



Public Service Commission

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

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

DATE: NOVEMBER 5, 1998

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*
DIVISION OF LEGAL SERVICES (K. PEÑA) *mp mcb*

RE: DOCKET NO. 981303-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4893 ISSUED TO AMERICAN INTEGRATED TELEPHONE INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES AND FINE ASSESSMENT FOR VIOLATION OF RULE 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES

AGENDA: 11/17/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981303.RCM

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RECORDS AND REPORTING

CASE BACKGROUND

On August 10, 1996, the Commission issued certificate number 4893 to American Integrated Telephone Inc. (AIT). The Division of Communications received a request for cancellation on March 19, 1997. Upon receipt of the request for cancellation, staff researched the account to determine if the appropriate Regulatory Assessment Fees had been submitted. Staff determined that the company had failed to submit the Regulatory Assessment Fees, including statutory penalties and interest, for the years 1996 and 1997.

Based on this information, staff mailed a certified letter to AIT on April 4, 1997, informing it that the regulatory assessment

fees are due whether the company installed payphones or not. In addition, the letter stated that if the fees were not received, staff would recommend a fine be assessed. This letter was signed for and received on May 23, 1997. (Attachment A, Page 5) Furthermore, the Division of Administration sent a certified letter on June 3, 1997, informing AIT of the delinquent fees. This letter was signed for and received on June 5, 1997. (Attachment B, Page 6) To date, the delinquent fees, including statutory penalties and interest, have not been received.

Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the request for voluntary cancellation submitted by American Integrated Telephone Inc.?

RECOMMENDATION: No. (Biegalski)

STAFF ANALYSIS: AIT has not complied with Rule 25-24.514(2), Florida Administrative Code, Cancellation of a Certificate, which states,

if a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

- (a) statement of intent and date to pay Regulatory Assessment Fee.
- (b) statement of why the certificate is proposed to be canceled.

Staff mailed certified letters to AIT informing it of its obligations as a certificated pay telephone provider. To date, staff has not received a response or payment of the delinquent regulatory assessment fees, including statutory penalties and interest. Therefore, staff recommends that the request for voluntary cancellation be denied.

ISSUE 2: Should the Commission impose a \$500 fine or cancel the pay telephone certificate of American Integrated Telephone Inc. for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, effective December 31, 1997?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel AIT's certificate effective December 31, 1997, 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 fines and the regulatory assessment fees, including statutory penalties and interest, are not received, the certificate 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.

Staff notified AIT via certified letter on April 4, 1997, and June 3, 1997, that the regulatory assessment fees had not been submitted. Staff verified with the Division of Administration on October 29, 1998, that the company had not submitted the regulatory assessment fees for the years 1996 and 1997, along with statutory penalties and interest charges. Therefore, AIT 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 the pay telephone certificate effective December 31, 1997, if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time. AIT should not be assessed regulatory assessment fees for 1998.

ISSUE 3: Should the Commission fine American Integrated Telephone Inc. \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: The Commission should impose a \$10,000 fine for failure to comply with Rule 25-4.043, Florida Administrative Code. The fine should be remitted 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, it should be forwarded to the Office of the Comptroller for collection. (Biegalski)

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 staff inquiries be furnished in writing within (15) days of the Commission inquiry. On April 4, 1997, and again on June 3, 1997, staff sent AIT correspondence regarding the delinquent regulatory assessment fees and the cancellation of its pay telephone certificate. It has been well over 15 days since staff mailed the certified letters and AIT has not responded.

Accordingly, staff recommends that the Commission assess a \$10,000 fine for failure to comply with Commission rules.

ISSUE 4: 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. (K. Peña)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issues 2 and 3, then AIT 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 you. ...TURN 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 and address on the reverse of this form so that we can return this 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. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Vincent H. Mackmull, Jr.
AMERICAN INTEGRATED TELEPHONE, INC.
859-29 Saxon Blvd., Suite #101
Orange City, FL 32763-8211, (certified)

4a. Article Number

748 596 963

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured
- COD

7. Date of Delivery

5/23/98

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)



urn Receipt

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

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 this 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: TF 755		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 P. Smulow		7. Date of Delivery 6/5/98	
PS Form 3811, December 1994		8. Addressee's Address (Only if requested and fee is paid)	

Domestic Return Receipt

Thank you for using Return Receipt Service.