

State of Florida



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 18, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER)  
OFFICE OF THE GENERAL COUNSEL (MCKAY; ROJAS; CHRISTENSEN)  
*VGM 92*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS  
CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C.,  
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.  
*SC*

AGENDA: 09/30/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

RECEIVED FROM  
09 SEP 18 AM 11:43  
COMMISSION CLERK  
*[Handwritten signatures]*

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030687.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against pay telephone companies (PATs) for nonpayment of the Regulatory Assessment Fees (RAFs). Staff is recommending that first time offenders be penalized \$500, second time offenders be penalized \$1,000, and the third time offender's certificate be cancelled.

In Issues 1 through 3 of this recommendation, staff identifies Rule 25-4.0161, Florida Administrative Code, as that apparently violated by the companies listed in the attachments. The rule is incorporated by Rule 25-24.505, Florida Administrative Code. To avoid redundancy, hereafter, the recommendation refers only to Rule 25-4.0161, Florida Administrative Code.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida

DOCUMENT NUMBER-DATE  
08897 SEP 18 8  
FPSC-COMMISSION CLERK

DOCKET NOS. 030687-TC & OTHERS  
DATE: SEPTEMBER 18, 2003

Statutes. The following docket numbers are addressed by this recommendation.

**1<sup>st</sup> Time Offenders - Nonpayment of RAFs - \$500 Penalty**

DOCKET NO. 030687-TC - ANTHONY T. GIANANTE D/B/A SMART PAY  
PHONES OF FLORIDA  
DOCKET NO. 030688-TC - DOUGLAS C. PARRISH, JR.  
DOCKET NO. 030689-TC - PAYPHONES UNLIMITED INC.  
DOCKET NO. 030690-TC - GEORGE H. MEYER  
DOCKET NO. 030701-TC - DAVID P. MANDEVILLE  
DOCKET NO. 030703-TC - TDB SYSTEMS  
DOCKET NO. 030704-TC - LIZABETH PEREZ  
DOCKET NO. 030708-TC - FIKRAT TAHHAN  
DOCKET NO. 030717-TC - RESOURCE EXPRESS INC.  
DOCKET NO. 030719-TC - INTELE - MANAGEMENT, LLC  
DOCKET NO. 030721-TC - KWIK-MART, INC.  
DOCKET NO. 030724-TC - LARRY E. SHERMAN D/B/A BREVARD  
PAYPHONE SYSTEMS  
DOCKET NO. 030725-TC - CLEAN MACHINE OF SOUTH BEACH, INC.  
DOCKET NO. 030726-TC - PSI INTERNATIONAL, CORP.  
DOCKET NO. 030727-TC - FEDERAL CORRECTIONAL INSTITUTION MIAMI  
DOCKET NO. 030728-TC - SOVICHA CORP.  
DOCKET NO. 030729-TC - @COMM INC.  
DOCKET NO. 030730-TC - ADVANCED COMMUNICATION SERVICE USA INC.  
DOCKET NO. 030731-TC - DONALD MARK DEATON D/B/A  
DEATON COMMUNICATIONS  
DOCKET NO. 030732-TC - KIM KUCZYNSKI  
DOCKET NO. 030733-TC - COLONY 14 COMMUNICATIONS, INC.  
DOCKET NO. 030734-TC - JIM H. FLUCK D/B/A BSI  
DOCKET NO. 030735-TC - NOEL C. MACKAY  
DOCKET NO. 030736-TC - WOODROW J. ZEITLEN  
DOCKET NO. 030742-TC - FTF, INC.  
DOCKET NO. 030743-TC - JORGE E. ZAPATA

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**2<sup>nd</sup> Time Offenders - Nonpayment of RAFs - \$1,000 Penalty**

DOCKET NO. 030691-TC - LISA KARAVOKIRIS  
DOCKET NO. 030692-TC - J.K. MIAMI CORP.  
DOCKET NO. 030693-TC - PANCHO VILLAS, INC. D/B/A TACO TEX  
DOCKET NO. 030706-TC - TERRY ALAN HALL D/B/A COMMUNICALL  
DOCKET NO. 030707-TC - AMERICALL, INC.  
DOCKET NO. 030710-TC - PUBLICALL TELECOMMUNICATIONS INC.  
DOCKET NO. 030718-TC - K.C.I. ORIGINAL INC.  
DOCKET NO. 030720-TC - MAH COMMUNICATIONS, INC.  
DOCKET NO. 030722-TC - DONATELLA COMMUNICATIONS LLC

**3<sup>rd</sup> Time Offender - Nonpayment of RAFs - Cancellation of Certificate**

DOCKET NO. 030702-TC - THE TRAIN-TEL COMPANY

DATE: SEPTEMBER 18, 2003

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission impose a \$500 penalty or cancel each company's respective certificate, as listed on Attachment A, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** The Commission should impose a \$500 penalty or cancel each company's respective certificate, as listed on Attachment A, for apparent violation of Rule 25-4.0161, Florida Administrative Code, 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. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; McKay)

