

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-

DATE: OCTOBER 7, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PIF* *W*
DIVISION OF LEGAL SERVICES (K. PEÑA; C. BEDELL) *comp* *W* *CS*

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

DOCKET NO. 991150-TC - PHILIP SPEIGHTS D/B/A JS COMMUNICATIONS

DOCKET NO. 991151-TC - AMTECH COMPUTERS, INC.

DOCKET NO. 991152-TC - FREDERICK ALLEN ADAMS

DOCKET NO. 991156-TC - PAUL CAPELLA

DOCKET NO. 991157-TC - KOINPHONE INC.

DOCKET NO. 991158-TC - KOSMOS KOSMAKOS D/B/A CAPTAIN KOSMAKOS SEAFOOD AND STEAK HOUSE

AGENDA: 10/19/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991150.RCM

CASE BACKGROUND

Each of the certificated pay telephone providers listed on page 4 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, none of the companies have paid the past due amount.

DOCUMENT NUMBER-DATE

12157 OCT-7 99

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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 4 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 4 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 4 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 penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of Administration's records show that each of the pay telephone providers listed on page 4 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

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not requested cancellation of their certificates in compliance with Rule 25-24.514, Florida Administrative Code.

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 penalty and interest charges, are not paid 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 4 should be canceled administratively.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes, these dockets should be closed upon receipt of the fine and fees 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. (K. Peña; C. Bedell)

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 receipt of the fine and fees 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 LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
991150-TC	JS Communications \$0 Revenues for Period 06/11/97 to 12/31/97	5361	1998	1998
991151-TC	Amtech Computers, Inc. \$0 Revenues for Period 06/21/97 to 12/31/97	5372	1998	1998
991152-TC	Frederick Allen Adams No Previous RAF form returned	5402	1997 1998	1997 1998
991156-TC	Paul Capella \$0 Revenues for Period 07/25/97 to 12/31/97	5411	1998	1998
991157-TC	KoinPhone Inc. \$0 Revenues for Period 09/03/97 to 12/31/97	5467	1998	1997 1998
991158-TC	Captain Kosmakos Seafood \$2,114.55 Revenues for Period 01/01/98 to 12/31/98	5430	1998 (Bal)	1997 1998