

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECEIVED-FPSC  
OCT-7 11:14  
RECORDS AND REPORTING

**DATE:** OCTOBER 7, 1999

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *Dir*  
DIVISION OF LEGAL SERVICES (K. PEÑA; C. BEDELL) *KMP BK/LS*

**RE:** CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

DOCKET NO. 991159-TC - MARK WAYNE ROBERTS  
DOCKET NO. 991160-TC - BT FOODS, INC.  
DOCKET NO. 991161-TC - STEVEN F. GUY D/B/A SUNCOAST PAYPHONES  
DOCKET NO. 991163-TC - JAMES A. SCHMIDT  
DOCKET NO. 991164-TC - ARMIN GRAY

**AGENDA:** 10/19/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\991159.RCM

CASE BACKGROUND

Each of the certificated pay telephone providers listed on page 4 were mailed the 1998 regulatory assessment fee (RAF) notice on December 10, 1998. Payment was due February 1, 1999. When full payment had not been received, the Division of Administration mailed a delinquent letter to the companies. As of October 1, 1999, none of the companies have paid the past due amount.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

12158 OCT-7 98

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 4 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's certificate as listed on page 4 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 pay telephone certificate numbers listed on page 4 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 each of the pay telephone providers listed on page 4 had not paid their 1998 regulatory assessment fees in full, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and have not requested cancellation of their certificates 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 companies' respective certificate numbers 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

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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 pay telephone certificate numbers listed on page 4 should be canceled administratively.

**ISSUE 2:** Should these dockets be closed?

**RECOMMENDATION:** Yes, these dockets 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. (K. Peña; C. Bedell)

**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, these dockets should be closed upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

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<u>DOCKET NO.</u>	<u>PROVIDER</u> <u>LAST REPORTED REVENUES &amp; PERIOD COVERED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFs</u>	<u>P and I</u>
991159-TC	Mark Wayne Roberts \$0 Revenues for Period 09/03/97 to 12/31/97	5435	1998	1998
991160-TC	BT Foods, Inc. \$0 Revenues for Period 09/03/97 to 12/31/97	5436	1998	1998
991161-TC	Suncoast Payphones \$0 Revenues for Period 09/03/97 to 12/31/97	5437	1998	1998
991163-TC	James A. Schmidt \$0 Revenues for Period 10/08/97 to 12/31/97	5231	1998	1998
991164-TC	Armin Gray \$0 Revenues for Period 10/08/97 to 12/31/97	5230	1998	1998