



# Public Service Commission

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COMMISSION CLERK

**DATE:** AUGUST 23, 2001

**TO:** DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *Dij TO*  
DIVISION OF LEGAL SERVICES (ELLIOTT; K. PEÑA; B. KEATING) *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.

- DOCKET NO. 010453-TC - THE FIREHOUSE GRILL & PUB, INC.
- DOCKET NO. 010481-TC - PEMBROKE COMMUNICATIONS, INC.
- DOCKET NO. 010482-TC - TARGET MANAGEMENT, INC.
- DOCKET NO. 010624-TC - LEISURE LAKE CO-OP, INC.

**AGENDA:** 09/04/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\010453.RCM

### CASE BACKGROUND

The companies listed on Attachment A were mailed the 2000 Regulatory Assessment Fee (RAF) return notice and payment was due by January 30, 2001. On February 21, 2001, the Division of the Commission Clerk & Administrative Services mailed a delinquent letter for the 2000 RAF.

After the dockets were opened, staff wrote each of the companies listed on Attachment A and explained that a docket had been established and to contact staff if the companies were interested in resolving the dockets. The companies listed on Attachment A contacted the Commission and indicated that their

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respective docket would be resolved. All of the companies subsequently paid the 2000 RAF, however, as of August 17, 2001, none of the companies have proposed settlements or requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code.

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.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate listed on Attachment A 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 Attachment A 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 Attachment A 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 Attachment A 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

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Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Staff wrote each of the companies listed on Attachment A and explained that a docket had been established. Staff advised the companies to contact staff if they were interested in resolving the dockets. Each company listed on Attachment A paid the 2000 RAF and indicated that the docket would be resolved. However, the companies have not proposed a settlement and have not requested cancellation of their certificates in compliance with Rule 25-24.514, Florida Administrative Code. This fine amount 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 Attachment A 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 Attachment A 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.

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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. (Elliott; K. Peña; B. Keating)

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.

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<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES &amp; PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
010453-TC	The Firehouse Grill & Pub, Inc. 2000 Revenues - \$90.00 For the Period Ended 12/31/00	4144	2000	2000
010481-TC	Pembroke Communications, Inc. 2000 Revenues - \$14,848.64 For the Period Ended 12/31/00	4653	2000	2000
010482-TC	Target Management, Inc. 2000 Revenues - \$12,620.00 For the Period Ended 12/31/00	4666	2000	2000
010624-TC	Leisure Lake Co-Op, Inc. 2000 Revenues - \$14.75 For the Period Ended 12/31/00	7403	2000	2000