

Talbott  
Vandiver

*WJ*  
*DS for PW*

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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OCT 23 1997

FPSC - Records/Reporting

MEMORANDUM

October 23, 1997

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *16B* *FW*  
 DIVISION OF ADMINISTRATION (LAKE)  
 DIVISION OF LEGAL SERVICES (K. PEÑA) *16B* *mcB*

RE: DOCKET NO. 971290-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3692 ISSUED TO EIGHT HUNDRED, INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES AND RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, REPORTING REQUIREMENTS

AGENDA: 11/04/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971290TC.RCM

CASE BACKGROUND

- Eight Hundred, Inc. (Eight Hundred) obtained Florida Public Service Commission Pay Telephone certificate number 3692 on March 8, 1994.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Eight Hundred that it was delinquent on its regulatory assessment fees for the years 1994 and 1996. The letter was returned by the United States Postal Service stamped "unable to forward" (Attachment A, Page 6).

DOCUMENT NUMBER-DATE

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- As of October 13, 1997, the delinquent regulatory assessment fees for 1994 and 1996, along with statutory penalties and interest charges, have not been submitted by Eight Hundred.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel Eight Hundred's Pay Telephone Certificate No. 3692 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

**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 5 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 the regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 3692 should be canceled.  
**(Biegalski)**

**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.

On October 13, 1997, staff learned that Eight Hundred had not submitted the regulatory assessment fees for the years 1994 and 1996, along with statutory penalties and interest charges. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 3692 if the fine and the regulatory assessment

fees, along with statutory penalties and interest, are not paid within the specified time.

**ISSUE 2:** Should the Commission impose a \$500 fine or cancel Eight Hundred's Pay Telephone Certificate No. 3692 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and information required by Rule 25-24.520, Florida Administrative Code, are not received by the Commission within 5 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 required information and fine are not received, certificate number 3692 should be canceled. (Biegalski)

**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 pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rule 25-24.520, Florida Administrative Code, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to Eight Hundred was returned to our Division of Administration. It has been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has it requested cancellation

of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

Therefore, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules and cancel Eight Hundred's certificate if the fine is not paid and the information received within the specified time.

**ISSUE 3:** Should the Commission order all certificated local exchange companies (LECs) to discontinue providing service to Eight Hundred if certificate number 3692 is canceled?

**RECOMMENDATION:** Yes. The Commission should order all certificated local exchange companies to discontinue providing service to Eight Hundred if Eight Hundred's certificate is canceled at the conclusion of the protest period for failure to submit the delinquent regulatory assessment fees, submit the required information and pay the fines as required in Issue 1 and 2. The Order should state that any LEC providing service to Eight Hundred must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled. (Biegalski)

**STAFF ANALYSIS:** If Eight Hundred's certificate is canceled, any service offered by Eight Hundred would be in violation of Rule 25-24.510, Florida Administrative Code. Since the Commission cannot readily identify which LEC provides service to Eight Hundred, the Commission should order all certificated LECs to discontinue service to Eight Hundred if Eight Hundred fails to comply with the terms of the Commission's order resulting from these recommendations. The Order should state that any LEC providing service to Eight Hundred must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled.

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ISSUE 4: Should this docket be closed?

RECOMMENDATION: 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, and receipt of the required information, or cancellation of the certificate, this docket should be closed. (Peña)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1 and 2, then Eight Hundred 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, and receipt of the required information or upon cancellation of the certificate.

ATTACHMENT A  
DOCKET NO. 971290-TC  
OCTOBER 23, 1997

State of Florida

# Public Service Commission

2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

UNDELIVERABLE AS AC  
UNABLE TO FORM

D: 31/1994

Fold at line over top of envelope to  
the right of the return address.

**CERTIFIED**

P 174 241 064

**MAIL**

TF039  
Eight Hundred, Inc.  
12734 Kenwood Lane, #85  
Ft. Myers, FL 33907-5638

*as Filed*

