

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-

RECORDS AND REPORTING

03 AUG -5 AM 10:11

RECEIVED-FPSC

**DATE:** AUGUST 5, 1999

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *Dij*  
DIVISION OF LEGAL SERVICES (K. PEÑA) *ump* *cb*

**RE:** DOCKET NO. 981544-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 4478 ISSUED TO AFINDULIE, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 08/17/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981544.RCM

### CASE BACKGROUND

- 01/20/96 - Afindulie, Inc. obtained PATS Certificate No. 4478.
- 12/11/97 - The Division of Administration mailed the 1997 RAF notice by certified mail. The USPS returned the unopened envelope stamped "return to sender" and "unclaimed." The envelope also indicates that the USPS attempted delivery on December 17 and 19, 1997.
- 09/28/98 - The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus statutory penalty and interest charges for the years 1996 and 1997.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

- **09/29/98** - Staff called the company and was advised that the company wanted to keep its certificate, would pay the past due amount, and would make a settlement offer.
- **02/16/99** - The company paid the statutory penalty and interest charges for 1996 and 1997.
- **02/19/99** - The company wrote and proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.
- **04/20/99** - The company paid the 1998 RAFs, including statutory penalty and interest charges.
- **04/21/99** - Order No. PSC-99-0808-AS-TC was issued, which approved the company's \$100 settlement offer.

Staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission cancel Afindulie, Inc.'s certificate for failure to comply with Commission Order PSC-99-0808-AS-TC?

**RECOMMENDATION:** Yes. The Commission should cancel the company's certificate for not complying with Order No. PSC-99-0808-AS-TC, which approved the company's offer to contribute \$100 to the State General Revenue Fund. If the Commission's Order is not protested, the company's certificate 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 PATS certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

On April 21, 1999, Order No. PSC-99-0808-AS-TC was issued, which approved the company's offer to contribute \$100 to the State General Revenue Fund. The contribution was due by April 28, 1999.

When the fine was not paid as ordered by the Commission, staff faxed the company a message on May 21, 1999 about the past due settlement payment. On June 28, 1999, staff called the company and left a message and requested a return call. As of July 26, 1999, the company has not paid the \$100 settlement or returned staff's call.

Accordingly, staff recommends that the Commission cancel the company's certificate for not complying. If the Commission's Order is not protested, the company's certificate should be canceled with an effective date of December 31, 1998.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed upon issuance of the Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance date of the proposed agency action order. (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, this docket should be closed upon issuance of the Consummating Order.