



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0858

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REC'D
01 JAN 11 11:59 AM
AND

DATE: JANUARY 4, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PK*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *BA*
DIVISION OF ADMINISTRATION (J. KNIGHT) *mp*

RE: DOCKET NO. 991157-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5467 ISSUED TO KOINPHONE INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 01/16/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\991157.RCM

CASE BACKGROUND

- **09/03/97** - This company obtained Florida Public Service Commission Certificate No. 5467.
- **12/10/98** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. The due date was February 1, 1999.
- **03/17/99** - The Division of Administration mailed a delinquent letter.
- **11/09/99** - Order No. PSC-99-2205-PAA-TC was issued, which imposed a \$500 fine or canceled the company's certificate.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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- **12/03/99** - The Commission did not receive a protest from the company; therefore, Consummating Order No. PSC-99-2347-CO-TC was issued. KoinPhone Inc.'s certificate was cancelled effective this date.
- **12/08/00** - Mr. Moises Rodriguez, President, contacted staff. He advised that a collection agency had contacted him concerning the 1998 and 1999 RAFs. He advised that when he paid his 1997 RAF, he wrote a note on the check and the RAF form requesting cancellation.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission vacate that portion of Order No. PSC-99-2205-PAA-TC, which imposed a \$500 fine for the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, as it relates to KoinPhone Inc.?

RECOMMENDATION: Yes. The Commission should vacate that portion of Order No. PSC-99-2205-PAA-TC, which imposed a \$500 fine for the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, as it relates to KoinPhone Inc. In addition, the Commission should grant KoinPhone Inc. a retroactive cancellation date of December 31, 1997. Furthermore, the Comptroller's Office should be notified that KoinPhone Inc. is not responsible for the 1998 and 1999 RAFs so that collection action can be stopped. (Isler; K. Peña; J. Knight)

STAFF ANALYSIS: On December 8, 2000, KoinPhone Inc.'s President, Mr. Moises Rodriguez, contacted staff and advised that a collection agency had contacted him concerning the 1998 and 1999 RAFs. He advised that when he paid his 1997 RAF, he wrote a note on the check and the RAF form requesting cancellation. Therefore, Mr. Rodriguez does not believe that he owes the 1998 and 1999 RAFs. Mr. Rodriguez subsequently faxed staff a copy, front and back, of his cancelled check, which supports his statement. Staff then requested a copy of KoinPhone's 1997 RAF return from the Division of Administration. Again, the Commission's copy of the actual return supports Mr. Rodriguez's statement. Due to a clerical error, technical staff was not provided a copy of the company's request for cancellation.

Accordingly, staff believes the Commission should vacate that portion of Order No. PSC-99-2205-PAA-TC, which imposed a \$500 fine for the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, as it relates to KoinPhone Inc. In addition, the Commission should grant KoinPhone Inc. a retroactive cancellation date of December 31, 1997. Furthermore, the Comptroller's Office should be notified that KoinPhone Inc. is not responsible for the 1998 and 1999 RAFs so that collection action can be stopped.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.