



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: SEPTEMBER 6, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *WMP*

RE: DOCKET NO. 010543-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5954 ISSUED TO WYATT DUVALL D/B/A FONES FOR KIDS FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.

AGENDA: 09/18/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010543.RCM

CASE BACKGROUND

- **11/07/98** - This company obtained Florida Public Service Commission Certificate No. 5954.
- **12/12/00** - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2001.
- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice for nonpayment of the 2000 RAF.
- **05/08/01** - Staff wrote the company a letter and explained that this docket had been established for nonpayment

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RAF and not providing the Commission with its updated reporting requirements and to contact staff if it was interested in resolving this docket.

- **05/24/01** - Staff received a voice mail message from Mr. Duvall which stated that he had "abandoned the Fones for Kids enterprise" and that "there has been no activity." Mr. Duval did not leave a telephone number or new address.
- **06/19/01** - Staff wrote the company and explained that in order to be granted a voluntary cancellation, the 2000 RAF, along with past due penalty and interest charges for the years 1999 and 2000 must be paid. In addition, staff advised the company should either pay the 2001 RAF or provide a date certain it would be paid. The US Postal Service subsequently returned staff's letter stamped "not deliverable as addressed" and "unable to forward."
- **08/22/01** - As of this date, the company has not paid the outstanding RAF balance nor paid the 2001 RAF or provided a date certain the 2001 RAF would be paid 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 grant Wyatt Duvall d/b/a Fones for Kids a voluntary cancellation of Certificate No. 5954?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5954 on its own motion, effective May 24, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30, or the next business day, 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.

Rule 25-24.514(2)(a) and (b), Florida Administrative Code, states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement and intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

Although staff received a voice mail message from Mr. Duvall stating that he had "abandoned" the pay telephone enterprise, the company has not paid the past due amount in full or complied with Rule 25-24.514, Florida Administrative Code, by providing the date the 2001 RAF will be paid.

Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5954 on its own motion, effective May 24, 2001. 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 this docket 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 issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fees or cancellation of the certificate. (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, this docket should be closed upon the issuance of a Consummating Order and upon receipt of the fees or cancellation of the certificate.