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FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

MEMORANDUM

July 24, 1997

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10:40  
FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *KP MCB*

RE: DOCKET NO. 970667-TC - JEFFREY A. MARTIN - CANCELLATION  
BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE  
CERTIFICATE NO. 4487 FOR VIOLATION OF RULE 25-24.520(1),  
FLORIDA ADMINISTRATIVE CODE, REPORTING REQUIREMENTS, AND  
RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY  
ASSESSMENT FEES.

AGENDA: 08/05/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970667tc.RCM

CASE BACKGROUND

- Jeffrey A. Martin obtained Florida Public Service Commission Pay Telephone Certificate Number 4487 on February 9, 1995.
- On April 28, 1997, staff mailed a certified letter to the address listed in the Master Commission Directory stating that the delinquent regulatory assessment fee for 1996 had not been received. The letter was returned "unclaimed" (Page 6). Staff could not locate a new address through the United States Postal Service or the internet.
- Staff attempted unsuccessfully to reach Mr. Martin by calling the telephone number listed in the Master Commission Directory. The number listed has been disconnected. Staff could not obtain any other number through directory assistance.

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FPSC-RECORDS/REPORTING

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On June 3, 1997, The Division of Administration notified staff that Mr. Martin has not submitted regulatory assessment fees, statutory penalties and interest charges for 1996.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Jeffrey A. Martin's Pay Telephone Certificate No. 4487, for apparent violation of Rule 25-24.520(1), Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel Mr. Martin's certificate if the fine and information required by Rule 25-24.520(1), Florida Administrative Code, are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the required information and fine are not received, certificate number 4487 should be canceled. (Biegalski)

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.

Pursuant to Rule 25-24.520(1), Florida Administrative Code, 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. The United States Postal Service returned mail sent to Mr. Martin stamped "unclaimed" 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.

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Therefore, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules and cancel Jeffrey Martin's certificate if the fine is not paid and the information received within the specified time.

ISSUE 2: Should the Commission impose a \$500 fine or cancel Jeffrey A. Martin's Pay Telephone Certificate No. 4487, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel Mr. Martin's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and the regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 4487 should be canceled. (Biegalski)

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

(2) Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year. The regulatory assessment fee and appropriate form shall be filed no later than July 30 for the preceding period of January 1 through June 30, and no later than January 30 of the following year for the period of July 1 through December 31. Telecommunication companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the

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subsequent year for the current calendar year operations.

(8) The delinquency of any amount due to the Commission from the telecommunications company pursuant to the provisions of s. 350.113, Florida Statutes, and this rule, begins with the first calendar 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.

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

As of June 3, 1997, the regulatory assessment fee for 1996, along with the statutory penalties and interest charges, has not been submitted by Jeffrey Martin. Therefore, Mr. Martin has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 4487 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, this docket should be closed. (Pefia)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issues 1 and 2, then Mr. Martin will have 21 days from the issuance date of the order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees and receipt of the required information, or upon cancellation of the certificate.

State of Florida  
**Service Commission**

Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RETURN TO SENDER  
5/18  
5-7  
5-17

[Redacted return address]

**CERTIFIED**



P 234 961 838

**MAIL**

Mr. Jeffrey Martin  
5541 W. 51st Avenue  
Coconut Creek, FL 33073

