



Public Service Commission

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RECORDS AND REPORTING

DATE: AUGUST 24, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIK*
DIVISION OF LEGAL SERVICES (BANKS) *FRB J.L.*

RE: DOCKET NO. 000924-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3376 ISSUED TO PUBLIC PAY PHONE, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.

AGENDA: 09/05/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000924.RCM

CASE BACKGROUND

- **07/07/93** - This company obtained Florida Public Service Commission PATS Certificate No. 3376.
- **01/17/96** - Order No. PSC-96-0087-FOF-TC was issued, which imposed a \$250 fine for nonpayment of the 1994 regulatory assessment fee or cancelled the company's certificate. The company paid the past due amount, including statutory penalty and interest charges, and the \$250 fine, and the docket was closed.
- **01/20/99** - The company paid its 1998 Regulatory Assessment Fee (RAF). The company reported revenues in the amount of \$2,840.37 on its 1998 return for the period ended 12/31/98.

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- **12/10/99** - The Division of Administration mailed the 1999 RAF notice. The due date was January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice.
- **05/17/00** - The United States Postal Service (USPS) returned mail addressed to this company stamped "return to sender" and "undeliverable as addressed."

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$1,000 fine or cancel Public Pay Phone, Inc.'s pay telephone certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 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, Pay Telephone Certificate No. 3376 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, which implements Section 366.336, 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 Public Pay Phone, Inc. had not paid its 1999 regulatory assessment fee, plus statutory penalty and interest charges for the years 1995 and 1999. 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.

This is the second docket opened against Public Pay Phone, Inc. for nonpayment of the RAF. On January 17, 1996, Order No. PSC-96-0087-FOF-TC was issued in Docket No. 951403-TC for nonpayment of the 1994 RAF, which imposed a \$250 fine, required payment of the past due RAF, or cancelled the company's

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certificate. The company paid the past due RAF, including penalty and interest charges, and the \$250 fine, and the docket was closed.

Accordingly, staff recommends that the Commission assess a \$1,000 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 Service Certificate No. 3376 should be canceled administratively.

ISSUE 2: Should the Commission impose a \$500 fine or cancel Public Pay Phone, Inc.'s pay telephone certificate for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the information required by Rule 25-24.520, F.A.C., Reporting Requirements, and the fine 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 required information are not received, Pay Telephone Certificate No. 3376 should be canceled administratively. (Isler)

STAFF ANALYSIS: Pursuant to Rule 25-24.520, Florida Administrative Code, Reporting Requirements, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to the company was returned to the Commission by the USPS. It is been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has the company 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 or cancel the company's certificate if the information required by Rule 25-24.520, F.A.C., Reporting Requirements, and the fine 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 required information are not received, Pay Telephone Certificate No. 3376 should be canceled administratively.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon receipt of the fines, fees, and required information 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. (Banks)

STAFF ANALYSIS: Whether staff's recommendation on Issues 1 and 2 are 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 receipt of the fines, fees, and required information or cancellation of the certificate.