



# 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:** NOVEMBER 5, 1998

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

**FROM:** DIVISION OF COMMUNICATIONS (BIEGALSKI) *KD*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *MMF KCB*

**RE:** DOCKET NO. 981304-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4942 ISSUED TO KACI COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES AND FINE ASSESSMENT FOR VIOLATION OF RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, REPORTING REQUIREMENTS

**AGENDA:** 11/17/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981304.RCM

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RECORDS AND REPORTING

### CASE BACKGROUND

On October 15, 1996, the Commission issued certificate number 4942 to KaCi Communications, Inc. (KaCi) The Division of Communications received a request for cancellation on April 24, 1997. Upon receipt of the request for cancellation, staff researched the account to determine if the appropriate Regulatory Assessment Fees had been submitted. Staff determined that KaCi had failed to submit the Regulatory Assessment Fees, including statutory penalties and interest, for the years 1996 and 1997.

The Division of Administration Staff sent a certified letter on June 3, 1997, informing KaCi of the delinquent fees. This letter was returned by the United States Postal Service stamped "Unclaimed". (Attachment A, Page 6) Furthermore, Division of

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Communications staff mailed a certified letter to KaCi on June 19, 1997, informing it that the regulatory assessment fees are due whether the company installed payphones or not. In addition, the letter stated that if the fees were not received, staff would recommend a fine be assessed. This letter was returned by the U.S. Postal Service stamped "Addressee Unknown". (Attachment B, Page 7) Staff has attempted unsuccessfully to contact KaCi by telephone using the number listed in the Master Commission Directory. This number has been disconnected. There is no new number listed in the telephone book or with directory assistance.

Therefore, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission grant the request for voluntary cancellation submitted by KaCi Communications?

**RECOMMENDATION:** No. (Biegalski)

**STAFF ANALYSIS:** KaCi has not complied with Rule 25-24.514(2), Florida Administrative Code, Cancellation of a Certificate, which states,

if a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

- (a) statement of intent and date to pay Regulatory Assessment Fee.
- (b) statement of why the certificate is proposed to be canceled.

Staff mailed certified letters to KaCi informing it of its obligations as a certificated pay telephone provider. To date, staff has not received a response or payment of the delinquent regulatory assessment fees, including statutory penalties and

interest. Therefore, staff recommends that the request for voluntary cancellation be denied.

**ISSUE 2:** Should the Commission impose a \$500 fine or cancel the pay telephone certificate of KaCi Communications for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, effective December 31, 1997?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel KaCi's certificate effective December 31, 1997, if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. 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 fines and the regulatory assessment fees, including statutory penalties and interest, are not received, the certificate should be canceled. (Biegalski)

**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.

Staff notified KaCi via certified letter on June 3, 1997, and June 19, 1997, that the regulatory assessment fees had not been submitted. Staff verified with the Division of Administration on October 29, 1998, that KaCi had not submitted the regulatory assessment fees for the years 1996 and 1997, along with statutory penalties and interest charges. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel the pay telephone certificate effective December 31, 1997, if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time. KaCi should not be assessed regulatory assessment fees for 1998.



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**ISSUE 3:** Should the Commission fine KaCi Communications, Inc. \$1,000 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

**RECOMMENDATION:** Yes. The Commission should impose a \$1,000 fine for failure to comply with Rule 25-24.520, Florida Administrative Code. The fine should be remitted within 5 business days after the conclusion of the 21 day protest period. 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 is not received, it should be forwarded to the Office of the Comptroller for collection. **(Biegalski)**

**STAFF ANALYSIS:** Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. Rule 25-24.520, Florida Administrative Code, Reporting Requirements, requires pay telephone companies to provide updated address and liasion information within ten (10) days after a change occurs. Staff sent certified letters to KaCi on June 3, 1997, and June 19, 1997. Both letters were returned by the United States Postal Service. In addition, the telephone number listed in the Master Commission Directory has been disconnected. To date, the Commission has not been notified by KaCi of a new address or telephone number.

Accordingly, staff recommends that the Commission assess a \$1,000 fine for failure to comply with Commission rules.

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**ISSUE 4:** Should this docket be closed?

**RECOMMENDATION:** If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, this docket should be closed. (K. Peña)

**STAFF ANALYSIS:** If the Commission adopts staff's recommendation in Issues 2 and 3, then KaCi will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees, or upon cancellation of the certificate.

State of Florida

**Public Service Commission**

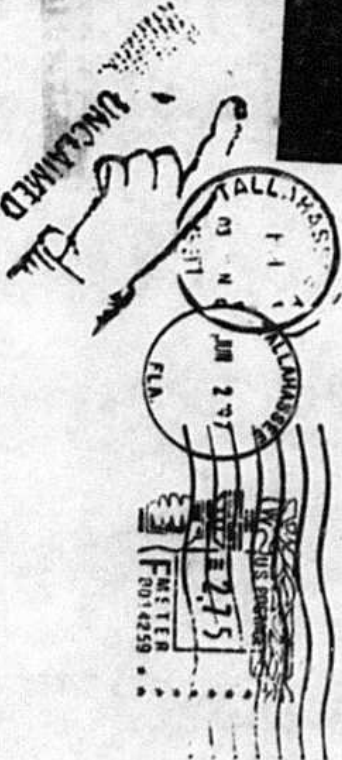
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CERTIFIED



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