 28-106.201, Florida Administrative Code. Therefore, Order No. PSC-00-1787-PAA-TC should be rendered a Final Order. If the company fails to pay in full the required fees, including statutory penalty and interest charges, within five business days of the issuance of the Order from this recommendation, Brytel Communications' Certificate No. 5569 should be cancelled effective October 6, 2000 and in accordance with Order No. PSC-00-1787-PAA-TC. Whether or not Brytel Communications pays the required 1999 fees, and penalty and interest charges for 1998 and 1999, this docket should be closed upon expiration of the five business days as no further action by the Commission is required. If Brytel Communications fails to pay the 1999 regulatory assessment fee, plus the 1998 and 1999 statutory penalty and interest charges, the unpaid fees should be forwarded to the Office of the Comptroller for further collection efforts. (Isler; Banks)

**STAFF ANALYSIS:** By Order No. PSC-00-1787-PAA-TC, issued September 29, 2000, the company was required to respond to the Order by October 20, 2000. On October 6, 2000, the Commission received a response from the company.

Mr. Bryant stated that he had not pursued the payphone business since the certificate was issued. He further stated that "In no way should there be any penalties regarding the certification. A letter was issued in 1998 stating the request for cancellation of certificate 5569."

Staff obtained a copy of Mr. Bryant's 1998 RAF Return and copy of his check dated February 11, 1999 for the minimum \$50.00 fee. The RAF return showed no payphones in operation at the end of the period covered, December 31, 1998, but there was also no notation on the RAF return or check requesting cancellation of the certificate. In addition, staff confirmed with the Division of Administration that no correspondence was received with the RAF Return and payment.

On October 30, 2000, staff wrote Mr. Bryant and explained that the Commission did not have record of receiving any request for cancellation of his certificate. Staff requested a copy of his

DOCKET NO. 001037-TC  
DATE: DECEMBER 20, 2000

1998 correspondence requesting cancellation of the certificate so that it could be reviewed. As of December 13, 2000, the Commission has not heard from Mr. Bryant. Staff emphasizes that Brytel Communications did not file a response to the Commission's Proposed Agency Action Order as required by Rule 28-106.201, Florida Administrative Code, and did not request a hearing. Instead, the company simply advised that it had previously requested cancellation.

In addition, under Section 364.336, Florida Statutes, certificate holders are responsible for RAFs if the certificate was active during any portion of the calendar year. A RAF return notice for the year 2000 has been mailed to the company. Neither the cancellation of its certificate nor the the failure to receive its RAF return notice for the year 2000 shall relieve Linda J. Terry from its obligation to pay the RAF for the year 2000.

Therefore, staff recommends that Order No. PSC-00-1787-PAA-TC should be rendered a Final Order. If the company fails to pay in full the required fees, including statutory penalty and interest charges, within five business days of the issuance of the Order from this recommendation, Brytel Communications' Certificate No. 5569 should be cancelled effective October 6, 2000 and in accordance with Order No. PSC-00-1787-PAA-TC. Whether or not Brytel Communications pays the required 1999 fees, and penalty and interest charges for 1998 and 1999, this docket should be closed upon expiration of the five business days as no further action by the Commission is required. If Brytel Communications fails to pay the 1999 regulatory assessment fee, plus the 1998 and 1999 statutory penalty and interest charges, the unpaid fees should be forwarded to the Office of the Comptroller for further collection efforts.