

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: JULY 11, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *ISL*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *TE*

RE: DOCKET NO. 020514-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERT. NO. 7752 ISSUED TO CARLTON PALMS CONDOMINIUM ASSOCIATION, INC. FOR VIOLATION OF RULES 25-24.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.

AGENDA: 07/23/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020514.RCM

CASE BACKGROUND

- 03/23/01 - This company obtained Florida Public Service Commission Certificate No. 7752.
- 12/12/01 - The Division of the Commission Clerk & Administrative Services mailed the 2001 Regulatory Assessment Fee (RAF) notice. Payment was due January 30, 2002.
- 02/22/02 - The Office of the General Counsel mailed the delinquent notice for nonpayment of the 2001 RAF. On March 7, 2002, the US Postal Service returned the delinquent notice stamped "not deliverable as addressed; unable to forward."

DOCUMENT NUMBER-DATE

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- **02/26/02** - The Division of the Commission Clerk & Administrative Services mailed a request for updated reporting requirements.
- **04/05/02** - The Commission received the request for updated reporting requirements back from the liaison, Wesley Chalk, as on file in Commission records. Mr. Chalk stated that he was no longer associated with this company and asked that his name and telephone number be removed from our records. Mr. Chalk also provided the Commission with another address for Carlton Palms Condominium Association, Inc.
- **04/11/02** - Staff wrote the company at the new address provided and explained that the 2001 RAF, plus penalty and interest charges, had not been paid and requested updated reporting requirements. A response was requested by April 30, 2002.
- **07/03/02** - As of this date, the company has not paid the 2001 RAF, including statutory penalty and interest charges or updated its reporting requirements.

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 penalty or cancel Carlton Palms Condominium Association, Inc.'s pay telephone service (PATS) Certificate No. 7752 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel the company's certificate if the penalty and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 7752 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Carlton Palms Condominium Association, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a penalty 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.

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The Division of the Commission Clerk & Administrative Services' records showed that the company had not paid its 2001 regulatory assessment fee, plus statutory penalty and interest charges; therefore, this docket was established. Although staff wrote the company, as of July 3, 2002, the company has not contacted staff by paying the past due RAF, including statutory penalty and interest charges, requested cancellation of its certificate, or proposed a settlement. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code. This penalty amount is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 penalty or cancel the company's certificate if the penalty and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 penalty and regulatory assessment fees, including statutory penalty and interest charges, are not received, the company's Certificate No. 7752 should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Carlton Palms Condominium Association, Inc. should be required to immediately cease and desist providing pay telephone services in Florida.

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ISSUE 2: Should the Commission impose a \$500 penalty or cancel Carlton Palms Condominium Association, Inc.'s PATS Certificate No. 7752 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel Carlton Palms Condominium Association, Inc.'s certificate if the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, and penalty are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 penalty and required information are not received, Carlton Palms Condominium Association, Inc.'s PATS Certificate No. 7752 should be canceled administratively. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Carlton Palms Condominium Association, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. (Isler)

STAFF ANALYSIS: Pursuant to Rule 25-24.520, Florida Administrative Code, Reporting Requirements, each company is allowed ten days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to the company was returned to the Commission by the US Postal Service. Although the former liaison for Carlton Palms Condominium Association, Inc. provided the Commission with a different address, we have not been provided with a new liaison or telephone number. Staff was unsuccessful in obtaining a telephone number from Directory Assistance. It has been well over ten days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has the company requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code. This penalty amount is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 penalty or cancel Carlton Palms Condominium Association,

Inc.'s certificate if the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, and penalty are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 penalty and required information are not received, Carlton Palms Condominium Association, Inc.'s PATS Certificate No. 7752 should be canceled administratively. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, Carlton Palms Condominium Association, Inc. should be required to immediately cease and desist providing pay telephone services in Florida.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: 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. The docket should then be closed upon receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate. (Teitzman)

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 receipt of the penalty and fees and updated reporting requirements, or cancellation of the certificate.