**STAFF ANALYSIS:** Each of the telecommunications companies listed on Attachment A have not paid their 2002 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 have not requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a \$500 penalty or cancel each company's respective certificate, as

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listed on Attachment A, for apparent violation of Rule 25-4.0161, Florida Administrative Code, 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. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company 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 \$1,000 penalty or cancel each company's respective certificate, as listed on Attachment B, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** The Commission should impose a \$1,000 penalty or cancel each company's respective certificate, as listed on Attachment B, for apparent violation of Rule 25-4.0161, Florida Administrative Code, 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. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Rojas)

**STAFF ANALYSIS:** Each of the telecommunications companies listed on Attachment B have not paid their 2002 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 have not requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a \$1,000 penalty or cancel each company's respective certificate, as listed on Attachment B, for apparent violation of Rule 25-4.0161, Florida Administrative Code, if the penalty and the Regulatory

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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. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate, as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida.

**ISSUE 3:** Should the Commission cancel The Train-Tel Company's PATS Certificate No. 5016, as listed on Attachment C, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** The Commission should cancel The Train-Tel Company's Certificate No. 5016, as listed on Attachment C, for apparent violation of Rule 25-4.0161, Florida Administrative Code. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 5016, as listed on Attachment C, should be cancelled administratively. If the company's certificate, as listed on Attachment C, is cancelled in accordance with the Commission's Order from this recommendation, The Train-Tel Company should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Christensen)

**STAFF ANALYSIS:** The Train-Tel Company has not paid its 2002 RAF, plus statutory penalty and interest charges, and has a history of late payments. The company's certificate became effective December 27, 1996, and the company has paid the RAF after the due date every year. In addition, two other dockets were established for nonpayment of the RAFs.

Docket No. 990783-TC was established on June 17, 1999, for violation of the pay telephone service standards and nonpayment of the 1998 RAF. On August 11, 1999, Order No. PSC-99-1579-SC-TC was issued, which required the company to show cause why it should not be fined \$1,400 for violation of the service standards and on September 22, 1999, Order No. PSC-99-1579A-SC-TC was issued, which required the company to show cause why it should not be fined \$500 for violation of the RAF rule. The company responded to the Show Cause Orders by correcting the service violations, paying the RAF, and proposing a \$1,000 settlement. On January 7, 2000, Order No. PSC-00-0057-AS-TC was issued, which accepted the company's settlement offer. The company subsequently paid the settlement and the docket was closed.

Docket No. 010685-TC was established on May 4, 2001, for nonpayment of the 2000 RAF. The company paid the past due RAF and proposed a \$500 settlement. On September 24, 2001, Order No. PSC-

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01-1902-AS-TC was issued, which accepted the company's settlement offer. In its settlement offer, the company proposed to pay future RAFs in a timely manner. The company subsequently paid the settlement and the docket was closed.

Since this is the third docket established for nonpayment of the RAFs, the company should be well aware when the fees are due each year. The cancellation of a certificate for a third offense is consistent with a prior Commission decision. In Docket No. 000968-TC, by Order No. PSC-00-1815-PAA-TC, issued October 4, 2000, the Commission cancelled James M. Bracewell d/b/a Southern Telecommunications' pay telephone certificate for violating the RAF rule in three separate dockets (Nos. 971340-TC, 981273-TC, and 000968-TC). Based on the above, staff believes that cancellation of this company's certificate is appropriate. There are no outstanding consumer complaints against The Train-Tel Company.

Therefore, it appears The Train-Tel Company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and is not in compliance with its previous settlement proposal. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission cancel The Train-Tel Company's PATS Certificate No. 5016, as listed on Attachment C, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's PATS Certificate No. 5016, as listed on Attachment C, should be cancelled administratively. If The Train-Tel Company's certificate is cancelled in accordance with the Commission's Order from this recommendation, The Train-Tel Company should be required to immediately cease and desist providing pay telephone services in Florida.

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**ISSUE 4:** Should these dockets be closed?

**RECOMMENDATION:** The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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 Orders. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (McKay; Rojas; Christensen)

**STAFF ANALYSIS:** Whether staff's recommendations on Issues 1, 2, and 3 are approved or denied, the result will be Proposed Agency Action Orders. If no timely protest to the Proposed Agency Actions are filed within 21 days of the date of issuance of the Orders, these dockets should be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

1<sup>st</sup> Time Offenders - Nonpayment of RAFs - \$500 Penalty

<u>Docket No.</u>	<u>Provider Last Reported Revenues &amp; Period Ended</u>	<u>Cert. No.</u>	<u>RAF's</u>	<u>Penalty and Interest*</u>
030687-TC	Anthony T. Giansante d/b/a Smart Pay Phones of Florida \$0 Revenues 12/31/01	2874	2002	2002
030688-TC	Douglas C. Parrish, Jr. \$0 Revenues 12/31/02	3207	2002	2002
030689-TC	Payphones Unlimited Inc. \$37,390 Revenues 12/31/01	3618	2002	2002
030690-TC	George H. Meyer \$0 Revenues 12/31/01	3764	2002	1999 2000 2001 2002
030701-TC	David P. Mandeville \$23,518 Revenues 12/31/01	4882	2002	2000 2001 2002
030703-TC	TDB Systems \$40,500 Revenues 12/31/01	5051	1998 bal. 2002	1998 2001 2002
030704-TC	Lizabeth Perez \$2,745 Revenues 12/31/01	5382	2002	2002
030708-TC	Fikrat Tahhan \$0 Revenues 12/31/01	5843	2002	2002
030717-TC	Resource Express Inc. \$200 Revenues 12/31/01	5917	2002	2001 2002
030719-TC	Intele - Management, LLC \$0 Revenues 12/31/02	7265	2002	2002
030721-TC	Kwik-Mart, Inc. \$2,092 Revenues 12/31/01	7365	2002	2000 2001 2002

