



# 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) *Pij* *RD* *KMP*  
DIVISION OF LEGAL SERVICES (ELLIOTT; K. PEÑA; B. KEATING) *JK*

**RE:** DOCKET NO. 010478-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4534 ISSUED TO AMERITEL PAYPHONE DISTRIBUTORS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES, TELECOMMUNICATIONS COMPANIES. *JAR*

DOCKET NO. 010494-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5043 ISSUED TO ARBOR HEALTH CARE COMPANY D/B/A ARBORS AT JACKSONVILLE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 010500-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5387 ISSUED TO RICHARD L. STURGEON FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**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\010478.RCM

### CASE BACKGROUND

Each of the certificated companies listed on page 5 were mailed the 2000 Regulatory Assessment Fee (RAF) notice. When payment had not been received by the due date, the Division of

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Administration mailed a delinquent notice to the companies. As of June 13, 2001, none of the companies have paid the past due amount.

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 impose a \$1,000 fine or cancel the certificates issued to the companies 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 \$1,000 fine or cancel each company's respective 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. (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.

Staff was notified by the Division of Administration that the companies listed on page 5 have not paid their 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 Administrative Code. This fine amount is consistent with amounts used for recent, similar violations.

This is the second docket opened against each company for nonpayment of the RAF. In Docket No. 991062-TC, Order No. PSC-00-0056-AS-TC was issued on January 7, 2000, which accepted Ameritel Payphone Distributors, Inc.'s settlement offer. Ameritel paid the past due amount, proposed to pay future RAFs on a timely basis, and offered to pay a \$100 contribution. The company paid the \$100 contribution, and the docket was closed.

In Docket No. 981373-TC, Order No. PSC-99-0477-AS-TC was issued on March 8, 1999, which accepted Arbor Health Care Company d/b/a Arbors at Jacksonville's settlement offer. Arbors at Jacksonville paid the past due amount, proposed to pay future RAFs on a timely basis, and offered to pay a \$100 contribution. The company paid the \$100 contribution, and the docket was closed.

In Docket No. 981440-TC, Order No. PSC-99-0811-AS-TC was issued on April 21, 1999, which accepted Richard L. Sturgeon's settlement offer. Mr. Sturgeon paid the past due amount, proposed to pay future RAFs on a timely basis, and offered to pay a \$100 contribution. The company paid the \$100 contribution, and the docket was closed.

Accordingly, staff recommends that the Commission assess a \$1,000 fine for failure to comply with the Commission rules or cancel each company's respective 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

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certificate numbers listed on page 5 should be canceled administratively.

**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.

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<u>DOCKET NO.</u>	<u>PROVIDER</u> <u>LAST REPORTED REVENUES &amp; PERIOD COVERED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFs</u>	<u>P and I</u>
010478-TC	Ameritel Payphone Distributors, Inc. 1999 Revenues - \$62,052.44 For the Period Ended 12/31/99	4534	2000	2000
010494-TC	Arbors at Jacksonville 1999 Revenues - \$0 For the Period Ended 12/31/99	5043	2000	1999 2000
010500-TC	Richard L. Sturgeon 1999 Revenues - \$0 For the Period Ended 12/31/99	5387	2000	2000

