

RECEIVED

DEC 22 1997

8:50

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

M E M O R A N D U M

December 23, 1997

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *MB*
DIVISION OF ADMINISTRATION (LAKE) *100*
DIVISION OF LEGAL SERVICES (PELLEGRINI) *PK*

RE: DOCKET NO. ~~971381~~-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4554 ISSUED TO AVISTA PROPERTIES II, INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

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

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971381TC.RCM

CASE BACKGROUND

- Avista Properties II, Inc. (Avista) obtained Florida Public Service Commission Pay Telephone certificate number 4554 on April 11, 1996.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Avista that it was delinquent on its regulatory assessment fees for the year 1996. The letter was signed for and received, but to date, no response has been received by staff (Attachment A, Page 4).
- On December 3, 1997, staff contacted Avista to inform it of the pending cancellation. Avista informed staff it didn't care if the certificate was canceled.
- As of December 9, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by Avista.

DOCUMENT NUMBER-DATE

13032-DEC 22 97

FPSC-RECORDS/REPORTING

DOCKET NO. 971381-TC
DATE: December 23, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Avista's Pay Telephone Certificate No. 4554 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 4554 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.

As of December 9, 1997, Avista still 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 4554 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

DOCKET NO. 971381-TC
DATE: December 23, 1997

ISSUE 2: 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. (Pellegrini)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Avista 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.

Is your RETURN ADDRESS completed on the reverse side?

SENDER: • Complete items 1 and/or 2 for additional services. • Complete items 3, 4a, and 4b. • Print your name, age, 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): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: <p style="font-size: 2em; text-align: center;">TF620</p>	4a. Article Number <p style="font-size: 1.5em; text-align: center;">P174 241 142</p>	
	4b. Service Type <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	
	7. Date of Delivery <p style="font-size: 1.2em; text-align: center;">8-5-97</p>	
5. Received By: (Print Name) <p style="text-align: center;">Gina Z. ...</p>	8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) 		

Thank you for using Return Receipt Services.

PS Form 3811, December 1994

Domestic Return Receipt