

Talbott: *WR*

Vandiver: *H*

FLORIDA PUBLIC SERVICE COMMISSION

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M E M O R A N D U M

July 18, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (K. LEWIS) *LM*
DIVISION OF LEGAL SERVICES (LUGO) *scl/mcb*

RE: DOCKET NO. 960798-TC - DONALD R. CHAFFIN d/b/a C-W
ENTERPRISES - CANCELLATION BY FLORIDA PUBLIC SERVICE
COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3006 FOR
VIOLATION OF RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE,
REPORTING REQUIREMENTS, AND RULE 25-4.043, FLORIDA
ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF
INQUIRIES.

AGENDA: JULY 30, 1996 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\960798.RCM

CASE BACKGROUND

Donald R. Chafin d/b/a C-W Enterprises has been a certified pay telephone provider since March 5, 1992. The company presently operates approximately 24 pay telephones in Florida.

On June 10, 1996, the Division of Consumer Affairs forwarded a complaint file to the Division of Communications because C-W Enterprises failed to respond to a consumer complaint. The Division of Communications staff has also been unsuccessful in its efforts to contact C-W Enterprises.

The following is staff's recommendation concerning the company's failure to respond to the Commission staff and its failure to update the contact information as required by Commission rules.

DOCUMENT NUMBER-DATE

07596 JUL 18 96

FPSC-RECORDS/REPORTING

DOCKET NO. 960798-TC
DATE: JULY 18, 1996

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission cancel certificate 3006 issued to C-W Enterprises if it fails to pay a \$500 fine, respond to the consumer complaint as required by Rule 25-4.043, and provide staff with the contact information required by Rule 25-24.520(1)(a) and (b), Florida Administrative Code?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, sets forth the requirements for cancellation of a pay telephone certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

On January 8, 1996, the Division of Consumer Affairs forwarded a complaint to C-W Enterprises for response. The anonymous complaint alleged that two payphones located at 4691 West Sunrise Boulevard in Boca Raton, Florida were not accessible to handicapped persons. The company failed to respond to the Commission staff within the fifteen days required by Rule 25-4.043 and on April 26, 1996, the Division of Consumer Affairs staff mailed a separate letter requesting a response. No response was received and the Division of Consumer Affairs sent a third request for response via certified mail. Although the receipt card was signed and returned to the Commission, C-W Enterprises did not respond to the Commission staff's letter. Therefore, the complaint file was forwarded to the Division of Communications for further investigation.

On July 1, 1996, the Division of Communications staff attempted to contact C-W Enterprises at the telephone number provided in the master commission directory. Staff reached a recording stating that the number had been changed. Staff called the number and left a message but as of this writing no response has been received. Pursuant to Rule 25-24.520(1)(a) and (b), Florida Administrative Code, each company is allowed 10 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.

DOCKET NO. 960798-TC
DATE: JULY 18, 1996

C-W Enterprises has failed to comply with Rules 25-24.520(1)(a) and (b), Florida Administrative Code, in that it has not filed with staff the change in mailing address, liaison information etc., within 10 days after the change occurred.

Staff has attempted to contact the provider via telephone and certified mail without success. It has been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information. Therefore, staff recommends that the company's certificate be cancelled unless it pays a \$500 fine, responds to the consumer complaint, and provides staff with the information required in accordance with Rules 25-24.520(1)(a) and (b), Florida Administrative Code, within 30 days of the Order becoming final.

Staff notes cancellation or a fine is consistent with previous proceedings of this nature.

DOCKET NO. 960798-TC
DATE: JULY 18, 1996

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Order, the Order will become final, and C-W Enterprises will have 30 days from the date the Order becomes final to pay a \$500 fine, respond to the consumer complaint, and provide staff with the information as required by Rules 25-24.480(3)(a) and (b), Florida Administrative Code, or it's certificate will be cancelled without further Commission action.

The fine is to be paid to the Florida Public Service Commission and forwarded to the Office of Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statutes. Upon payment of the fine, response to the consumer complaint and provision of the correct company contact information, or cancellation of the certificates, this docket should be closed without further Commission action.

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then C-W Enterprises will have 30 days from the date the Order becomes final to pay a \$500 fine and provide staff the information called for in Rules 25-24.520 (1)(a) and (b), and 25-4.043, Florida Administrative Code, or certificate number 3006 will be cancelled without further Commission action. If no protest is filed, the docket should be closed after the conclusion of the 30 day period. If certificate number 3006 is cancelled, the serving local exchange company shall be directed to discontinue service to all pay telephone operated by C-W Enterprises company. If the Commission denies staff on Issue 1 this docket should be closed.