



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-

RECEIVED-FPSC
00 SEP 14 AM 7:53
RECORDS AND REPORTING

DATE: SEPTEMBER 14, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Dix*
DIVISION OF LEGAL SERVICES (DANDELAKE) *M.W. - B.N.*

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. 001156-TC - R. B. CONSTRUCTION U.S.A., INC.
 DOCKET NO. 001169-TC - CYBERTEX COMPUTER, INC. D/B/A CTX PAYPHONE COMPANY
 DOCKET NO. 001170-TC - MICHAEL FRITCHMAN
 DOCKET NO. 001173-TC - SANDEL AUGUSTUS LUMBART

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\001156.RCM

CASE BACKGROUND

Each of the certificated pay telephone providers listed on page 4 were mailed the 1999 Regulatory Assessment Fee (RAF) notice. When full payment had not been received by the due date, the 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.

DOCUMENT NUMBER-DATE

11465 SEP 14 8

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate 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 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 4 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 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 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 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. (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.

DOCKET NOS. 001156-TC, 001169-TC, 001170-TC, 001173-TC
DATE: SEPTEMBER 14, 2000

<u>DOCKET NO.</u>	<u>PROVIDER</u> <u>LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFs</u>	<u>P and I</u>
001156-TC	R. B. Construction U.S.A., Inc. No Previous Return Filed	7116	1999	1999
001169-TC	CTX Payphone Company No Previous Return Filed	7212	1999	1999
001170-TC	Michael Fritchman No Previous Return Filed	7213	1999	1999
001173-TC	Sandel Augustus Lumbart No Previous Return Filed	7268	1999	1999