

Talbott *WJL/ly/MP*  
Vandiver

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**

May 7, 1997

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

**FROM:** DIVISION OF COMMUNICATIONS (BIEGALSKI) *VB*  
DIVISION OF LEGAL SERVICES (PENA) *WJL*

**RE:** DOCKET NO. 970497-TC - MARK McDONALD - CANCELLATION BY  
FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE  
CERTIFICATE NO. 3940 FOR VIOLATION OF RULE 25-  
24.520(1)(a) and (b), FLORIDA ADMINISTRATIVE CODE,  
REPORTING REQUIREMENTS, AND RULE 25-4.0161, FLORIDA  
ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

**AGENDA:** 05/19/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** S:\PSC\CMU\NP\970497tc.RCM

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**CASE BACKGROUND**

- Mark McDonald obtained certificate number 3940 on January 11, 1995.
- The Division of Administration received the Delinquent Regulatory Assessment Fee Notice back from the Post Office stamped "Forwarding Order Expired" (Page 5). Staff mailed a certified letter to a forwarding address listed on the returned correspondence. However, the Post Office returned the letter as "unclaimed" (Page 6).
- Staff attempted unsuccessfully to reach Mr. McDonald by calling the telephone number listed in the Master Commission Directory. The number listed has been disconnected. No other number could be obtained through directory assistance.

DOCUMENT NUMBER-DATE

04501 MAY-76

FPSC-RECORDS/REPORTING

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**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission cancel Mark McDonald's Pay Telephone Certificate No. 3940, if he fails to pay a \$250 fine within 30 days of the date the order becomes final, submit the regulatory assessment fee, along with the statutory penalties and interest charges, as required by Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, and provide staff with the correct mailing address, liaison information and other information as required by Rules 25-24.520(1)(a) and (b), Florida Administrative Code, Records and Reports; Rules Incorporated?

**RECOMMENDATION:** Yes. Collected fines are to be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statutes.

**STAFF ANALYSIS:** Pursuant to Rule 25-24.514 (1) (a) and (b), Florida Administrative Code, Cancellation of a Certificate, in pertinent part, the Commission may cancel a company's certificate for violation of the terms and conditions under which the authority was originally granted or for violation of Commission rules and orders.

Rule 25-4.0161, Florida Administrative Code, provides in pertinent parts:

(2) Regulatory assessment fees and the applicable regulatory assessment fee return form are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30.

(5) The delinquency of any amount due to the Commission from the company pursuant to the provisions of s. 350.113, Florida Statutes, and this rule, begins with the first day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in s. 350.113, Florida Statutes, shall apply to any such delinquent amounts.

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(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

As of April 15, 1997, the regulatory assessment fee for 1996, along with the statutory penalties and interest charges, has not been submitted by Mark McDonald.

Pursuant to Rule 25-24.520(1)(a) and (b), Florida Administrative Code, in pertinent part, each pay telephone service company shall file with the Division of Communications, within 10 days after a change occurs, the street address of the certificate holder and the name, title and phone number of the individual responsible for contact with the Commission. Mail is being returned and Communications staff is unable to contact the provider by telephone.

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 Certificate No. 3940, issued to Mark McDonald, be canceled unless he pays a \$250 fine, submits the regulatory assessment fee, along with statutory penalties and interest charges, as required by Rule 25-4.0161, Florida Administrative Code, and provides staff with the information required by Rule 25-24.520(1)(a) and (b), Florida Administrative Code, Reporting Requirements, within 30 days after the Order becomes final.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. This docket should be closed if no person whose substantial interests are affected files a protest within 21 days of the issuance of the Order. If no timely protest is filed, the certificate should be canceled and the docket should be closed at the conclusion of the 30 day period after the Order becomes final. If Mark McDonald pays the \$250 fine, submits the regulatory assessment fee, along with the statutory penalties and interest charges, and provides the information required, the docket should be closed.

**STAFF ANALYSIS:** If the Commission adopts staff's recommendation in Issue 1, then Mark McDonald will have 30 days from the date the Order becomes final to pay a \$250 fine, submit the regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, and provide staff the information called for in Rule 25-24.520(1)(a) and (b), Florida Administrative Code, Reporting Requirements, or the certificate will be canceled without further Commission action.

Unless a person whose substantial interests are affected by this Order files a protest within 21 days, the docket should be closed after the conclusion of the 30 day period.

The serving local exchange company shall be notified by staff to discontinue service to all pay telephones operated by Mark McDonald. If the Commission denies staff on Issue 1 the docket should be closed.

**State of Florida  
Service Commission**

200 Chassard Oak Boulevard  
Tallahassee, Florida 32301-0250



TF288  
Mark McDonald  
415 West Virginia Street  
Tallahassee, FL 32301-1029

2777

MC DONALD \* 323012780 1898 02/08/97  
FORWARD TIME EXP RTN TO SEND BY 14  
MCDONALD MARK  
PO BOX 14291  
TALLAHASSEE FL 32317-4291

32301-0250/0250



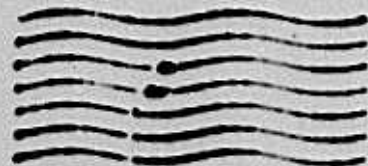
State of Florida

# Service Commission

40 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

[REDACTED]

P 263 571 623



[REDACTED]



UNCLAIMED

~~Mr. Mark McDonald  
P.O. Box 1231  
Tallahassee, FL 32317~~

~~None  
1st Notice  
2nd Notice  
Return~~

FINAL NOTICE

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*[Handwritten signature]*