

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

RECEIVED-FPSC
COMMISSION CLERK
-M-E-M-O-R-A-N-D-U-M-

DATE: DECEMBER 23, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *USM JLC* *MS*

RE: DOCKET NO. 030736-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PATS CERTIFICATE NO. 8160 ISSUED TO
WOODROW J. ZEITLEN FOR VIOLATION OF RULE 25-4.0161,
F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS
COMPANIES.

AGENDA: 01/06/04 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030736.RCM

CASE BACKGROUND

- 08/19/02 - This company obtained Florida Public Service Commission Pay Telephone Company (PATS) Certificate No. 8160.
- 12/12/02 - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
- 02/21/03 - The Office of the General Counsel mailed a delinquent notice via certified mail for nonpayment of the 2002 RAF. The US Postal Service subsequently returned the certified receipt showing the delinquent notice was signed for and delivered on February 24, 2003.

DOCUMENT NUMBER-DATE

13347 DEC 23 8

FPSC-COMMISSION CLERK

- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid its 2002 RAF.
- **05/21/03** - Staff wrote the company and explained that the 2002 RAF had not been paid and that in order to avoid an enforcement docket from being established, the RAF needed to be paid by June 13, 2003.
- **07/30/03** - The company did not pay the past due amount or contact staff; therefore, Docket No. 030736-TC was established for nonpayment of the 2002 RAF.
- **09/18/03** - Staff filed its recommendation to penalize the company \$500 or cancel its certificate.
- **09/29/03** - The Commission received payment of the 2002 minimum RAF. The company reported no revenues for the period ended December 31, 2002.
- **09/30/03** - Although full payment was not received, staff was granted permission to defer this docket from the September 30, 2003, Agenda Conference.
- **10/02/03** - The Commission received a telegram (Attachment A) from Mr. Woodrow Zeitlen, which stated that he did not want to lose his payphone certificate.
- **10/06/03** - Mr. Zeitlen called staff twice on October 6th. He again stated that he did not want to lose his payphone certificate.
- **10/13/03** - The Commission received the past due statutory late payment charges from the company.
- **10/23/03** - Staff wrote the company and explained that although the Commission had received the Regulatory Assessment Fee, along with the statutory late payment charges, the company needed to propose a settlement to keep the certificate active. Staff requested a response by November 3, 2003.
- **11/18/03** - Staff attempted to call Mr. Zeitlen, but there was no answer.

- **12/10/03** - As of this date, the company does not have any outstanding consumer complaints.

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 Woodrow J. Zeitlen's certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: The Commission should impose a \$500 penalty or cancel the company's certificate with an effective date of December 31, 2003, if payment of the penalty is 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 the Commission's Order is not protested and payment of the penalty is not received, the company's Certificate No. 8160 should be cancelled administratively. If Woodrow J. Zeitlen's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone services in Florida. **(Isler; McKay)**

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 of the subsequent year for telecommunications companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of the Commission Clerk & Administrative Services' records showed that the company had not paid its 2002 RAF, plus statutory late payment charges; therefore, this docket was established. On September 29, 2003, the day before the September 30th Agenda Conference, the Commission received the

company's payment for the minimum 2002 RAF. Although the company did not pay the statutory late payment charges or request deferral of this docket, staff requested and was granted permission to defer the docket since staff believed the company was attempting to resolve the docket by paying the minimum amount. The company subsequently paid the statutory late payment charges but did not propose a settlement.

On October 2, 2003, Mr. Zeitlen sent a telegram (Attachment A) to the Commission and called staff on October 6th and stated that he wished to keep his certificate active. Mr. Zeitlen's telegram stated that a company called Ameritel, which is a pay telephone distributor and not a pay telephone certificate holder, "ripped" him off for \$6,500 on his credit card. Mr. Zeitlen demanded that the Commission fine Ameritel. During the two telephone conversations with Mr. Zeitlen, several topics were discussed including the fact that he paid the \$50 RAF and had spent \$50 on the telegram on his birthday. Staff advised that possible credit card fraud should be reported to law enforcement agencies and since Ameritel was not a pay telephone service provider with a certificate, it did not appear that the Commission had grounds to fine Ameritel.

On October 23, 2003, staff wrote the company and explained that although the past due RAF had been paid in full, companies in similar circumstances had proposed settlements to resolve their dockets in lieu of being penalized \$500. A response was requested by November 3, 2003. As of December 10, 2003, the company has not contacted staff requesting cancellation of its certificate, or proposing 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 with an effective date of December 31, 2003, if payment of the penalty is 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 the Commission's Order is not protested and payment of the penalty is not received, the company's Certificate No. 8160 should be cancelled

DOCKET NO. 030736-TC
DATE: DECEMBER 23, 2003

administratively. If Woodrow J. Zeitlen's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone services in Florida.

ISSUE 2: 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 or cancellation of the certificate.
(McKay)

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 or cancellation of the certificate.

DOCKET NO. 030736-TC
DATE: DECEMBER 23, 2003
WOODROW J ZEITLEN
900 GULF SHORE DR UNIT 126
DESTIN FL 32541

ORIGINAL
WESTERN UNION | TELEGRAM™
Official TELEGRAM
RECEIVED FPSC

109387000009 10/01/03
EM14959

TGM1 - TGMA

03 OCT -2 AM 11:51



COMMISSION
CLERK

0327409997339090
PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BLVD
TALLAHASSEE FL 32399-0850

030736-TC

TO WHOM IT DOES CONCERN,

PLEASE BE ADVISED THAT W. J. ZEITLEN WAS UNABLE TO ATTEND YOUR SEMINAR YESTERDAY IN TALLAHASSEE. IT WAS MY BIRTHDAY. W. J. ZEITLEN ASSOCIATES DOES NOT WANT TO LOSE THE COMMISSION'S CERTIFICATE #8160.

BE ADVISED THAT W. J. ZEITLEN ASSOCIATES HAS WASTED AT LEAST \$12,000.00 ON FIVE PAY TELEPHONE LOCATIONS. THE REASON IS VANDALISM AND AMERITEL OF NORTH MIAMI FLORIDA RIPPED ME OFF FOR \$6,500 ON MY DISCOVER CARD IN JUNE, 2002. W. J. ZEITLEN ASSOCIATES INCLUDING INSTALLERS DEMANDS THAT THE COMMISSION FINE AMERITEL INC. OF NORTH MIAMI FLORIDA.

W. J. ZEITLEN ASSOCIATES AND HIS MEN CONTINUE TO REPAIR CLOSED UP LOCATIONS. ONE OF WHICH IS THE CORNER OF FEDERAL HWY. 98 AND GULF SHORE DR. IN OKALOOSA COUNTY, STATE OF FLORIDA.

RESPECTFULLY YOURS,

WOODROW ZEITLEN

MGMCOMP 18:43 EST

DISTRIBUTION CENTER
03 OCT -2 AM 10:25

- AUS
- CAF
- CMP
- COM
- CTR
- ECR
- GCL
- OPC
- MMS
- SEC
- OTH

DOCUMENT NUMBER-DATE

www.westernunion.com 09514 OCT-28

An Official Transmission of Western Union
FPSC-COMMISSION CLERK