



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

RECORDS AND REPORTING

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DATE: AUGUST 6, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *PIK*  
DIVISION OF LEGAL SERVICES (OTTINOT) *OT* *WD* *bx* *MCB*

RE: DOCKET NO. 980792-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3249 ISSUED TO PAPA & MOTHER GLASS GROCERY, FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES; and 25-24.520, F.A.C., Reporting Requirements.

AGENDA: 08/18/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980792.RCM

### CASE BACKGROUND

Papa & Mother Glass Grocery obtained Florida Public Service Commission Pay Telephone Certificate Number 3249 on February 12, 1993.

On December 11, 1997, the Division of Administration mailed the regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service returned the notice as "Unclaimed" after attempting delivery on December 15, December 24, and December 31, 1997.

By memorandum dated June 5, 1998, the Division of Administration advised staff that Papa & Mother Glass Grocery has

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not paid its 1996 and 1997 RAF, along with statutory penalties and interest for the years 1996 and 1997.

On June 25, 1998, staff called the telephone number listed in the Master Commission Directory and received a recording advising that the number had been disconnected. Staff then called Directory Assistance and was advised there was not a listing for Papa & Mother Glass Grocery. Therefore, staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel Papa & Mother Glass Grocery's pay telephone certificate number 3249 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**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 five 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 regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 3288 should be canceled. (Isler)

**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 June 5, 1998, staff learned that Papa & Mother Glass Grocery had not submitted the regulatory assessment fees for 1996 and 1997, along with statutory penalties and interest charges for the those years. Therefore, it has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel certificate number 3249 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within five 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 regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 3249 should be canceled.

**ISSUE 2:** Should the Commission impose a \$500 fine or cancel Papa & Mother Glass Grocery's pay telephone certificate number 3249 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, Reporting Requirements, are not received by the Commission within five 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 3249 should be canceled. (Isler)

**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, Reporting Requirements, 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 Papa & Mother Glass Grocery was returned to the Commission. 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 Papa & Mother Glass Grocery's certificate if the fine and information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by the Commission within five 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 3249 should be canceled.

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. (Ottinot)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Clean Machine/Laundry Service of Miami Beach, Inc. 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.