\*Years penalty and/or interest was not paid

1<sup>st</sup> Time Offenders - Nonpayment of RAFs - \$500 Penalty - Continued

<u>Docket No.</u>	<u>Provider Last Reported Revenues &amp; Period Ended</u>	<u>Cert. No.</u>	<u>RAF's</u>	<u>Penalty and Interest*</u>
030724-TC	Larry E. Sherman d/b/a Brevard Payphone Systems \$961 Revenues 12/31/01	7538	2002	2002
030725-TC	Clean Machine of South Beach, Inc. \$580 Revenues 12/31/01	7672	2002	2002
030726-TC	PSI International, Corp. \$52,858 Revenues 12/31/01	7704	2002	2002
030727-TC	Federal Correctional Institution Miami \$68 Revenues 12/31/01	7818	2002	2002
030728-TC	Sovicha Corp. \$12,101 Revenues 12/31/01	7835	2002	2001 2002
030729-TC	@comm inc. \$0 Revenues 12/31/01	7884	2002	2002
030730-TC	Advanced Communications Service USA Inc. \$0 Revenues 12/31/01	7940	2002	2002
030731-TC	Donald Mark Deaton d/b/a Deaton Communications \$0 Revenues 12/31/02	7951	2002	2001 2002
030732-TC	Kim Kuczynski No Previous Return Filed	8029	2002	2002
030733-TC	Colony 14 Communications, Inc. No Previous Return Filed	8097	2002	2002
030734-TC	Jim H. Fluck d/b/a BSI No Previous Return Filed	8103	2002	2002
030735-TC	Noel C. Mackay No Previous Return Filed	8098	2002	2002

\*Years penalty and/or interest was not paid

1<sup>st</sup> Time Offenders - Nonpayment of RAFs - \$500 Penalty - Continued

<u>Docket No.</u>	<u>Provider</u> <u>Last Reported Revenues &amp;</u> <u>Period Ended</u>	<u>Cert.</u> <u>No.</u>	<u>RAFs</u>	<u>Penalty</u> <u>and</u> <u>Interest*</u>
030736-TC	Woodrow J. Zeitlen No Previous Return Filed	8160	2002	2002
030742-TC	FTF, Inc. No Previous Return Filed	8171	2002	2002
030743-TC	Jorge E. Zapata No Previous Return Filed	8180	2002	2002

\*Years penalty and/or interest was not paid

2<sup>nd</sup> Time Offenders - Nonpayment of RAFs - \$1,000 Penalty

<u>Docket No.</u>	<u>Provider Last Reported Revenues &amp; Period Ended</u>	<u>Cert. No.</u>	<u>RAF's</u>	<u>Penalty and Interest*</u>
030691-TC	Lisa Karavokiris \$9,821 Revenues 12/31/01	3775	2002	2002
030692-TC	J.K. Miami Corp. \$0 Revenues 12/31/01	4163	2002	1997 1998 2002
030693-TC	Pancho Villas, Inc. d/b/a Taco Tex \$0 Revenues 12/31/01	4167	2002	1998 2000 2001 2002
030706-TC	Terry Alan Hall d/b/a Communicall \$100 Revenues 12/31/01	5512	2002	2002
030707-TC	AmeriCall, Inc. \$52,189 Revenues 12/31/01	5538	2002	2002
030710-TC	Publicall Telecommunications Inc. \$1,452 Revenues 12/31/01	5909	2002	2002
030718-TC	K.C.I. Original Inc. \$0 Revenues 12/31/01	7007	2002	2001 2002
030720-TC	MAH Communications, Inc. \$2,197 Revenues 12/31/01	7432	2002	2002
030722-TC	Donatella Communications LLC \$109,011 Revenues 12/31/01	7370	2002	2002

\*Years penalty and/or interest was not paid

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ATTACHMENT C

3<sup>rd</sup> Time Offender - Nonpayment of RAFs - Cancellation of Certificate

<u>Docket No.</u>	<u>Provider</u> <u>Last Reported Revenues &amp;</u> <u>Period Ended</u>	<u>Cert.</u> <u>No.</u>	<u>RAFs</u>	<u>Penalty</u> <u>and</u> <u>Interest*</u>
030702-TC	The Train-Tel Company -\$1,496 Revenues 12/31/02	5016	2002	2001 2002

\*Years penalty and/or interest was not paid