

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

April 24, 1997

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) KB
DIVISION OF LEGAL SERVICES (PENA) *WJ* *mcB*

RE: DOCKET NO. 970389-TC - COUNTERBALANCE INVESTMENTS, INC. -
CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY
TELEPHONE CERTIFICATE NO. 4492 FOR VIOLATION OF RULE
25.24.520(1)(a) and (b), FLORIDA ADMINISTRATIVE CODE,
REPORTING REQUIREMENTS, AND RULE 25-4.0161, FLORIDA
ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

DOCKET NO. 970390-TC - TELE-VEN, INC. - CANCELLATION BY
FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE
CERTIFICATE NO. 3776 FOR VIOLATION OF RULE 25-
24.520(1)(a) and (b), FLORIDA ADMINISTRATIVE CODE,
REPORTING REQUIREMENTS, AND RULE 25-4.0161, FLORIDA
ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 05/06/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970389TC.RCM

CASE BACKGROUND

- Certificate number 4492 was issued to Counterbalance Investments, Inc. on February 27, 1996. Tele-Ven, Inc. was issued Certificate 3776 on August 9, 1994.
- The Division of Administration received the Delinquent Regulatory Assessment Fee Notice back from the Post Office on each company. Counterbalance's notice was stamped "no forward order on file" (Page 5), while Tel-Ven's notice was stamped "moved left no address" (Page 6).

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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Communications staff attempted unsuccessfully to reach each provider by calling the telephone number listed in the Master Commission Directory. The number for Counterbalance Investments, Inc. was an incorrect number and the number for Tele-Ven, Inc. was disconnected. No number could be located for either company through directory assistance or the local telephone directory.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission cancel the certificates of Counterbalance Investments, Inc. and Tele-Ven, Inc. if they fail to pay a \$250 fine within 30 days of the date the order becomes final, submit the regulatory assessment fee, along with the statutory penalties and interest charges, as required by Rule 25-4.0161, Florida Administrative Code, regulatory assessment fees, and provide staff with the correct mailing address, liaison information and other information as required by Rules 25-24.480(2)(a) and (b), Florida Administrative Code, Records and Reports; Rules Incorporated?

RECOMMENDATION: Yes. Collected fines are to be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statutes.

STAFF ANALYSIS: Pursuant to Rule 25-24.514 (1) (a) and (b), Florida Administrative Code, Cancellation of a Certificate, in pertinent part, the Commission may cancel a company's certificate for violation of the terms and conditions under which the authority was originally granted or for violation of Commission rules and orders.

Rule 25-4.0161, Florida Administrative Code, provides in pertinent parts:

(2) Regulatory assessment fees and the applicable regulatory assessment fee return form are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30.

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(5) The delinquency of any amount due to the Commission from the company pursuant to the provisions of s. 350.113, Florida Statutes, and this rule, begins with the first day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in s. 350.113, Florida Statutes, shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

As of March 26, 1997, the regulatory assessment fee, along with the statutory penalties and interest charges, had not been submitted for Counterbalance or Tele-Ven.

Pursuant to Rule 25-24.520(1)(a) and (b), Florida Administrative Code, in pertinent part, each pay telephone service company shall file with the Division of Communications, within 10 days after a change occurs, the street address of the certificate holder and the name, title and phone number of the individual responsible for contact with the Commission. Communications staff has attempted to contact the two providers by telephone but was unsuccessful.

It has been well over 10 days and staff has not been informed of the providers' correct mailing address, phone number or liaison information. Therefore, staff recommends that the certificates be canceled unless the companies pay a \$250 fine, submit the regulatory assessment fee, along with statutory penalties and interest charges, as required by Rule 25-4.0161, Florida Administrative Code, and provide staff with the information required by Rule 25-24.520(1)(a) and (b), Florida Administrative Code, Reporting Requirements, within 30 days after the Order becomes final:

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PROVIDER	CERTIFICATE NUMBER
Counterbalance Investments, Inc.	4492
Tele-Ven, Inc.	3776

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. These dockets should be closed if no person whose substantial interests are affected files a protest within 21 days of the issuance of the Order. If no timely protest is filed, the certificate should be canceled and these dockets should be closed at the conclusion of the 30 day period after the Order becomes final. If a company pays the \$250 fine, submits the regulatory assessment fee, along with the statutory penalties and interest charges, and provides the information required, the docket should be closed. A protest of one docket should not prevent this Order from becoming final for the other docket.

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Counterbalance Investments, Inc. and Tele-Ven, Inc. will have 30 days from the date the Order becomes final to pay a \$250 fine, submit the regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code, and provide staff the information called for in Rule 25-24.520(1)(a) and (b), Florida Administrative Code, Reporting Requirements, or their certificates will be canceled without further Commission action.

Unless a person whose substantial interests are affected by this Order files a protest within 21 days, the dockets should be closed after the conclusion of the 30 day period. A protest in one docket shall not prevent this Order from becoming final for the other docket.

For each certificate that is canceled, staff will notify the serving local exchange company to discontinue service to all pay telephones operated by that company. If the Commission denies staff on Issue 1 the dockets should be closed.