

State of Florida



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: DECEMBER 3, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *AS*
DIVISION OF LEGAL SERVICES (K. PEÑA) *WMP*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS

DOCKET NO. 981271-TC - PINNACLE PAYPHONES, INC.
DOCKET NO. 981296-TC - NELSON J. GONZALEZ
DOCKET NO. 981297-TC - MR. LESLIE KIM FOWLER
DOCKET NO. 981298-TC - ERIN WATSON
DOCKET NO. ~~981316-TC~~ - COUNTYWIDE PAYPHONE CO.

AGENDA: 12/15/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981271.RCM

CASE BACKGROUND

1.) Docket #981271-TC - Pinnacle Payphones, Inc. - This company obtained Certificate Number 4499 on February 3, 1996. On December 11, 1997, the Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the notice was signed for and delivered on December 15, 1997. The Division of Records and Reporting notified staff by memorandum that other mail to this company was returned by the USPS marked "return to sender" and "not at this address." The Division of Administration notified staff by memorandum that this company

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did not pay its 1997 RAFs, plus statutory penalties and interest charges for the year 1997. As of November 23, 1998, the company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

2.) Docket #981296-TC - Nelson J. Gonzalez - This company obtained Certificate Number 4472 on January 6, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the unopened envelope stamped "return to sender" and "attempted, not known." The Division of Records and Reporting notified staff by memorandum that mail to this company was returned by the USPS stamped "return to sender" and "attempted, not known." The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the years 1996 and 1997. As of November 23, 1998, this company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

3.) Docket #981297-TC - Mr. Leslie Kim Fowler - This company obtained Certificate Number 4521 on February 27, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the unopened envelope stamped "return to sender" and "unclaimed." The envelope indicates the USPS attempted delivery on December 13 and December 18, 1998. Staff called the telephone number listed in MCD but was unsuccessful in reaching the company. Staff then called Directory Assistance and was provided a new listing. Staff called the new telephone number but reached a recording which advised the number had been disconnected. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of November 23, 1998, this company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

4.) Docket #981298-TC - Erin Watson - This company obtained Certificate Number 4568 on April 20, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the unopened envelope stamped "return to sender" and "forward time expired." The Division of Records and Reporting notified staff by memorandum that mail to this company was returned by the USPS stamped "return to sender" and "forwarding order expired." The Division of Administration notified staff by memorandum that this company did not pay its 1996 and 1997 RAFs, plus statutory penalties and interest for the years 1996 and 1997. As of November 23, 1998, this company has not paid

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the past due amount nor provided the Commission with its correct address and telephone number.

5. Docket #981316-TC - Countywide Payphone Co. - This company obtained Certificate Number 4990 on December 25, 1996. On December 11, 1997, the Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the notice was signed for and delivered on December 15, 1997. The Division of Records and Reporting notified staff by memorandum that other mail to this company was returned by the USPS marked "return to sender" and "attempted, not known", and "no such person or number." The Division of Administration notified staff by memorandum that this company did not pay its 1996 and 1997 RAFs, plus statutory penalties and interest charges for the years 1996 and 1997. As of November 23, 1998, the company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 7 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 each company's certificate as listed on page 7 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, the pay telephone certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998. (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.

Staff was notified by the Division of Administration that each of the pay telephone providers listed on page 7 had not paid their 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the companies have 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 the companies respective certificate numbers 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

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not received, the certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998.

ISSUE 2: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 7 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 companies' respective certificate numbers if the information required by Rule 25-24.520, F.A.C. and fine 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, the pay telephone certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998. (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, 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 each of the companies listed on page 7 was returned to the Commission by the USPS. It is been well over 10 days and staff has not been informed of the providers' correct mailing address, phone number, or liaison information, nor have any of the companies requested cancellation of their certificates in compliance with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the companies respective certificate numbers 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

ISSUE 2: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 7 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 companies' respective certificate numbers if the information required by Rule 25-24.520, F.A.C. and fine 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, the pay telephone certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998. (Isler)

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ISSUE 3: Should these dockets 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, these dockets should be closed. (K. Peña)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, these dockets should be closed upon payment of the fines and fees, or upon cancellation of the certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>CERTIFICATE NO.</u>	<u>RAFs</u>	<u>P and I</u>
981271-TC	Pinnacle Payphones, Inc.	4499	1997	1997
981296-TC	Nelson J. Gonzalez	4472	1997	1996 1997
981297-TC	Mr. Leslie Kim Fowler	4521	1997	1997
981298-TC	Erin Watson	4568	1996 1997	1996 1997
981316-TC	Countywide Payphone Co.	4990	1996 1997	1996 1997