

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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MAY 10 10:13
COMMUNICATIONS AND REPORTING

DATE: MAY 25, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *WMP* *ZK*

RE: DOCKET NO. 991207-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4339 ISSUED TO VERNIE R. & SHEMANNE K. SPICER FOR VIOLATION OF RULE 25-24.520, F.A.C., REPORTING REQUIREMENTS

AGENDA: 06/06/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991207.RCM

CASE BACKGROUND

- **11/28/95** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 4339.
- **07/29/99** - The US Postal Service (USPS) returned mail addressed to this company stamped "return to sender" and "forwarding order expired."
- **07/30/99** - The USPS returned mail addressed to this company stamped "undeliverable as addressed" and "unable to forward."
- **08/25/99** - Staff called the telephone number listed in the Master Commission Directory (MCD) but was unsuccessful in reaching the company. In addition, staff called Directory

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FPSC-RECORDS/REPORTING

Assistance and was advised Vern Spicer had two telephone numbers but both were nonpublished.

- **11/16/99** - The Commission voted to impose a \$500 fine or cancel the company's certificate at the Agenda Conference.
- **11/18/99** - Mr. Spicer called and left a voice mail message for a return call.
- **11/19/99** - Staff returned Mr. Spicer's call. He advised he had previously faxed the Commission his new reporting requirements and requested information on how to resolve this docket. Information on settlements was mailed to the company.
- **12/08/99** - Order No. PSC-99-2402-PAA-TC was issued. The company had until December 29, 1999, to respond to the Order.
- **12/27/99** - The Commission received a faxed response to the Order. The Division of Records and Reporting requested staff call the company, explain the Commission does not accept faxed filings, and request the original be mailed.
- **12/28/99** - Staff called the company and requested the original response.
- **01/03/00** - The Commission received the company's response to Order No. PSC-99-2402-PAA-TC.
- **02/04/00** - Staff wrote the company and advised that its response needed to include a settlement proposal.
- **03/16/00** - Staff wrote the company a certified letter and explained that providing its updated reporting requirements was not an option and again explained that payment of a fine or settlement was necessary.
- **03/20/00** - The USPS returned the receipt, which showed that staff's March 16, 2000 letter was signed for and delivered.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should Order No. PSC-99-2402-PAA-TC be rendered a Final Order and Docket No. 991207-TC closed?

RECOMMENDATION: Yes. The company has not submitted a Response to the Commission's Proposed Agency Action Order in compliance with Rule 28-106.201, Florida Administrative Code. Therefore, Order No. PSC-99-2402-PAA-TC should be rendered a Final Order. If the company fails to pay in full the required fine within five business days of the issuance of the Order from this recommendation, Vernie R. & Shemanne K. Spicer's Certificate No. 4339 should be canceled in accordance with Order No. PSC-99-2402-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. Whether or not Vernie R. & Shemanne K. Spicer pays the required fine, this docket should be closed upon expiration of the five business days as no further action by the Commission is required. (Isler; K. Peña; B. Keating)

STAFF ANALYSIS: By Order No. PSC-99-2402-PAA-TC issued on December 8, 1999, the company was required to respond to the Order by December 29, 1999. On December 27, 1999, the Commission received a faxed response from the company, and subsequently, on January 3, 2000, the original was received.

Mr. Spicer advised the Commission that he had notified the Commission of his new address on September 29, 1999, after the docket was opened, and stated that he would like to keep the certificate active but could not afford to pay the \$500 fine. Therefore, Order No. PSC-99-2402-PAA-TC was not consummated and the docket was left open to negotiate a settlement.

On February 4, 2000, staff wrote the company and explained that even though it had provided the Commission with its updated reporting requirements, it was after the docket had been opened and that consistent with other, similar dockets, a monetary settlement needed to be proposed by the company in order to keep its certificate active.

On March 16, 2000, staff wrote the company a certified letter and explained that Order No. PSC-99-2402-PAA-TC stated that either a \$500 fine would be assessed or that the certificate would be canceled. Staff explained that just providing its updated reporting requirements was not an option. Staff advised that unless an acceptable settlement proposal was received by April 3,

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2000, staff would consider that its protest was withdrawn, and would recommend that Order No. PSC-99-2402-PAA-TC would be considered final. To date, the company has still not responded. Staff emphasizes that Vernie R. & Shemanne K. Spicer did not file a response to the Commission's Proposed Agency Action Order as required by Rule 28-106.201, Florida Administrative Code, and did not request a hearing. Instead, the company simply advised it had already provided the Commission with its correct address.

However, the cancellation of the certificate shall not relieve Vernie R. & Shemanne K. Spicer from its obligation to pay RAFs, therefore, staff will address this matter in a separate docket.

Therefore, staff recommends that Order No. PSC-99-2402-PAA-TC should be rendered a Final Order. If the company fails to pay in full the required fine within five business days of the issuance of the Order from this recommendation, Vernie R. & Shemanne K. Spicer's Certificate No. 4339 should be canceled in accordance with Order No. PSC-99-2402-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. Whether or not Vernie R. & Shemanne K. Spicer pays the required fine, this docket should be closed upon expiration of the five business days as no further action by the Commission is required.