SWAFFORD

CLARK

FLORIDA PUBLIC SERVICE COMMISSION
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

APRIL 18, 1991

TO : DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES [ADAMS]
DIVISION OF COMMUNICATIONS [AUSTIN]

RE : DOCKET NO. 910435-TC, 910436-TC, 910437-TC, 910438-TC, 910439-TC, 910440-TC, 910441-TC, 910442-TC, 910450-TC, 910452-TC, 910453-TC, 910454-TC - INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF COMMISSION RULE 25-24.520, 1990 ANNUAL REPORT REQUIREMENT AND COMMISSION RULE 25-4.043 RESPONSE REQUIREMENT

AGENDA : PLACE ON APRIL 30, 1991 AGENDA - CONTROVERSIAL - PARTIES MAY PARTICIPATE

CRITICAL DATES : NONE

CASE BACKGROUND

The PATS providers listed in Table 1, Attachment A did not file annual reports for 1990 as required by Rule 25-24.520, Florida Administrative Code. A notice has been sent to each non-complying provider. A copy of the notice is attached hereto as Attachment B. No responses have been received from the providers listed in Table 1, Attachment A.

DISCUSSION OF ISSUES

ISSUE 1: Should the pay telephone service (PATS) providers referenced in the above dockets be required to show cause why the Commission should not fine each of them $250 or, in the alternative, why these PATS providers should not have their certificates revoked for failure to comply with Rule 25-24.520, Florida Administrative Code requiring annual reports, and Rule 25-4.043, requiring responses to Commission inquiries?

RECOMMENDATION: Yes, staff recommends that each of the referenced companies be required to show cause why they should not be fined or, in the alternative, have their certificate revoked for failure to comply with Rule 25-24.520 and Rule 25-4.043, Florida Administrative Code.

STAFF ANALYSIS: Rule 25-24.520, Florida Administrative Code, requires the filing of annual reports with the Commission, by January 31st. Rule 25-4.043 Florida Administrative Code requires that all entities under the Commission's jurisdiction reply to Commission inquiries. As certificated Pay Telephone Service (PATS) providers, the companies listed in Table 1, Attachment A are subject to the jurisdiction of this Commission and have failed to file the required reports. A notice was sent on December 5, 1990, notifying each PATS provider of this requirement and requesting compliance. As of April 1, 1991, the companies referenced in Table 1, Attachment A have not responded. A copy of the notice is attached hereto as Attachment B.

It is Staff's recommendation that PATS providers who respond to the show cause action should be treated on a case by case basis and that any company or person not responding within 20 days of the show cause order should have its certificate automatically cancelled. Staff recommends that no fine be imposed on any PATS provider whose certificate is cancelled. However, a company whose certificate is cancelled without the imposition of a fine cannot be relieved of its responsibility to pay its regulatory assessment fees.

For those companies whose certificates are cancelled, the local exchange company will be required to disconnect their PATS lines. These cancellations will be automatic and it will not be necessary to bring a cancellation back before the Commission. Staff believes that cancellation without a fine is the most efficient and cost-effective way to manage PATS providers who do not comply with the annual report requirement and that this procedure will help purge the Commission's files of PATS providers no longer in operation.

ISSUE 2: What is the appropriate fine to be levied in lieu of certificate revocation for failure to file required reports and failure to reply to Commission inquiries?

RECOMMENDATION: Staff recommends that $250 would be an appropriate amount.

STAFF ANALYSIS: Staff is recommending an increase in the fine from $100 to $250 for companies who have failed to file an annual report for 1990. Staff's reasons for an increase in the fine amount are based on several factors presented below.

December 5, 1990, 559 pay telephone providers were mailed notices to file an annual report. As of February 20, 1991, 189 companies or 36% did not file the report. This is a 16% increase over 1989 figures, where 114 out of 690 or 17% of the pay telephone providers were show caused for failure to file an annual report. Out of the 189 companies who failed to file for 1990 only 33 or 17% of those companies were first time filers. The remaining 83% or 156 companies had filed an annual report for past years.

