

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-

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RECORDS AND REPORTING

**DATE:** OCTOBER 22, 1998

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

**FROM:** DIVISION OF COMMUNICATIONS (ISLER) *Pji*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *UMP MCB*

**RE:** DOCKET NO. 980812-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3408 ISSUED TO ZEPHYRHILLS CINEMA 6, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 11/03/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\980812.RCM

### CASE BACKGROUND

Zephyrhills Cinema 6, obtained Florida Public Service Commission Pay Telephone Certificate Number 3408 on August 25, 1993.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. Staff received the return receipt from the United States Postal Service showing that the RAF notice was signed for and delivered on December 15, 1997.

By memorandum dated June 29, 1998, the Division of Administration advised staff that Zephyrhills Cinema 6 had not paid its 1997 RAF, plus statutory penalties and interest for the years

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1993, 1994, 1995, and 1997. On July 29, 1998, the Commission received the minimum \$50 for 1997 RAF; however, the company did not pay the statutory penalties and interest for the years 1993, 1994, 1995, and 1997.

This item was deferred from the September 1, 1998 Agenda Conference at the company's request. On September 14, 1998, the company paid all the past due statutory penalties and interest, and made a proposed settlement offer to pay a \$100 contribution and pay future regulatory assessment fees by January 30 of each year. Therefore, staff believes the following recommendations are appropriate.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Zephyrhills Cinema 6 to resolve the apparent violations of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should accept Zephyrhills Cinema 6's settlement offer. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. (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.

On June 29, 1998, staff learned that Zephyrhills Cinema 6 had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the years 1993, 1994, 1995, and 1997.

After staff opened this docket but prior to filing the recommendation, on July 29, 1998, Zephyrhills Cinema 6 paid the regulatory assessment fees for 1997. However, the company did not

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pay the past due statutory penalties and interest charges. On August 20, 1998, staff filed its recommendation to fine the company \$500 for nonpayment of the statutory penalties and interest charges.

On August 28, 1998, the president of the company contacted staff and indicated that he did not want his certificate canceled and would do what is necessary to keep it. He advised that he would be unable to attend the September 1 Agenda Conference and requested a deferral to allow him time to review his options. The Commission granted the company's request for a deferral.

In recognition of its apparent violation of Rule 25-4.0161, Florida Administrative Code, on September 14, the company paid in full all past due statutory penalties and interest charges, offered to contribute \$100 to the State General Revenue Fund, and promised to pay the regulatory assessment fees by January 30th of each year in the future. (ATTACHMENT A) Staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be paid by the company within five business days from the effective date of the Commission Order. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation in Issue 1 and upon remittance of the \$100 contribution, this docket should be closed. (K. Peña)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, and upon remittance of the \$100 contribution, this docket should be closed. The contribution should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Chapter 364.285(1), Florida Statutes.

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ATTACHMENT A

Friday, September 11, 1998

Larry Rutan  
Zephyrhills Cinema 6  
6848 Gall Blvd.  
Zephyrhills, Fl. 33541

Paula Isler  
Florida Public Service Commission  
2540 Shumard Oaks Blvd.  
Tallahassee, FL 32399-0850

DEPOSIT

DATE

D006

SEP 14 1998

RECEIVED  
98 SEP 14 AM 9:01  
MAIL ROOM

0754  
\$ 29.50 P+I  
9/14/98  
AP

Re: Cert # 3408

Dear Paula,

I would like to make a settlement offer concerning the current issue over my certificate # 3408. That offer would be \$100.00 plus the fees of \$29.50 as outlined in your Sept. 8th letter. I am enclosing a check for the fees of \$29.50.

I will, as I have always tried, comply with all of the Commission rules in the future. Also, I will pay my assessment fee by January 30th of each year instead of the old way that I thought was still in effect.

Please let me know if this is acceptable. My voice line is 813-780-1200 and my fax is 813-780-7403.

Sincerely,



Larry Rutan