



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 22, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Dji*
DIVISION OF LEGAL SERVICES (PENA) *Vmp mcs*

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

RECORDED AND REPORTING

DEC 18 PM 4:23

RECEIVED-1998

- DOCKET NO. 981367-TC - PUBLIC PAYPHONE DISTRIBUTORS, INC.
- DOCKET NO. 981368-TC - JAMES ROBERT FORNEY
- DOCKET NO. 981369-TC - SIMON RUIZ D/B/A MARLINS COMMUNICATIONS
- DOCKET NO. 981374-TC - BIG BEND TRAVEL CENTER, INC.
- DOCKET NO. 981412-TC - MATHEW SCOTT CREAMER
- DOCKET NO. 981413-TC - CHRIS J. CORDA

AGENDA: 01/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981367.RCM

CASE BACKGROUND

1.) Docket #981367-TC - Public Payphone Distributors, Inc. - This company obtained Certificate Number 5024 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 23, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1996 and 1997 RAFs, plus

DOCUMENT NUMBER-DATE

14209 DEC 18 98

FPSC-RECORDS/REPORTING

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statutory penalties and interest for the years 1996 and 1997. As of December 9, 1998, the company has not paid the past due amount.

2.) Docket #981368-TC - James Robert Forney - This company obtained Certificate Number 5022 on December 27, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 20, 1997. 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 December 9, 1998, the company has not paid the past due amount.

3.) Docket #981369-TC - Simon Ruiz d/b/a Marlins Communications - This company obtained Certificate Number 5010 on December 27, 1996. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 13, 1997. 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 December 9, 1998, the company has not paid the past due amount.

4.) Docket #981374-TC - Big Bend Travel Center, Inc. - This company obtained Certificate Number 5055 on January 29, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 15, 1997. 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 December 9, 1998, the company has not paid the past due amount.

5.) Docket #981412-TC - Mathew Scott Creamer - This company obtained Certificate Number 5076 on February 12, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 12, 1997. 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 December 9, 1998, the company has not paid the past due amount.

6.) Docket #981413-TC - Chris J. Corda - This company obtained Certificate Number 5084 on February 20, 1997. On December

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11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered. 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 December 9, 1998, the company has not paid the past due amount.

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 5 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 5 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 5 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 5 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.

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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 not received, the certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998.

ISSUE 2: 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. (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>
981367-TC	Public Payphone Distributors, Inc.	5024	1996 1997	1996 1997
981368-TC	James Robert Forney	5022	1996 1997	1996 1997
981369-TC	Simon Ruiz d/b/a Marlins Communications	5010	1997	1996 1997
981374-TC	Big Bend Travel Center, Inc.	5055	1997	1997
981412-TC	Mathew Scott Creamer	5076	1997	1997
981413-TC	Chris J. Corda	5084	1997	1997