

State of Florida



# Public Service Commission

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**-M-E-M-O-R-A-N-D-U-M-**  
COMMISSION  
CLERK

**DATE:** DECEMBER 23, 2003

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pij*  
OFFICE OF THE GENERAL COUNSEL (MCKAY) *VSM ba*

**RE:** DOCKET NO. 031009-TC - CANCELLATION BY FLORIDA PUBLIC  
SERVICE COMMISSION OF PATS CERTIFICATE NO. 7891 ISSUED TO  
MAD DOG'S TELEPHONE & WIRING, INC. FOR VIOLATION OF RULE  
25-24.0161, 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\031009.RCM

## CASE BACKGROUND

- **09/14/01** - This company obtained Florida Public Service Commission Pay Telephone Company (PATS) Certificate No. 7891.
- **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 March 8, 2003.

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- **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.
- **06/10/03** - The Commission received the company's payment for the 2002 minimum RAF, the 2001 late payment charges, and a portion of the 2002 late payment charges. The company reported revenues in the amount of \$921.19 for the period ended December 31, 2002.
- **06/17/03** - The Division of the Commission Clerk & Administrative Services wrote the company requesting the balance of the statutory late payment charges.
- **07/09/03** - The company's check for the 2002 RAF and late payment charges was returned by its bank stamped "Account closed - do not redeposit."
- **07/10/03** - The Division of the Commission Clerk & Administrative Services wrote the company and explained that its check had been dishonored by its bank and a cashiers check was due within 30 days.
- **10/28/03** - The company did not repay the past due amount or contact staff; therefore, Docket No. 031009-TC was established for nonpayment of the 2002 RAF.

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 Mad Dog's Telephone & Wiring, Inc.'s Certificate No. 7891 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 and past due Regulatory Assessment Fees, including statutory late payment charges for the years 2001 and 2002, 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 the Commission's Order is not protested and payment of the penalty and past due Regulatory Assessment Fees, including statutory late payment charges, are not received, the company's Certificate No. 7891 should be cancelled administratively. If Mad Dog's Telephone & Wiring, Inc.'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, on May 21, 2003, staff wrote the company and advised it to pay the past due amount, including statutory late payment charges, to avoid a docket from being established. The company responded on June 10, 2003, by paying the 2002 minimum fee, along with a portion of the statutory late payment charges. On July 9, 2003, the Commission was advised that the company's check was dishonored and stamped "Account closed - do not redeposit." The Division of the Commission Clerk & Administrative Services wrote the company on July 10, 2003, and advised it to pay the past due amount in full, including a returned check charge. No response was received; therefore, this docket was

established. 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 and past due Regulatory Assessment Fees, including statutory late payment charges for the years 2001 and 2002, 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 the Commission's Order is not protested and payment of the penalty and past due Regulatory Assessment Fees, including statutory late payment charges, are not received, the company's Certificate No. 7891 should be cancelled administratively. If Mad Dog's Telephone & Wiring, Inc.'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 and fees 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 and fees or cancellation of the certificate.