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FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

SEP 24 1997

September 25, 1997

- FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *MB*
 DIVISION OF ADMINISTRATION (LAKE) *MLB*
 DIVISION OF LEGAL SERVICES (BOWMAN) *MLB*

RE: DOCKET NO. **971130-TS** - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF SHARED TENANT SERVICES CERTIFICATE NO. 2009 ISSUED TO L.M. DUNCAN & SONS FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 10/07/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971130TS.RCM

CASE BACKGROUND

- L.M. Duncan & Sons (L.M.) obtained Florida Public Service Commission Shared Tenant Services certificate number 2009 on April 27, 1988.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing L.M. that it was delinquent on its regulatory assessment fees for the years 1991 through 1996. The letter was signed for and received, but to date, no response has been received (Attachment A, Page 4).
- As of September 16, 1997, the delinquent regulatory assessment fees for 1991 through 1996, along with statutory penalties and interest charges, have not been submitted by L.M.

DOCUMENT NUMBER-DATE

09724 SEP 24 97

FPSC-RECORDS/REPORTING

DOCKET NO. 971130-TS
DATE: September 25, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel L.M.'s Shared Tenant Services Certificate No. 2009 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 the company'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 2009 should be canceled. (Biegalski)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

On September 16, 1997, staff learned that L.M. had not submitted the regulatory assessment fees for the years 1991 through 1996, along with statutory penalties and interest charges. Therefore, the company 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 2009 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 2: Should the Commission order all certificated local exchange companies (LECs) to discontinue providing service to L.M. if certificate number 2009 is canceled?

RECOMMENDATION: Yes. The Commission should order all certificated local exchange companies to discontinue providing service to L.M. if L.M.'s certificate is canceled at the conclusion of the protest period for failure to submit the delinquent regulatory assessment fees, and pay the fines as required in Issue 1. The Order should state that any LEC providing service to L.M. must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled. (Biegalski)

STAFF ANALYSIS: If L.M.'s certificate is canceled, any service offered by L.M. would be in violation of Rule 25-24.565, Florida Administrative Code. Since the Commission cannot readily identify which LEC provides service to L.M., the Commission should order all certificated LECs to discontinue service to L.M. if L.M. fails to comply with the terms of the Commission's order resulting from these recommendations. The Order should state that any LEC providing service to L.M. must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: 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. (Bowman)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then L.M. 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, or upon cancellation of the certificate.

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SENDER: <ul style="list-style-type: none">• Complete items 1 and/or 2 for additional services.• Complete items 3, 4a, and 4b.• Print your name and address on the reverse of this form so that we can return the card to you.• Attach this form to the front of the mailpiece, or on the back if space does not permit.• Write "Return Receipt Requested" on the mailpiece below the article number.• The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): <ol style="list-style-type: none"><input type="checkbox"/> Addressee's Address<input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: TS049		4a. Article Number	
5. Received By: (Print Name)		4b. Service Type <ul style="list-style-type: none"><input type="checkbox"/> Registered <input type="checkbox"/> Certified<input type="checkbox"/> Express Mail <input type="checkbox"/> Insured<input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
6. Signature: (Addressee or Agent) X Melinda Bapista		7. Date of Delivery 10-6-97	
PS Form 3811, December 1994		8. Addressee's Address (Only if requested and fee is paid)	

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