



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

RECORDS AND REPORTING

APR 22 AM 10:21

RECEIVED-FPSC

DATE: APRIL 22, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PJ*
DIVISION OF LEGAL SERVICES (K. PEÑA) *CB*

RE: DOCKET NO. 981314-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4972 ISSUED TO STARBRITE PAYPHONES, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 05/04/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981314.RCM

CASE BACKGROUND

- 11/23/95 - The company obtained PATS Certificate No. 4972.
- 12/11/97 - The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail.
- 12/16/97 - The United States Postal Service (USPS) returned the receipt, which showed the RAF notice was signed for and delivered.
- 01/30/98 - The RAF payment was due. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAF, plus statutory penalties and interest for the year 1997.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

- **11/04/98** - Mr. Robert Young, owner, called staff and advised that he thought he had paid the regulatory assessment fees, would check his records, and get back in touch with staff. He stated that if the RAF was not paid, he would make a settlement offer as he wanted to keep his certificate.
- **11/10/98** - 1997 RAF was paid in full. However, a settlement offer was not made.
- **03/09/99** - Staff talked with Mr. Young previously and again on this date. Staff also questioned Mr. Young about the 1998 RAF, since they were past due. Mr. Young asked that another form be faxed to him and again stated he would submit a settlement offer.
- **04/15/99** - As of today, the 1998 RAFs remain unpaid and the company has not submitted a settlement offer.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Starbrite Payphones' PATS Certificate No. 4972 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 the company's certificate 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 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

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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 this company had not paid its 1997 regulatory assessment fees, plus statutory penalties and interest charges for the year 1997. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

After the docket was opened, but prior to a recommendation being filed, the company's owner, Mr. Robert Young, contacted staff and stated that he believed he had paid the 1997 RAFs. He stated that he would check his records, pay the past due amount if it had not been paid and make a settlement offer. Mr. Young did pay the 1997 RAFs, however, a settlement offer was not submitted. Staff talked with the company twice more about this. Each time, staff was assured a settlement offer would be submitted. As of April 15, 1999, this company has not paid its 1998 RAFs or submitted a settlement offer.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's Certificate No. 4972 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 should be canceled with an effective date of December 31, 1998.

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ISSUE 2: Should this docket 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 fine and fees, or cancellation of the certificate, this docket should be closed. (K. 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, this docket should be closed upon payment of the fine and fees, or upon cancellation of the certificate.