



# Public Service Commission

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REGULATORY AND REPORTING

**DATE:** AUGUST 24, 2000

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *Pij*  
DIVISION OF LEGAL SERVICES (DANDELAK) *B/R*

**RE:** DOCKET NO. 000915-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3359 ISSUED TO RICHARD O. AND ANN C. HANCE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 000926-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3403 ISSUED TO YVANNE MESIDOR FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 000930-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3627 ISSUED TO FLORIDA JOSEPH LUKOSE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 09/05/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\000915.RCM

### CASE BACKGROUND

Each of the certificated pay telephone providers listed on page 5 were mailed the 1999 Regulatory Assessment Fee (RAF) notice on December 10, 1999. When full payment had not been received by

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the due date of January 31, 2000, the Division of Administration mailed a delinquent letter to the companies. As of August 16, 2000, none of the companies have paid the past due amount. Therefore, staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$1,000 fine or cancel the pay telephone certificates issued to the companies listed on page 5 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** Yes. The Commission should impose a \$1,000 fine or cancel each company's respective certificate as listed on page 5 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 5 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, which implements Section 366.336, Florida Statutes, 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.

Staff was notified by the Division of Administration that the pay telephone providers listed on page 5 had not paid their 1999 regulatory assessment fees, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply

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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. In addition, this is the second docket opened against each company for nonpayment of the RAF.

Richard O. and Ann C. Hance

In Docket No. 990908-TC, Order No. PSC-00-0055-AS-TC was issued on January 7, 2000, which accepted Richard O. and Ann C. Hance's settlement offer. The company had provided a copy of its 1998 RAF form that had originally been mailed to the Commission on January 31, 1999, however, it was never received. The company proposed to follow up to insure that its future RAF payments are timely received by the Commission. In addition, the company paid all past due fees, including penalty and interest charges, and the docket was closed.

Yvonne Mesidor

In Docket No. 951409-TC, Order No. PSC-96-0087-FOF-TC was issued on January 17, 1996, which imposed a \$250 fine for nonpayment of the 1994 RAF or cancelled the company's certificate. The company's certificate was cancelled and the docket closed. In Docket No. 960672-TC, Order No. PSC-96-0941-FOF-TC was issued on July 19, 1996, which reinstated Yvonne Mesidor's certificate after providing proof that the company had paid the \$250 fine and past due RAF within the protest period. It should also be noted that on March 31, 2000, the Commission received a check that was to be credited to Yvonne Mesidor's 1999 RAF and another pay telephone provider's 1999 RAF. The check was subsequently returned by the bank stamped "account closed." On April 17, 2000, the Division of Administration wrote the company and advised them to repay the RAF, including penalty and interest, with a cashier's check, along with a \$15 returned check charge. The company has not responded as of this date.

Joseph Lukose

In Docket No. 981559-TC, Order No. PSC-99-0928-AS-TC was issued on May 10, 1999, which accepted the company's settlement offer. Joseph Lukose proposed to pay future RAFs timely and to pay a \$100 contribution. The company paid the past due RAF, including penalty and interest, and the \$100 contribution, and the docket was closed.

Accordingly, staff recommends that the Commission assess a \$1,000 fine for failure to comply with the Commission rules or cancel each company's respective certificate as listed on page 5 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 5 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. A protest in one docket should not prevent the action in a separate docket from becoming final. (Dandelake)

**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</u> <u>LAST REPORTED REVENUES &amp; PERIOD COVERED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFs</u>	<u>P and I</u>
000915-TC	Richard O. and Ann C. Hance 1998 Revenues - \$0 For the Period Ended 12/31/98	3359	1999	1999
000926-TC	Yvonne Mesidor 1998 Revenues - \$0 For the Period Ended 12/31/98	3403	1999	1999
000930-TC	Joseph Lukose 1998 Revenues - \$0 For the Period Ended 12/31/98	3627	1999	1999