



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: MAY 31, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *pic*
DIVISION OF LEGAL SERVICES (BANKS) *FRB*

RE: DOCKET NO. 010450-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3900 ISSUED TO H. CARTMAN FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES.

AGENDA: 06/12/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010450.RCM

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 DIVISION OF RECORDS AND REPORTING
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 010450-TC

CASE BACKGROUND

- **12/15/94** - This company was granted Florida Public Service Commission Certificate No. 3900.
- **09/15/98** - Docket No. 981125-TC was established for nonpayment of the 1997 Regulatory Assessment Fee (RAF). On December 11, 1998, the Commission received a letter from Ms. Sandra Cartman, which advised her husband had passed away recently and that it was her understanding the RAF had been paid. She stated that she had no knowledge of the business operations, but that now that she was aware of the RAF, it would not be overlooked in the future. She requested that due to the extenuating circumstances, the Commission not levy any fines or additional penalties or cancel the certificate. On March 9, 1999, Order No. PSC-99-0494-AS-TC was issued, which

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accepted the company's settlement offer to comply with Commission rules in the future. The docket was then closed.

- **01/31/00** - The Commission received the company's 1999 RAF. The company reported revenues in the amount of \$2,795.35 for the period ended December 31, 1999.
- **12/12/00** - The Division of Administration mailed the 2000 RAF notice. Payment was due January 30, 2001.
- **02/20/01** - The Division of Administration mailed a delinquent notice to the company.
- **04/17/01** - Staff wrote the company and explained that a docket had been established for nonpayment of the 2000 RAF and to contact staff for its options.
- **05/23/01** - As of this date, the company has not paid the past due amount or requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$1,000 fine or cancel H. Cartman's 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, the company's Certificate No. 3900 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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 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 364.336, 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 the company had not paid its 2000 regulatory assessment fee, plus statutory penalty and interest charges. 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. The fine amount recommended in this docket is consistent with amounts used for recent, similar violations.

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This is the second docket opened against H. Cartman for nonpayment of the RAF. On March 9, 1999, Order No. PSC-99-0494-AS-TC was issued in Docket No. 981125-TC, which accepted the company's settlement to pay future RAFs on a timely basis, after the company paid the past due amount in full, including statutory penalty and interest charges. The Commission did not impose any monetary penalty or fine due to the extenuating circumstances. The docket was then 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 Certificate No. 3900 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, 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. The docket should then be closed upon receipt of the fine and fees or cancellation of the certificate. (Banks)

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, this docket should be closed upon the issuance of a Consummating Order and upon receipt of the fine and fees or cancellation of the certificate.