



Public Service Commission

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RECORDS AND REPORTING

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RECEIVED-FPSC

DATE: SEPTEMBER 14, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (BANKS) *POP*

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. 000965-TC - MALECON PHARMACY, INC.
- DOCKET NO. 000971-TC - HELMUT F. LANGER
- DOCKET NO. 000974-TC - UNITED PAYPHONES SERVICES INC.
- DOCKET NO. 001003-TC - CORRECTIONS COMMUNICATIONS, INC.
- DOCKET NO. 001018-TC - JEFFREY M. WITTENBRADER
- DOCKET NO. 001021-TC - THE OTHER PHONE COMPANY, INC.
- DOCKET NO. 001023-TC - EVERCOM SYSTEMS, INC.
- DOCKET NO. 001027-TC - TERRY ALAN HALL D/B/A COMMUNICALL
- DOCKET NO. 001028-TC - CURTIS W. SEWELL JR. D/B/A ALL AMERICAN VENDING
- DOCKET NO. 001037-TC - TIMOTHY J. BRYANT D/B/A BRYTEL COMMUNICATIONS

AGENDA: 09/26/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000965.RCM

CASE BACKGROUND

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

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NOS. 000965-TC, 000971-TC, 000974-TC, 001003-TC, 001018-
TC, 001021-TC, 001023-TC, 001027-TC, 001028-TC, 001037-TC
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Division of Administration mailed a delinquent letter to the companies. As of September 5, 2000, none of the companies have paid the past due amount.

Staff believes the following recommendations are appropriate.

DOCKET NOS. 000965-TC, 000971-TC, 000974-TC, 001003-TC, 001018-TC, 001021-TC, 001023-TC, 001027-TC, 001028-TC, 001037-TC
DATE: SEPTEMBER 14, 2000

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate 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 \$500 fine or cancel each company's 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 and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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 364.336, 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.

The Division of Administration's records show that each of the pay telephone providers listed on page 5 had not paid its 1999 regulatory assessment fees, 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

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Rule 25-24.514, Florida Administrative Code. This fine is consistent with amounts used for recent, similar violations.

Accordingly, staff recommends that the Commission should impose a \$500 fine or cancel each company's 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 and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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. (Banks)

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>
000965-TC	Malecon Pharmacy, Inc. 1998 Revenues - \$1,188 For the Period Ended 12/31/98	4345	1999	1996 1998 1999
000971-TC	Helmut F. Langer 1998 Revenues - \$0 For the Period Ended 12/31/98	4576	1999	1997 1998 1999
000974-TC	United Payphones Services Inc. 1998 Revenues - \$419.82 For the Period Ended 12/31/98	4611	1999	1999
001003-TC	Corrections Communications, Inc. 1998 Revenues - \$465,652.49 For the Period Ended 12/31/98	5059	1999	1999
001018-TC	Jeffrey M. Wittenbrader 1998 Revenues - (\$67.17) For the Period Ended 12/31/98	5357	1998 1999	1997 1998 1999
001021-TC	The Other Phone Company, Inc. 1998 Revenues - \$0 For the Period Ended 12/31/98	5234	1999	1999
001023-TC	Evercom Systems, Inc. 1998 Revenues - \$631,744 For the Period Ended 12/31/98	5541	1999	1999
001027-TC	Communicall 1998 Revenues - \$0 For the Period Ended 12/31/98	5512	1999	1999
001028-TC	All American Vending 1998 Revenues - \$0 For the Period Ended 12/31/98	5533	1999	1999
001037-TC	Brytel Communications 1998 Revenues - \$0 For the Period Ended 12/31/98	5569	1999	1998 1999