



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

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COMMUNICATIONS

**DATE:** DECEMBER 22, 1998

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

**FROM:** DIVISION OF COMMUNICATIONS (ISLER) *Dji*  
DIVISION OF LEGAL SERVICES (PEÑA) *KMP MCB*

**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. 981414-TC - CARLOS INVESTMENTS INC. OF DADE COUNTY
- DOCKET NO. 981415-TC - SWAN FOOD INC.
- DOCKET NO. 981431-TC - ULYSSES PEREZ
- DOCKET NO. 981432-TC - RICHARD FIGUEROA
- DOCKET NO. 981433-TC - DIROCCO ENTERPRISES INC.
- DOCKET NO. 981434-TC - AVENTURA FOOD MART, INC.

**AGENDA:** 01/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981414.RCM

### CASE BACKGROUND

1.) Docket #981414-TC - Carlos Investments Inc. of Dade County - This company obtained Certificate Number 5088 on March 7, 1997. On December 11, 1997, 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 notice was signed for and delivered on December 13, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory

DOCUMENT NUMBER-DATE

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REC'D-PSC CS/REPORTING

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penalties and interest for the year 1997. As of December 9, 1998, the company has not paid the past due amount.

2.) Docket #981415-TC - Swan Food Inc. - This company obtained Certificate Number 5089 on March 7, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 17, 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 9, 1998, the company has not paid the past due amount.

3.) Docket #981431-TC - Ulysses Perez - This company obtained Certificate Number 5119 on April 2, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 15, 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 9, 1998, the company has not paid the past due amount.

4.) Docket #981432-TC - Richard Figueroa - This company obtained Certificate Number 5130 on April 11, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 13, 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 9, 1998, the company has not paid the past due amount.

5.) Docket #981433-TC - Dirocco Enterprises Inc. - This company obtained Certificate Number 5141 on May 13, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 18, 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 9, 1998, the company has not paid the past due amount.

6.) Docket #981434-TC - Aventura Food Mart, Inc. - This company obtained Certificate Number 5147 on May 16, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF

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notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 20, 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 9, 1998, the company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

### 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.

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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 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. (Peña)

**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>
981414-TC	Carlos Investments Inc. Of Dade County	5088	1997	1997
981415-TC	Swan Food Inc.	5089	1997	1997
981431-TC	Ulysses Perez	5119	1997	1997
981432-TC	Richard Figueroa	5130	1997	1997
981433-TC	Dirocco Enterprises Inc.	5141	1997	1997
981434-TC	Aventura Food Mart, Inc.	5147	1997	1997