



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-

DATE: JULY 26, 2001
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Dir HC* *RD*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING; ELLIOTT) *JA* *Vmp*
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. 010553-TC - UNITED PAYPHONES OF AMERICA, INC.
- DOCKET NO. 010554-TC - PUBLIC PAYPHONE U.S.A., INC.
- DOCKET NO. 010558-TC - SHIWANI INVESTMENT CORP. D/B/A DAYS INN, DENNY'S AND WINNER'S PUB
- DOCKET NO. 010560-TC - TIMOTHY YOUNG D/B/A TIM VENDING
- DOCKET NO. 010568-TC - DON DUKE D/B/A DUKE CONSULTANTS
- DOCKET NO. 010572-TC - CARIBBEAN COMMUNICATIONS CORPORATION
- DOCKET NO. 010573-TC - J.A.R.M. ENTERPRISES, INC.
- DOCKET NO. 010585-TC - SEACOAST CHRISTIAN ACADEMY, INC.

AGENDA: 08/07/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010553.RCM

CASE BACKGROUND

Each of the certificated providers listed on page 6 were mailed the 2000 Regulatory Assessment Fee (RAF) notice. When full payment had not been received by the due date, the Division of the Commission Clerk & Administrative Services mailed a delinquent

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FPSC-COMMISSION CLERK

DOCKET NOS. 010553-TC, 010554-TC, 010558-TC, 010560-TC, 010568-TC, 010572-TC, 010573-TC, 010585-TC
DATE: JULY 26, 2001

notice to the companies. As of July 12, 2001, none of the companies have paid the past due amount.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DOCKET NOS. 010553-TC, 010554-TC, 010558-TC, 010560-TC, 010568-TC, 010572-TC, 010573-TC, 010585-TC
DATE: JULY 26, 2001

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate listed on page 6 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 6 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 penalty and interest charges, are not received, the certificate numbers listed on page 6 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

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

Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, 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.

The Division of the Commission Clerk & Administrative Services' records show that each of the companies listed on page 6 had not paid its 2000 regulatory assessment fees, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and

DOCKET NOS. 010553-TC, 010554-TC, 010558-TC, 010560-TC, 010568-TC, 010572-TC, 010573-TC, 010585-TC
DATE: JULY 26, 2001

have not requested cancellation of their certificates in compliance with Rule 25-24.514, Florida Administrative Code. This fine is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission should impose a \$500 fine or cancel each company's certificate as listed on page 6 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 penalty and interest charges, are not received, the certificate numbers listed on page 6 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

DOCKET NOS. 010553-TC, 010554-TC, 010558-TC, 010560-TC, 010568-TC, 010572-TC, 010573-TC, 010585-TC
DATE: JULY 26, 2001

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. These dockets should then be closed upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (K. Peña; B. Keating; Elliott)

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 issuance of a Consummating Order and upon receipt of the fine and fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DOCKET NOS. 010553-TC, 010554-TC, 010558-TC, 010560-TC, 010568-TC,
 010572-TC, 010573-TC, 010585-TC
 DATE: JULY 26, 2001

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
010553-TC	United Payphones of America, Inc. 1999 Revenues - \$6,096 For the Period Ended 12/31/99	6008	2000	2000
010554-TC	Public Payphone U.S.A., Inc. 1999 Revenues - \$0 For the Period Ended 12/31/99	6009	2000	2000
010558-TC	Days Inn, Denny's and Winner's Pub 1999 Revenues - \$241.37 For the Period Ended 12/31/99	6077	2000	2000
010560-TC	Tim Vending 1999 Revenues - \$0 For the Period Ended 12/31/99	6093	2000	2000
010568-TC	Duke Consultants 1999 Revenues - \$0 For the Period Ended 12/31/99	7023	1999 bal. 2000	1999 2000
010572-TC	Caribbean Communications Corporation 1999 Revenues - \$0 For the Period Ended 12/31/99	7077	2000	2000
010573-TC	J.A.R.M. Enterprises, Inc. 1999 Revenues - (\$250) For the Period Ended 12/31/99	7066	2000	2000
010585-TC	Seacoast Christian Academy, Inc. 1999 Revenues - \$208.85 For the Period Ended 12/31/99	7170	2000	1999 2000