

Talbott *WOT BY MAB*
Vandiver *[Signature]*

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

September 26, 1996

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

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *[Signature]*
DIVISION OF LEGAL SERVICES (BROWN) *scl/mab*

RE: DOCKETS NOS.: 961011-TC, 961091-TC, 961092-TC, 961093-TC, 961094-TC, 961095-TC, 961096-TC, 961097-TC, and 961098-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION FOR VIOLATION OF RULE 25-4.0161(2), F.A.C., REGULATORY ASSESSMENT FEES.

AGENDA: October 8, 1996 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\961011.RCM

CASE BACKGROUND

- Regulatory assessment fees for 1995 have not been remitted by the following persons/companies: Mary R. Golden d/b/a Ti-Communication #3860, Public Communications Associates, Ltd. d/b/a Public Phone #2856, Padilla's Marina #4194, Independent Payphone Corporation #4235, Lawrence Green #4215, American Cellular Phone Sales, Inc. #4223, Steven W. Bailey #4188, Public Service Telephone, Inc. #3089 and Heritage Health Corporation #3098.
- The Bureau of Fiscal Services mailed the appropriate forms and a delinquent notice to each of the above persons/companies and received no response.
- The Division of Communications mailed certified letters and received the return receipt cards signed; however, no fees have been submitted.

DOCUMENT NUMBER-DATE

10326 SEP 26 96

FPSC-RECORDS/REPORTING

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961095-TC, 961096-TC, 961097-TC, and 961098-TC
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- . The persons/companies listed owed less than \$10,000 for the preceding year, therefore, pursuant to Rule 24-4.0161(2), Telecommunication companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the subsequent year for the current calendar year operations.

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DISCUSSION OF ISSUES

ISSUE 1: Should the pay telephone providers referenced on page 6 have their pay telephone certificates cancelled by the Florida Public Service Commission for violation of Rule 25-4.0161(2), Florida Administrative Code, Regulatory Assessment Fees, if they fail to pay a \$250 fine and past due regulatory assessment fees?

RECOMMENDATION: Yes. Staff recommends that the providers referenced on page 6 have their certificates cancelled if they fail to pay a \$250 fine and past due regulatory assessment fees within 30 days after the Order becomes final. The fines are to 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 364.285(1), Florida Statutes.

STAFF ANALYSIS: Rule 25-4.0161(2), Regulatory Assessment Fees; Telecommunications Companies, Florida Administrative Code, states in pertinent part:

- (2) Regulatory assessment fees and the applicable regulatory assessment fee return form for companies whose gross regulatory assessment fees of \$10,000 or more shall be filed twice a year. Companies whose gross regulatory assessment fees are less than \$10,000 shall file the appropriate form once a year; no later than January 30 of the subsequent year, and:
 - (a) Remit the total amount of its fee, or
 - (b) Remit an amount which the company estimates is its full fee, or
 - (c) Seek and receive from the Commission a 30 day extension of its due date.

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The regulatory assessment fees due have not been remitted by any of the companies referenced on page 6 based on information provided by the Bureau of Fiscal Services. Furthermore, the companies referenced on page 6 have not requested an extension of time in order to comply with the Rule.

Therefore, since it appears that each company referenced on page 6 has violated Rule 25-4.0161(2), Regulatory Assessment Fees; Telecommunications Companies, Florida Administrative Code, staff recommends that each company's certificate be cancelled pursuant to Rule 25-24.514(1), Cancellation of Certificate, Florida Administrative Code, if they fail to pay a \$250 fine and past due regulatory assessment fees within 30 days after the Order becomes final. The rule states in pertinent part that:

- (1) The Commission may cancel a company's certificate for any of the following reasons:
 - (a) Violation of the terms and conditions under which the authority was originally granted.
 - (b) Violation of the Commission rules or orders;
 - (c) Violation of Florida Statutes; or,
 - (d) Failure to provide service for a period of six (6) months.

Staff believes that these companies were given ample opportunity to comply with Rule 25-4.0161(2), Regulatory Assessment Fees; Telecommunications Companies, Florida Administrative Code. The Bureau of Fiscal Services not only mails the appropriate forms annually, but they also mail a delinquent notice. The Division of Communications mailed certified letters and received the return receipt cards signed; however, no fees have been submitted. A provider that does not receive the form is still responsible for remitting the appropriate fees. Each company seeking certification acknowledges that it understands the rules at the time it applies by signing an acknowledgement card.

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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 provider will have 30 days from the date the Order becomes final to pay a \$250 fine and all past due regulatory assessment fees or their certificate will be cancelled without further Commission action and the dockets should be closed. If any of these certificate nos. are cancelled, 3860, 2856, 4194, 4235, 4215, 4223, 4188, 3089 and/or 3098, the serving local exchange company shall be directed to discontinue service to all pay telephones operated by that company. A protest of one docket should not prevent the action in a separate docket from becoming final.

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then the providers, referenced on page 6 will have 30 days from the date the Order becomes final to pay a \$250 fine and past due regulatory assessment fees or their certificate will be cancelled without further Commission action. If no protest is filed in a docket, the docket should be closed after the conclusion of the 30 day period. A protest in one docket should not prevent the action in a separate docket from becoming final. If the Commission denied staff on Issue 1, these dockets should be closed.

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COMPANIES WHO FAILED TO REMIT 1995 REGULATORY ASSESSMENT FEES

1. MARY R. GOLDEN d/b/a TI-COMMUNICATION	CERTIFICATE NO. 3860
2. PUBLIC COMMUNICATIONS ASSOCIATES, INC. d/b/a PUBLIC PHONE	CERTIFICATE NO. 2856
3. PADILLA'S MARINA, L.C.	CERTIFICATE NO. 4194
4. INDEPENDENT PAYPHONE CORPORATION	CERTIFICATE NO. 4235
5. LAWRENCE GREEN	CERTIFICATE NO. 4215
6. AMERICAN CELLULAR PHONE SALES, INC.	CERTIFICATE NO. 4223
7. STEVEN W. BAILEY	CERTIFICATE NO. 4188
8. PUBLIC SERVICE TELEPHONE, INC.	CERTIFICATE NO. 3089
9. HERITAGE HEALTH CORPORATION	CERTIFICATE NO. 3098