



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-

DATE: MAY 31, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIK*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE bic*

RE: DOCKET NO. 010433-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 3311 ISSUED TO RACK-N-Q BILLIARDS FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS.

AGENDA: 06/12/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010433.RCM

RECORDS AND REPORTING

01 MAY 31 AM 9:15

RECEIVED 7:30

CASE BACKGROUND

- **04/23/93** - This company obtained Florida Public Service Commission Certificate No. 3311.
- **01/28/00** - The Commission received the company's 1999 Regulatory Assessment Fee (RAF) return. The company reported a revenue loss of \$167.51 for the period ended December 31, 1999.
- **04/05/00** - The Division of Records and Reporting received a handwritten note on its request for updated reporting requirements that stated "Business closed 3/5/00" from this company.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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- **07/13/00** - The Division of Regulatory Oversight forwarded the information to the Division of Competitive Services for handling.
- **07/19/00** - Staff wrote the company and requested that the 2000 RAF be paid or provide a date certain it would be paid. A response was requested by August 3, 2000.
- **12/12/00** - The Division of Administration mailed the RAF notice. Payment was due January 30, 2001.
- **02/21/01** - The Division of Administration mailed the company a delinquent notice. The US Postal Service subsequently returned the notice stamped "no longer at this address."
- **05/24/01** - As of this date, the company has not paid the past due amount or advised when the 2000 fee would be paid.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, 364.3375, and 364.183, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Rack-N-Q Billiards a voluntary cancellation of Certificate No. 3311?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 3311 on its own motion, effective December 31, 2000. The past due fees should be referred to the Office of the Comptroller for further collection efforts. (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.

On April 5, 2000, the Commission received the Division of Records and Reporting's request for updated reporting requirements form from the company with a handwritten note "Business closed 3/5/00." Staff wrote the company on July 19, 2000 and explained that before a voluntary cancellation could be recommended, the company needed to write the Commission a letter specifically requesting cancellation of its certificate, and advised the company to either pay the 2000 RAF, or provide a date certain the 2000 fee would be paid, as required by Rule 25-24.514, Florida Administrative Code.

As of May 24, 2001 the company has not paid the 2000 RAF, including statutory penalty and interest charges. Accordingly, the Commission should not grant the company a voluntary cancellation of its pay telephone certificate. The Commission should cancel the company's Certificate No. 3311 on its own motion, effective December 31, 2000. The past due fees should be referred to the Office of the Comptroller for further collection efforts.

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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.