

FLORIDA PUBLIC SERVICE COMMISSION  
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Tallahassee, Florida 32399-0850

MEMORANDUM

December 23, 1997

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FPSC Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*  
DIVISION OF ADMINISTRATION (LAKE) *AK*  
DIVISION OF LEGAL SERVICES (COX) *WPC*

RE: DOCKET NO. 971328-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4254 ISSUED TO JAMES A. COLE D/B/A CO-DEE COMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES AND RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, REPORTING REQUIREMENTS.

AGENDA: 01/06/98 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971328TC.RCM

CASE BACKGROUND

- James A. Cole d/b/a Co-Dee Communications (Co-Dee) obtained Florida Public Service Commission Pay Telephone certificate number 4254 on September 15, 1995.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Co-Dee that it was delinquent on its regulatory assessment fees for the year 1996. The letter was returned by the United States Post Office stamped "unclaimed" (Attachment A, Page 5).
- On December 3, 1997, staff attempted to contact Co-Dee to inform it of the pending cancellation. The number listed for Co-Dee in the Master Commission Directory is an invalid telephone number.
- As of December 9, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by Co-Dee.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Co-Dee's Pay Telephone Certificate No. 4254 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 4254 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 December 9, 1997, staff learned that Co-Dee had not submitted the regulatory assessment fees for the year 1996, along with statutory penalties and interest charges. Therefore, it 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 4254 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 impose a \$500 fine or cancel Co-Dee's Pay Telephone Certificate No. 4254 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

**RECOMMENDATION:** Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and information required by Rule 25-24.520, 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 4254 should be canceled. (Biegalski)

**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, establishes the requirements for cancellation of a pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rule 25-24.520, 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. Mail sent to Co-Dee was returned to our Division of Administration. In addition, the telephone number listed in the Master Commission Directory is an invalid telephone number. 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, nor has it requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

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

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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. (Cox)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issues 1 and 2, then Co-Dee 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.