Despite the fact that pay telephone providers decreased by 131 companies from 1989 to 1990, there was an increase in the number of companies who failed to file a report by 16% . Staff has expended many hours preparing the necessary files and recommendations for these violators; and given the fact that the majority of the pay telephone providers who failed to file this year were not first time filers, staff would recommend an increase in the fine amount.

In previous years, staff recommended a maximum fine of $100 to bring the violation to the attention of the provider and impress upon him the necessity for knowledge of and compliance with the Commission's Rules and Regulations without being unduly burdensome. However, based upon the figures above, an increase in the fine amount is necessary. Furthermore, staff recognizes that repeat offenders warrant special consideration. Repeat offenders will be addressed in a separate recommendation.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: These dockets should remain open pending the resolution of the show cause proceedings. However, the docket of any PATS provider that does not respond to the show cause order should be administratively closed upon the expiration of the show cause response period.

STAFF ANALYSIS: These dockets must remain open pending resolution of the show cause proceedings. PATS providers who respond within the show cause period should be handled on a case by case basis. Any company who fails to respond within 20 days of the show cause order shall have its PATS certificate automatically revoked and the related dockets should be administratively closed.

PA
Attachment

Docket Nos. 910435-TC - 910454-TC
April 18, 1991

TABLE 1

FIRST TIME OFFENDERS

COMPANY NAME	DOCKET #	CERT. #	DATE OF AUTHORITY	ANNUAL REPORT FILED ON	RAF 1990
BARNEY LOWENSTEIN	910435-TC	2571	10/31/90		Y
COMMERICAL TELEPHONES, INC.	910436-TC	2568	10/31/90		N
FISHERMAN'S WHARF	910437-TC	2563	10/15/90		N
JONI'S COURTTREE COUNTRY STORE	910438-TC	2536	08/20/90		Y
T.J.'S OF CAPE CORAL D/B/A JORDY'S ROADSIDE RESTAURANT	910439-TC	2535	08/20/90		Y
UNIQUE PHONE SERVICE	910440-TC	2548	08/15/90		N
WORLD COMMUNICATIONS NETWORK	910441-TC	2541	08/15/90		N
ACI COMMUNICATIONS	910442-TC	2598	11/08/90		N
EARL M. HOAGLIN D/B/A FLORIDA PAY TELEPHONE SERVICE	910450-TC	101	08/12/85	87 - NDS 88 - NDS 02/15/90	N
ORLANDO INTERNATIONAL, INC.	910452-TC	2310	06/14/89	89 - NDS	N
SOUTHERN PAY TELEPHONE	910453-TC	2236	02/09/89	02/20/90	Y
DAMMAM INTERNATIONAL CORPORATION	910454-TC	1931	03/03/88	02/28/89 03/19/90	Y

DOA = DATE OF AUTHORITY
FILED IN = YEAR(S) COMPANY PREVIOUSLY FILED ANNUAL REPORT
RAF = REGULATORY ASSESSMENT FEE

ATTACHMENT 5

State of Florida

Division of Communications
Walter D'Haeseleer, Director
(904) 488-1280

Public Service Commission

December 5, 1990

Dear PATS Provider:

As a certificated pay telephone service (PATS) provider, you are required to meet certain reporting requirements as specified by Rule 25-24.520.

Attached is the format for your Annual Pay Telephone Service Report. This information must be provided to the Division of Communications by January 31, 1991. If your report is not received by January 31, we must recommend that the Commission fine you one hundred dollars ($100.00) for violation of Rule 25-24.520, and that your certificate be revoked. As a result all pay phones under your certificate will be disconnected.

You are also required to provide your local exchange company (LEC) with a listing of your PATS locations and telephone numbers by January 31, 1991. Please mail an additional copy of this information with your Annual Pay Telephone Service Report to the Division of Communications as well.

If you are not providing pay phone service and would like to cancel your certificate, please send a letter stating this to the address on the annual report.

If you have any questions please feel free to call me at (904) 488-1280.

Sincerely,

Pamela Austin

Pamela Austin
Regulatory Analyst
Bureau of Service Evaluation

PA

[redacted]

cc: All Florida Local Exchange Companies