



# Public Service Commission

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**-M-E-M-O-R-A-N-D-U-M-**

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FILED IN DIVISION OF RECORDS AND REPORTING

DATE: JANUARY 7, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *AI*  
DIVISION OF LEGAL SERVICES (MILLER) *JD*  
*Jan MB*

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. 981613-TC - JEFFREY DEAN EMMING
- DOCKET NO. 981614-TC - AMARILYS LOPEZ
- DOCKET NO. 981615-TC - ROBERT MICHAEL ALLEY
- DOCKET NO. 981616-TC - FAST LANES COMMUNICATION INC.
- DOCKET NO. 981617-TC - GERARD BEHAN

AGENDA: 01/19/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981613.RCM

### CASE BACKGROUND

1.) Docket #981613-TC - Jeffrey Dean Emming - This company obtained Certificate Number 5515 on 11/22/97. The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the RAF notice was signed for and delivered on December 16, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of December 30, 1998, the company has not paid the past due amount.

DOCUMENT NUMBER-DATE

00087 JAN-59

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 5 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 5 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 pay telephone certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998. (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.

Staff was notified by the Division of Administration that each of the pay telephone providers listed on page 5 had not paid their 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

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 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

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not received, the certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998.

**ISSUE 2:** Should these dockets 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, these dockets should be closed. A protest in one docket should not prevent the action in a separate docket from becoming final. (Miller)

**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 payment of the fines and fees, or upon cancellation of the certificates. 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>CERTIFICATE NO.</u>	<u>RAFs</u>	<u>P and I</u>
981613-TC	Jeffrey Dean Emming	5515	1997	1997
981614-TC	Amarilys Lopez	5519	1997	1997
981615-TC	Robert Michael Alley	5520	1997	1997
981616-TC	Fast Lanes Communication Inc.	5521	1997	1997
981617-TC	Gerard Behan	5523	1997	1997