



# Public Service Commission

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

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REGISTRATION

**DATE:** APRIL 19, 2001

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *Di*  
DIVISION OF LEGAL SERVICES (BANKS) *Sub BK*

**RE:** DOCKET NO. 001150-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7053 ISSUED TO ANTHONY NARDUCCI FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 05/01/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\001150.RCM

### CASE BACKGROUND

- 07/06/99 - This company was granted Certificate No. 7053.
- 12/08/99 - The Division of Administration mailed the 1999 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 31, 2000.
- 02/29/00 - The Division of Administration mailed the delinquent notice for the 1999 RAF.
- 09/29/00 - Order No. PSC-00-1788-PAA-TC was issued, which imposed a \$500 fine. The company had until October 20, 2000 to pay the past due fee, including penalty and interest charges, and either pay the \$500 fine or protest the Order.

DOCUMENT NUMBER-DATE

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FPSC-REGREG/REPORTING

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- 10/20/00 - The Commission received the company's payment for the 1999 RAF, including penalty and interest charges. In addition, the company proposed a settlement.
- 10/30/00 - Staff called Mr. Anthony Narducci and requested additional information.
- 11/13/00 - The Commission received additional information from Mr. Narducci.
- 12/12/00 - The Division of Administration mailed the 2000 RAF return notice. Payment was due by January 30, 2001.
- 02/01/01 - Staff wrote the company and requested additional information.
- 02/15/01 - The Commission received the company's 2000 RAF, including penalty and interest charges. The company reported revenues in the amount of \$5,552.18 for the period ended December 31, 2000.
- 03/23/01 - As of this date, the company has not provided the additional information requested by staff.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission accept the settlement offer proposed by Anthony Narducci to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** No. The Commission should not accept the company's settlement offer, which proposed to pay a \$50 contribution and future regulatory assessment fees on a timely basis. In addition, Order No. PSC-00-1788-PAA-TC proposing to cancel the company's certificate should be rendered a Final Order. If the company fails to pay the \$500 fine within five business days of the issuance of the Order from this recommendation, Certificate No. 7053 should be cancelled in accordance with Order No. PSC-00-1788-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. (Isler; Banks)

**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 service 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.

Order No. PSC-00-1788-PAA-TC, issued on September 29, 2000, was never consummated because the company paid the 1999 RAF, including penalty and interest charges. In addition, the company included a copy of the 1999 RAF return, which Mr. Narducci stated he had originally mailed to the Commission on March 31, 2000, although the Commission never received it. Mr. Narducci proposed to pay future RAFs on a timely basis and offered to pay a \$50 settlement. The \$50 proposed settlement was not consistent with prior Commission decisions, therefore, staff called Mr. Narducci. Mr. Narducci stated that he would either provide the Commission with a copy of his check register showing that he had written a

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check to the Commission on March 31, 2000 in the amount of \$59 or increase the settlement amount.

On November 13, 2000, the Commission received a copy of Mr. Narducci's check register showing Check No. 7178 was made out to the Commission in the amount of \$59. (ATTACHMENT A) After further review, staff wrote Mr. Narducci on February 1, 2001 and explained that staff could not recommend acceptance of his settlement offer since the copy of check register was insufficient and because the 2000 RAF was now past due. Staff advised Mr. Narducci that he had three options. One, Mr. Narducci could increase the settlement amount to an amount consistent with prior Commission decisions. Two, he could pursue the \$50 settlement by providing additional documentation proving that Check No. 7178 had not cleared his bank. Or, three, he could pursue the \$50 settlement without providing additional documentation. Mr. Narducci was advised that if he selected the third option, staff would recommend denial of his settlement offer, which could result in the Commission requiring that the \$500 fine previously imposed would have to be paid. On February 15, the company mailed its 2000 RAF, including penalty and interest charges, but did not provide any additional documentation or increase the settlement amount.

Therefore, staff recommends that the Commission should not accept the company's settlement offer, which proposed to pay a \$50 contribution and future regulatory assessment fees on a timely basis. In addition, the company has failed to respond to Order No. PSC-00-1788-PAA-TC in accordance with Rule 25-22.029, Florida Administrative Code, by requesting a hearing. Therefore, Order No. PSC-00-1788-PAA-TC proposing to cancel the company's certificate should be rendered a Final Order. If the company fails to pay the \$500 fine within five business days of the issuance of the Order from this recommendation, Certificate No. 7053 should be cancelled in accordance with Order No. PSC-00-1788-PAA-TC. If the fine is paid, it should be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

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

**RECOMMENDATION:** Yes, if the Commission approves staff's recommendation on Issue 1, this docket should be closed upon receipt of the \$500 fine, or cancellation of the certificate. (Banks)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon receipt of the \$500 fine, or cancellation of the certificate.

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 ATTACHMENT A

NUMBER	DATE	TRANSACTION DESCRIPTION	PAYMENT/DEBIT (-)	CODE	FEE (-)	DEPOSIT/CREDIT (+)	\$
7174	3/21	Womens Medical Group	15				
7175	3/27	Bath + Body Works (Me + 3-day Present)	52		19		
7176	3/28	Tax Collector	45		00		
7177	3/28	Mardi Pediatrics Phone Check Up	15		00		
7178	3/28	<del>PSC - phone fee</del>	<del>59</del>				
7179	3/31	SJEDS	5800		00		
7180	4/3	Mark Spinks Jan 20 13 (child)	123		00		
7181	4/4	Kari	70		00		
7182	4/4	Barry McWright (Grossman)	450		00		
7183	4/9	Famous Footwear	60		65		
7184	4/9	T.J. Max (Socks T-shirt)	47		86		
7185	4/10	Sanrio Surprises (Baskets)	120		99		
7186	4/10	Metabolife	44		95		
7187	4/11	Schnorr Screening	41		00		
7188	4/11	Eric Borner (Concrete)	100		00		
7189	4/12	Dr. Archambault	521		44		
7190	4/12	Gym	85		00		