



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

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RECORDS AND REPORTING

**DATE:** OCTOBER 5, 2000

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *DK*  
DIVISION OF LEGAL SERVICES (ELLIOTT) *RA GAE*  
*B/L*

**RE:** DOCKET NO. 001158-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7121 ISSUED TO KOSMO K, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 10/17/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\001158.RCM

### CASE BACKGROUND

- **08/30/99** - This company obtained PATS Certificate No. 7121.
- **12/08/99** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. Payment was due January 31, 2000.
- **12/20/99** - The Commission received the company's 1999 RAF notice, with an attached letter requesting cancellation of its certificate.
- **02/29/00** - The Division of Administration mailed a delinquent notice to the company.

DOCUMENT NUMBER-DATE

**12545 OCT-38**

FPSC-RECORDS/REPORTING

- **06/07/00** - Staff wrote the company and advised that before we could recommend a voluntary cancellation, it needed to pay the 1999 RAF, including penalty and interest charges.
- **09/27/00** - As of this date, the company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission grant Kosmo K, Inc. a voluntary cancellation of Pay Telephone Certificate No. 7121?

**RECOMMENDATION:** No. The Commission should not grant the company a voluntary cancellation of its PATS certificate. The Commission should cancel the company's Certificate No. 7121 on its own motion, effective on the date of issuance of the Consummating Order. (Isler)

**STAFF ANALYSIS:** Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30, or the next business day, 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.

Although the company returned the 1999 RAF notice by the due date, a check for the minimum RAF was not attached. In addition, the company included a letter requesting cancellation of its certificate. Staff then wrote the company on June 7, 2000 and explained that before a voluntary cancellation could be granted, the company needed to pay the past due amount. As of September 27, 2000, the company has not paid the 1999 RAF, including statutory penalty and interest charges. Accordingly, the Commission should not grant the company a voluntary cancellation of its PATS certificate. The Commission should cancel the company's Certificate No. 7121 on its own motion, effective on the date of issuance of the Consummating Order.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. The Order issued from this recommendation will become final upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the proposed agency action order. The docket should then be closed upon receipt of the fees or cancellation of the certificate. (Elliott)

**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, this docket should be closed upon the issuance of a Consummating Order and upon receipt of the fees or cancellation of the certificate.