



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

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**DATE:** SEPTEMBER 23, 1999

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *PII*  
DIVISION OF LEGAL SERVICES (K. PEÑA; C. BEDELL) *ta*

**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. 991058-TC - WENDY S. LUDWICK D/B/A SILVER TELECOMMUNICATIONS
- DOCKET NO. 991071-TC - MAGIC CITY PROPERTIES, L.C.
- DOCKET NO. 991073-TC - ZAYIN INCORPORATED
- DOCKET NO. 991078-TC - INDEPENDENT PAYPHONES, INC.
- DOCKET NO. 991079-TC - JOE KAISER ALNASERY
- DOCKET NO. 991115-TC - DOW TELECOM INC.

**AGENDA:** 10/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\991058.RCM

### CASE BACKGROUND

The certificated pay telephone providers listed on page 7 were mailed the 1998 regulatory assessment fee (RAF) notice on December 10, 1998. Payment was due February 1, 1999. When full payment had not been received, the Division of Administration mailed a delinquent letter to the companies. As of September 13, 1999, the companies have not paid the past due amount.

DOCUMENT NUMBER-DATE

11466 SEP 23 99

FPSC-RECORDS/REPORTING

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In addition, other correspondence to the companies listed on page 7 was returned by the United States Postal Service (USPS).

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 the companies 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 respective certificate as listed on page 7 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 penalty and interest charges, are not received, the pay telephone certificate numbers listed on page 7 should be canceled administratively. (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.

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 penalty and interest charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff was notified by the Division of Administration that the pay telephone providers listed on page 7 had not paid their 1998 regulatory assessment fees in full, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and have not requested cancellation of their certificates in compliance with Rule 25-24.514, Florida Administrative Code.

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Accordingly, staff recommends that the Commission assess a \$500 fine or cancel each company's respective certificate as listed on page 7 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. 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 penalty and interest charges, are not received, the pay telephone certificate numbers listed on page 7 should be canceled administratively.

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**ISSUE 2:** Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to the companies 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 each company's respective certificate as listed on page 7 if the information required by Rule 25-24.520, F.A.C., Reporting Requirements, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. 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 required information are not received, the pay telephone certificate numbers listed on page 7 should be canceled administratively. (Isler)

**STAFF ANALYSIS:** Pursuant to Rule 25-24.520, Florida Administrative Code, Reporting Requirements, 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 company 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 provider's correct mailing address, phone number, or liaison information, nor have the companies requested cancellation of their certificate in compliance with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel each company's respective certificate as listed on page 7 if the information required by Rule 25-24.520, F.A.C., Reporting Requirements, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. 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 required information are not received, the pay telephone certificate numbers listed on page 7 should be canceled administratively.

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**ISSUE 3:** Should these dockets be closed?

**RECOMMENDATION:** Yes, these dockets should be closed upon receipt of the fines, fees, and required information or cancellation of the certificate, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. A protest in one docket should not prevent the action in a separate docket from becoming final. (K. Peña; C. Bedell)

**STAFF ANALYSIS:** Whether staff's recommendation on Issues 1 and 2 are 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 receipt of the fines, fees, and required information or cancellation of the certificate. 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>
991058-TC	Silver Telecommunications	4490	1998	1998
991071-TC	Magic City Properties, L.C.	4626	1998	1996 1997 1998
991073-TC	Zayin Incorporated	4642	1996 1997 1998	1996 1997 1998
991078-TC	Independent Payphones, Inc.	4895	1998	1998
991079-TC	Joe Kaiser Alnasery	4907	1998	1998
991115-TC	Dow Telecom Inc.	4921	1998	1998