

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

SEP 22 AM 10:19

RECEIVED-PSC

DATE: SEPTEMBER 23, 1999

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

FROM: DIVISION OF LEGAL SERVICES (KEATING) AK CB RD
DIVISION OF COMMUNICATIONS (BIEGALSKI) KB

RE: DOCKET NO. 971279-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3905 ISSUED TO MARK D. RIDLEY FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 10/5/99 - REGULAR AGENDA - FINAL ACTION

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\971279CR.RCM

CASE BACKGROUND

On October 3, 1997, the Commission opened this docket to cancel Pay Telephone Certificate No. 3905, issued to Mark D. Ridley November 23, 1994, by Order No. PSC-94-1436-FOF-TC, for Mr. Ridley's failure to pay regulatory assessment fees in 1996. On November 18, 1997, the Commission issued proposed agency action (PAA) Order No. PSC-97-1454-FOF-TC. The PAA Order canceled Mr. Ridley's pay telephone certificate or, in the alternative, required him to pay a \$500 fine and all past due regulatory assessment fees, as well as statutory penalties and interest. On December 4, 1997, Mr. Ridley protested the PAA Order. We have not, however, received any further contact from Mr. Ridley.

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Mr. Ridley failed to appear at the August 16, 1999, prehearing conference and did not comply with any portion of the Order Establishing Procedure for this Docket, Order No. PSC-99-0520-PCO-TC, issued March 18, 1999. Therefore, the September 3, 1999, hearing has been continued to allow staff to bring this recommendation to the Commission.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission, on its own motion, dismiss Mark Ridley's December 4, 1997, protest of Order No. PSC-97-1454-FOF-TC?

RECOMMENDATION: Yes. Staff recommends that the Commission dismiss Mr. Ridley's December 4, 1997, protest and reinstate Order No. PSC-97-1454-FOF-TC as a final order, effective October 5, 1999, with the modification that Mr. Ridley no longer has five days to pay the \$500 fine in order to avoid cancellation of his certificate. Mr. Ridley has failed to pursue his protest and has refused to pay the fine amount and his past due regulatory assessment fees; therefore, his certificate should simply be canceled. All past due regulatory assessment fees for Mr. Ridley, along with statutory penalties and interest charges, should be forwarded to the Office of the Comptroller for further collection efforts, and all certificated local exchange companies should be instructed to discontinue service to Mr. Ridley, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

The action recommended herein should in no way relieve Mr. Ridley of his obligation to pay 1997 and 1998, regulatory assessment fees, which are now also past due, and 1999 regulatory assessment fees, which are not yet past due. The 1997 and 1998 fees should also be forwarded to the Office of the Comptroller for further collection efforts, along with statutory penalties and interest charges. If Mr. Ridley fails to pay 1999 regulatory assessment fees, the 1999 fees should also be forwarded to the Office of the Comptroller for further collection efforts. If the Commission approves staff's recommendation, failure to pay 1997, 1998, and 1999 fees should not, however, result in additional punitive action by the Commission.

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STAFF ANALYSIS: In Order No. PSC-97-1454-FOF-TC, issued November 18, 1997, the Commission canceled Mr. Ridley's certificate No. 3905, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, unless Mr. Ridley paid a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, and remitted all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Commission. Mr. Ridley was ordered to comply with these requirements within five business days from the date Order No. PSC-97-1454-FOF-TC became final. The fine was to be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes. The Commission also indicated that when the appropriate fees, statutory penalties, interest charges, and fine were received, this docket would be closed.

In addition, the Commission explained that if Mr. Ridley failed to comply with Order No. 97-1454-FOF-TC within five business days from the date the Order became final, Mr. Ridley's certificate would be canceled and the docket would be closed. Furthermore, if the certificate were canceled, then all certificated local exchange companies were instructed to discontinue service to Mr. Ridley, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

On December 4, 1997, Mr. Ridley protested Order No. PSC-97-1454-FOF-TC, thereby rendering the proposed agency action order a nullity. As stated in the Case Background, Mr. Ridley has, however, failed to pursue his protest to any degree. Mr. Ridley also failed to appear at the August 16, 1999, prehearing conference and did not comply with any portion of the Order Establishing Procedure for this Docket, Order No. PSC-99-0520-PCO-TC, issued March 18, 1999. Staff recommends, therefore, that the Commission dismiss Mr. Ridley's December 4, 1997, protest and reinstate Order No. PSC-97-1454-FOF-TC as a final order, effective October 5, 1999, with the modification that Mr. Ridley no longer has five days to pay the \$500 fine in order to avoid cancellation of his certificate. Mr. Ridley has failed to pursue his protest and has refused to pay the fine amount and his past due regulatory assessment fees; therefore, his certificate should simply be canceled. All past due regulatory assessment fees for Mr. Ridley,

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along with statutory penalties and interest charges, should be forwarded to the Office of the Comptroller for further collection efforts, and all certificated local exchange companies should be instructed to discontinue service to Mr. Ridley, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

Furthermore, the action recommended herein should in no way relieve Mr. Ridley of his obligation to pay 1997 and 1998, regulatory assessment fees, which are now also past due, and 1999 regulatory assessment fees, which are not yet past due. The 1997 and 1998 fees should also be forwarded to the Office of the Comptroller for further collection efforts, along with statutory penalties and interest charges. If Mr. Ridley fails to pay 1999 regulatory assessment fees, the 1999 fees should also be forwarded to the Office of the Comptroller for further collection efforts. If the Commission approves staff's recommendation, failure to pay 1997, 1998, and 1999 fees should not, however, result in additional punitive action by the Commission. If the Commission cancels Mr. Ridley's certificate, further action would be unnecessarily redundant, particularly in view of the fact that it does not appear that Mr. Ridley is providing payphone service in Florida.

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation in Issue 1, no further action will be necessary. Therefore, this Docket may be closed.

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, no further action will be necessary. Therefore, this Docket may be closed.