

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: NOVEMBER 19, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Api*
DIVISION OF LEGAL SERVICES (BEDELL) *CB meB*

RE: DOCKET NO. 981234-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 1161 ISSUED TO DUNHAM'S GROCERY FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 12/01/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981234.RCM

CASE BACKGROUND

Dunham's Grocery obtained Florida Public Service Commission Pay Telephone Certificate Number 1161 on August 29, 1986.

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 (USPS) which showed that the RAF notice was signed for and delivered on December 13, 1997.

The Division of Administration notified staff by memorandum that Dunham's had not paid its 1997 RAF, plus statutory penalties and interest charges for the years 1991, 1994, 1996, and 1997.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

The Division of Records and Reporting notified staff by memorandum that Dunham's Grocery responded to its request for updated address information by stated that it had sold the store on December 2, 1997 and provided staff with the new owner's name. Staff attempted to call the old and new owners without success. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Dunham's Grocery's pay telephone certificate number 1161 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 the company's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five 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 and regulatory assessment fees, including statutory penalties and interest, are not received, the company's certificate should be canceled. (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.

The Commission's Division of Administration notified staff by memorandum that Dunham's Grocery had not submitted the regulatory assessment fees for 1997, along with statutory penalties and interest charges for the years 1991, 1994, 1996, and 1997. Therefore, it has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

The Division of Records and Reporting notified staff by memorandum that Dunham's Grocery had responded to its request for updated address and liaison information by writing that it had sold the store on December 2, 1997, and provided staff with the new owner's name.

Staff called the telephone number listed in MCD for Dunham's but was unsuccessful in reaching the company. Directory Assistance could not provide staff with a new listing for Dunham's or the new owners.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel certificate number 1161 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within five 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 and regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 1161 should be canceled.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, 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. (Bedell)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Dunham's Grocery 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.