

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** 06/18/98

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

**FROM:** DIVISION OF COMMUNICATIONS (YAMBOR) *LAY*  
DIVISION OF LEGAL SERVICES (PELLEGRINI) *JMB*

**RE:** DOCKET NO. 980707-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5002 ISSUED TO PENN BOYS LEGEND TELECOM, INC. FOR VIOLATION OF RULE 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES AND RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, REPORTING REQUIREMENTS

**AGENDA:** 06/30/98 - REGULAR AGENDA -PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** I:\PSC\CMU\WP\980707.RCM

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CASE BACKGROUND

- Penn Boys Legend Telecom, Inc. (PBLTI) obtained Florida Public Service Commission Pay Telephone certificate number 5002 on December 25, 1996.
- On March 20, 1998, the Commission received a complaint against PBLTI alleging the company did not have a working telephone number or valid address.
- On April 17, 1998, the Division of Communications attempted to call PBLTI but the telephone number was disconnected. As of May 30, 1998, the number was still disconnected for non-payment of their bill.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 980707-1C

DATE: June 18, 1998

- On April 20, 1998, the Division of Communications mailed a certified letter to the address listed in the Master Commission Directory informing PBLTI it must notify the Commission within ten days of any change in address or telephone. The letter also contained the customer complaint. The letter was returned by the United States Postal Service stamped "refused" (Attachment A).
- PBLTI has been dissolved as a Florida corporation since September 26, 1997.
- PBLTI's regulatory assessment fees are current.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission impose a \$10,000 fine or cancel PBLTI's Pay Telephone Certificate No. 5002 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

**RECOMMENDATION:** Yes. The Commission should impose a \$10,000 fine for failure to respond to the Commission or cancel the company's certificate if the fine is 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 is not received, certificate number 5002 should be canceled.  
**(Yambor)**

**STAFF ANALYSIS:** Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, requires a reply to a complaint received by the Commission to be furnished in writing within (15) days of the Commission inquiry. It has been over 45 days since PBLTI refused the certified mail which included the initial customer complaint. Additionally, there is no known telephone number for PBLTI. As a result, staff has no way to communicate or resolve the complaint. Accordingly, staff recommends that the Commission assess a \$10,000 fine for failure to comply with Commission rules or cancel certificate number 5002 if the fine is not paid within the specified time.

**ISSUE 2:** Should the Commission impose a \$500 fine or cancel PBLTI's Pay Telephone Certificate No. 5002 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 5002 should be canceled. **(Yambor)**

**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 PBLTI was returned to the Division of Telecommunications. 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 PBLTI 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 and cancel PBLTI's certificate if the fine is not paid and the information is not received within the specified time.

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**ISSUE 3:** Should this docket be closed?

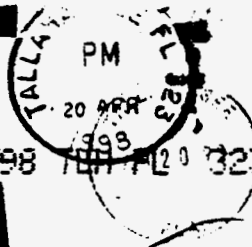
**RECOMMENDATION:** If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, and receipt of the required information, or cancellation of the certificate, this docket should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

**STAFF ANALYSIS:** If the Commission adopts staff's recommendation in Issues 1 and 2, then PBLTI 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 receipt of the required information or upon cancellation of the certificate.

State of Florida  
**Public Service Commission**

2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

[REDACTED]  
P 174 240 730  
22:26 04/20/98  
MAIL



*Refused*  
RETURN TO SENDER  
Unclaimed \_\_\_\_\_  
Addressee not known \_\_\_\_\_  
No such address \_\_\_\_\_  
No such street number \_\_\_\_\_  
No such office in state \_\_\_\_\_  
Do not re-mail in this envelope

Mr. Norris Shortidge, President  
Penn Boys Legend Telecom, Inc.  
5617 Funston Street  
Hollywood, FL 33023-1927

NAME N  
1st Notice 4-20  
2nd Notice \_\_\_\_\_  
Return \_\_\_\_\_

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