

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: SEPTEMBER 14, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (DANDELAK) *MLB/BZ*

RE: DOCKET NO. 000897-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 2358 ISSUED TO TELALEASING ENTERPRISES, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 000980-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4936 ISSUED TO ASHOK MAHAVIR D/B/A MAHAVIR COMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 001014-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5088 ISSUED TO CARLOS INVESTMENTS INC. OF DADE COUNTY FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

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\000915.RCM ⁰⁰⁰⁸⁹⁷

CASE BACKGROUND

Each of the certificated pay telephone providers listed on page 5 were mailed the 1999 Regulatory Assessment Fee (RAF) notice on December 8, 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 on February 29, 2000. As of September 5, 2000, none of the companies have paid the past due amounts. 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 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.

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 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.

Telaleasing Enterprises, Inc.

In Docket No. 981798-TC, Order No. PSC-99-1134-AS-TC was issued on June 7, 2000, which accepted Telaleasing's settlement offer resolving this docket, plus Docket Nos. 990109-TC (Peoples Telephone Company, Inc.) and 990200-TC (Communications Central, Inc.) addressing the pay telephone service rules and nonpayment of the 1997 RAFs. Davel Communications Group, Inc. is the parent company of all three companies. Davel proposed to pay \$75,000 to resolve the service standards' violations. According to the documents in these dockets, the company paid the RAFs on April 19, 1999, after the dockets were opened but prior to staff filing its recommendation to accept the settlement offer on May 6, 1999. The company paid in full the past due amount, the settlement, and the dockets were closed.

Ashok Mahavir d/b/a Mahavir Communications

In Docket No. 981322-TC, Order No. PSC-99-0337-AS-TC was issued on February 19, 1999, which accepted the company's proposal to pay future regulatory assessment fees on a timely basis and offer to pay a \$100 contribution for nonpayment of the 1997 RAF. The company paid the \$100 as ordered and the docket was closed.

Carlos Investments Inc. of Dade County

In Docket No. 981414-TC, Order No. PSC-99-0810-AS-TC was issued on April 21, 1999, which accepted the company's settlement offer. The company 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.

DOCKET NOS. 000897-TC, 000980-TC, 001014-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>
000897-TC	Telaleasing Enterprises, Inc. 1998 Revenues - \$6,875,715.08 For the Period Ended 12/31/98	2358	1999	1999
000980-TC	Mahavir Communications 1998 Revenues - \$1,320 For the Period Ended 12/31/98	4936	1999	1999
001014-TC	Carlos Investments Inc. 1998 Revenues - \$0 For the Period Ended 12/31/98	5088	1999	1998 1999