



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: JULY 12, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIG*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE BIL*

RE: DOCKET NO. 010499-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5378
ISSUED TO GREGORY A. PHILIP D/B/A GAPTEL FOR VIOLATION OF
RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

AGENDA: 07/24/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010499.RCM

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CLERK

CASE BACKGROUND

- **07/18/97** - This company obtained Florida Public Service Commission Certificate No. 5378.
- **01/24/00** - The Commission received the company's payment for the 1999 Regulatory Assessment Fee (RAF). The company reported revenues in the amount of \$341.97 for the period ended December 31, 1999.
- **12/12/00** - The Division of the Commission Clerk & Administrative Services mailed the 2000 RAF return notice. Payment was due by January 30, 2001.

DOCUMENT NUMBER-DATE
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PSC-REG INFO/REPORTING

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- **02/21/01** - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice for nonpayment of the 2000 RAF.
- **04/18/01** - Staff wrote the company a letter and explained that this docket had been established for nonpayment of the 2000 RAF and to contact staff if it was interested in resolving this docket.
- **04/23/01** - Mr. Gregory A. Philip, owner, called staff and advised that he is no longer in the payphone business and wanted to cancel his certificate. Mr. Philip stated he would pay the past due balance, pay the 2001 RAF, and write a letter requesting cancellation.
- **05/03/01** - The Commission received a letter from Mr. Philip requesting cancellation of his certificate.
- **05/16/01** - Staff wrote the company and explained that in order to be granted a voluntary cancellation, the past due RAF, including penalty and interest charges, must be paid. In addition, the company would either need to pay the 2001 RAF or provide a date certain it will be paid.
- **06/14/01** - Staff wrote the company and again explained that a voluntary cancellation could not be granted unless the company paid the past due balance and complied with Rule 25-24.514, F.A.C.
- **07/06/01** - As of this date, the company has not paid the 2000 RAF, including penalty and interest charges, nor paid the 2001 RAF or provided a date certain the 2001 RAF would be paid in compliance with Rule 25-24.514, Florida Administrative Code.

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 grant Gregory A. Philip d/b/a GAPTEL a voluntary cancellation of Certificate No. 5378?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5378 on its own motion, effective May 3, 2001. The collection of 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.

The Division of the Commission Clerk & Administrative Services notified staff that the company had not submitted the 2000 regulatory assessment fees, along with statutory penalty and interest charges, for the year 2000. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Although the Commission did receive a letter from GAPTEL requesting cancellation of its certificate, the company did not include a check for the past due 2000 RAF, including statutory penalty and interest charges, nor either pay the 2001 RAF or provide a date certain the 2001 RAF would be paid in compliance with Rule 25-24.514, Florida Administrative Code. After receiving the company's letter on May 3, 2001, staff wrote the owner, Mr. Gregory A. Philip two letters, on May 16 and June 14, 2001, explaining that a voluntary cancellation could not be granted unless the past due balance was paid. As of July 6, 2001, the Commission has not received payment of the past due balance.

Accordingly, staff believes the Commission should deny the company a voluntary cancellation of its telecommunications certificate. Instead, the Commission should cancel the company's Certificate No. 5378 on its own motion, effective May 3, 2001. The collection of 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.