



# 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-**

RECORDS AND REPORTING  
JUL 15 AM 10:30  
PSC

**DATE:** JULY 15, 1999

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

**FROM:** DIVISION OF LEGAL SERVICES (CLEMONS) *PMC*  
DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*

**RE:** DOCKET NO. 990797-TC - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST GORAN DRAGOSLAVIC D/B/A FIRST AMERICAN TELECOMMUNICATIONS CORPORATION FOR VIOLATION OF RULE 25-24.515, FLORIDA ADMINISTRATIVE CODE, PAY TELEPHONE SERVICE

**AGENDA:** 07/27/99 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\990797.RCM

**CASE BACKGROUND**

- January 4, 1995 - Staff opened Docket No. 950018-TC to initiate show cause proceedings against Goran Dragoslavich d/b/a First American Telecommunications Corporation (FAT) for apparent pay telephone service violations.
- April 12, 1995 - In Order No. PSC-95-0468-AS-TC the Commission accepted a settlement from FAT as resolution to the apparent pay telephone service violations.
- January 27, 1999 - FAT's 1998 regulatory assessment fee return reported gross intrastate revenues of \$3,044,387.04 and 2100 pay telephones in operation.
- February 18, 1999 through February 26, 1999 - Staff performed routine service evaluations on pay telephones operated by FAT and found apparent violations as presented in Attachment A.

DOCUMENT NUMBER-DATE

08398 JUL 15 99

PSC RECORDS/REPORTING

DATE: JULY 15, 1999

- March 8, 1999 through March 25, 1999 - Staff received Service Violation Correction Forms from FAT signifying that all apparent violations were corrected.
- April 18, 1999 through April 27, 1999 - Staff reevaluated the pay telephone stations and again found the apparent violations as presented in Attachment A.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should First American Telecommunications Corporation be ordered to show cause why a fine of \$4,000 for apparent violation of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, should not be imposed or certificate number 3081 should not be canceled?

**RECOMMENDATION:** Yes. The Commission should order FAT to show cause in writing within 21 days of the date of the order why it should not have Certificate No. 3081 canceled or be fined \$4,000 for apparent violation of Rule 25-24.515, Florida Administrative Code. FAT's response must contain specific allegations of fact or law. If FAT fails to respond to the show cause, and the fine is not paid after reasonable collection efforts by the Commission, certificate number 3081 should be canceled. If the fine is paid it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. (Biegalski)

**STAFF ANALYSIS:** Staff performed service evaluations of pay telephone stations operated by FAT from February 18, 1999 through February 26, 1999. Through written correspondence, staff notified FAT of the apparent violations.

Staff performed a reevaluation of the same pay telephone stations from April 18, 1999 through April 27, 1999. Although FAT reported that all violations had been corrected, the table provided as Attachment A (page 5) depicts the apparent rule violations that were still present in the reevaluation.

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law'

DOCKET NO. 990797-1C  
DATE: JULY 15, 1999

will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Staff believes that FAT's conduct in providing pay telephone services in apparent violation of Commission Rule 25-24.515, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as FAT's conduct in issue here, would meet the standard for a "willful violation."

Accordingly, staff recommends that the Commission find that FAT's apparent violation of Rule 25-24.515, Florida Administrative Code, warrants issuance of a show cause order. In this regard, the Commission should order FAT to show cause in writing within 21 days of the date of the order why it should not have Certificate No. 3081 canceled or be fined \$4,000 for apparent violation of Rule 25-24.515, Florida Administrative Code. FAT's response must contain specific allegations of fact or law. If FAT fails to respond to the show cause, and the fine is not paid after reasonable collection efforts by the Commission, certificate number 3081 should be canceled. If the fine is paid it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

DOCKET NO. 990797-TC  
DATE: JULY 15, 1999

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, then FAT will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If FAT timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the fine is paid, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket should be closed. Staff recommends that if FAT fails to respond to the Order to Show Cause, and the fine is not received within five business days after the expiration of the show cause response period, FAT's certificate should be canceled and this docket closed. (Clemons)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then FAT will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If FAT timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the fine is paid, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket should be closed. Staff recommends that if FAT fails to respond to the Order to Show Cause, and the fine is not received within five business days after the expiration of the show cause response period, FAT's certificate should be canceled and this docket closed.

Pay Telephone Station Number	25-24.515(8)	25-24.515(18)	25-24.515(9) (a)			25-24.515(15) (a)	25-24.515(7)	25-24.515(13) (a)
	Repair/Refund Number Not Working Properly	ANSI standards	Legible/Correct Telephone Number Not Displayed	Local Coin Rate Incorrect	Incorrect Address Displayed	Could not originate calls	No access to local & toll directory assistance	Could Not Receive Incoming Calls
954-792-9608		X(1)						
954-462-9692			X					
954-630-8051			X					
954-522-9364		X(2)						
305-531-9884				X				
305-673-8213	X							
305-531-9247				X				
305-604-9774				X				
305-604-9748				X				
305-532-9014				X				
305-674-9361					X			
305-674-8383					X	X		
305-531-9963				X				
305-674-9636					X			
305-673-9772					X			
954-583-9566								X
954-581-8709							X	
954-584-4714							X	
954-581-8403		X(3)						

- (1) No ramp
- (2) Access blocked by cement wall
- (3) No Ramp to Sidewalk

DOCKET NO. 990797-TC  
DATE: JULY 15, 1999

ATTACHMENT A



RECEIVED-FPSC

99 JUN 30 PM 4:06

RECORDS AND REPORTING

June 30, 1999

-----VIA FACSIMILE-----

Blanca S. Bayó, Director  
 Division of Records and Reporting  
 Florida Public Service Commission  
 2540 Shumard Oak Blvd.  
 Tallahassee, Florida 32399-0850

*closed.*


Re: Docket No. 981487-TC	Docket No. 990779-TC
Docket No. 990783-TC	Docket No. 990797-TC
Docket No. 990798-TC	Docket No. 990818-TC
Docket No. 990819-TC	Docket No. 990820-TC

Dear Ms. Bayó:

The Florida Public Telecommunications Association, Inc. requests that it be included on the mailing list as an interested entity in each of the above-referenced dockets. Please address all correspondence as follows:

Angela B. Green, General Counsel  
 Florida Public Telecommunications Association, Inc.  
 125 South Gadsden Street, Suite 200  
 Tallahassee, Florida 32301

Thank you for your assistance with this matter.

Sincerely,  
  
 Angela B. Green  
 General Counsel

981487mailinglist.doc

*Gone 7/01/99*