



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: JUNE 28, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Fig MD KMP*
 DIVISION OF LEGAL SERVICES (ELLIOTT; K. PEÑA; B. KEATING) *DK*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES. *JAE*

- DOCKET NO. 010459-TC - JOSIAH JONES
- DOCKET NO. 010460-TC - OAKLAND GAS INC.
- DOCKET NO. 010461-TC - ALBERT BAILEY D/B/A BAILEY'S TECHNICAL SERVICES
- DOCKET NO. 010464-TC - LIGHTENING BOLT MARKETING & DISTRIBUTORS INC.
- DOCKET NO. 010465-TC - FINE FONES, INC.
- DOCKET NO. 010483-TC - ERIK LAMAR WASHINGTON
- DOCKET NO. 010498-TC - PETE GACIO
- DOCKET NO. 010501-TC - ROBERT W. CARTER

AGENDA: 07/10/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010459.RCM

CASE BACKGROUND

Each of the certificated providers listed on page 5 were mailed the 2000 Regulatory Assessment Fee (RAF) notice. When full payment had not been received by the due date, the Division of Administration mailed a delinquent notice to the companies. As of June 13, 2001, none of the companies have paid the past due amount.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 010459-TC, 010460-TC, 010461-TC, 010464-TC, 010465-TC,
010483-TC, 010498-TC, 010501-TC

DATE: JUNE 28, 2001

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.

DOCKET NO. 010459-TC, 010460-TC, 010461-TC, 010464-TC, 010465-TC,
010483-TC, 010498-TC, 010501-TC

DATE: JUNE 28, 2001

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate 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 \$500 fine or cancel each company's 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 certificate numbers listed on page 5 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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 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.

The Division of Administration's records show that each of the companies listed on page 5 had not paid its 2000 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

DOCKET NO. 010459-TC, 010460-TC, 010461-TC, 010464-TC, 010465-TC,
010483-TC, 010498-TC, 010501-TC
DATE: JUNE 28, 2001

Administrative Code. This fine is consistent with amounts used for recent, similar violations.

Accordingly, staff recommends that the Commission should impose a \$500 fine or cancel each company's 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 certificate numbers listed on page 5 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should these dockets 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 the issuance of the Proposed Agency Action Order. These dockets should then 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. (Elliott; K. Peña; B. Keating)

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 issuance of a Consummating Order and 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 NO. 010459-TC, 010460-TC, 010461-TC, 010464-TC, 010465-TC,
 010483-TC, 010498-TC, 010501-TC
 DATE: JUNE 28, 2001

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
010459-TC	Josiah Jones 1999 Revenues - \$0 For the Period Ended 12/31/99	4262	2000	2000
010460-TC	Oakland Gas Inc. 1999 Revenues - \$29,658 For the Period Ended 12/31/99	4153	2000	1995 1996 2000
010461-TC	Bailey's Technical Services 1999 Revenues - \$0 For the Period Ended 12/31/99	4277	2000	1999 2000
010464-TC	Lightening Bolt Marketing & Distri. 1999 Revenues - \$0 For the Period Ended 12/31/99	4494	2000	1999 2000
010465-TC	Fine Fones, Inc. 1999 Revenues - \$0 For the Period Ended 12/31/99	4528	2000	1999 2000
010483-TC	Erik Lamar Washington 1999 Revenues - \$0 For the Period Ended 12/31/99	4889	2000	1996 1998 2000
010498-TC	Pete Gacio 1999 Revenues - \$0 For the Period Ended 12/31/99	5145	2000	1998 2000
010501-TC	Robert W. Carter 1999 Revenues - \$4,000 For the Period Ended 12/31/99	5426	2000	2000

