

State of Florida



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: AUGUST 2, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PIW*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING; ELLIOTT) *AAE* *KMP*

RE: DOCKET NO. 010487-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4542
ISSUED TO FKI ENTERPRISES, INC. FOR VIOLATION OF RULE 25-
4.0161, F.A.C., REGULATORY ASSESSMENT FEES,
TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 010496-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5104
ISSUED TO GARY MICHAEL CAPASSO FOR VIOLATION OF RULE 25-
4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 010588-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7181
ISSUED TO GEORGE J. SEMPLE D/B/A TELCOMMUNICATIONS 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: 08/14/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010487.RCM

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

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CASE BACKGROUND

The companies listed on Attachment A were mailed the 2000 Regulatory Assessment Fee (RAF) Notice and payment was due by January 30, 2001. On February 21, 2001, the Division of the Commission Clerk & Administrative Services mailed a delinquent letter for the 2000 RAF.

After the dockets were opened, staff wrote each of the companies listed on Attachment A and explained that a docket had been established and to contact staff if the companies were interested in resolving the dockets. The companies listed on Attachment A wrote the Commission and requested cancellation of their certificates. However, the companies listed on Attachment A have a 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 deny the companies listed on Attachment A a voluntary cancellation of their respective certificates?

RECOMMENDATION: Yes. The Commission should deny each company a voluntary cancellation of its telecommunications certificate as listed on Attachment A. Instead, the Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. 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 of the subsequent year

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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 each company listed on Attachment A had not submitted the 2000 regulatory assessment fees, along with statutory penalty and interest charges, for the year 2000. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

On April 17, April 18 and May 14, 2001, respectively, staff wrote each of the companies listed on Attachment A and explained that a docket had been established. Staff advised the companies to contact staff if they were interested in resolving the dockets. Each company listed on Attachment A wrote the Commission and requested cancellation of their respective certificates.

FKI Enterprises, Inc., Docket No. 010487-TC

On April 30, 2001, the Commission received correspondence from Mr. Stimson, President, which stated he had returned the RAF return notice with a note advising the company had ceased operations. The Division of the Commission Clerk & Administrative Services has no record of receiving this company's 2000 RAF return. On June 13, 2001, staff wrote Mr. Stimson and explained the above and requested a copy of his 2000 RAF return. As of July 26, 2001, the Commission has not received a copy of the 2000 RAF return or payment of the 2000 RAF, including statutory penalty and interest charges for the years 1999 and 2000. In addition, the company did not provide the Commission its intent and date to pay the current year's RAF as required by Rule 25-24.514, Florida Administrative Code.

Gary Michael Capasso, Docket No. 010496-TC

On May 15, 2001, the Commission received correspondence from Mr. Capasso. Mr. Capasso stated that he had suffered a heart attack in July 2000 and assumed his wife had cancelled his certificate. On May 17, staff wrote Mr. Capasso and explained that the Commission has no record of receiving a prior request for cancellation and that in order to recommend a voluntary cancellation, the 2000 RAF would need to be paid, along with the

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company's intent and date to pay the 2001 RAF. As of July 26, 2001, the Commission has not received payment or the information required by Rule 25-24.514, Florida Administrative Code.

**George J. Semple d/b/a TelCommunications
Docket No. 010588-TC**

On May 16, 2001, the Commission received correspondence from Mr. Semple requesting cancellation of his certificate because the "business venture was never begun." On May 23, 2001, staff received e-mail from George J. Semple Jr. Mr. Semple stated he was the Power of Attorney for his father. He stated that he called the Commission twice and left detailed messages and requesting a return call. He did not provide the telephone numbers or dates he called. He asked that information on how to resolve this docket be sent to him via e-mail. Staff responded via e-mail on June 1 and explained that in order for staff to recommend a voluntary cancellation, the past due amount needed to be paid, along with the company's intent and date to pay the 2001 RAF. As of July 26, 2001, the Commission has not received payment or the information required by Rule 25-24.514, Florida Administrative Code.

Accordingly, staff believes the Commission should deny each company a voluntary cancellation of its telecommunications certificate as listed on Attachment A. Instead, the Commission should cancel each company's respective certificate on its own motion with an effective date as listed on Attachment A. 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 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 issuance of the Proposed Agency Action Order. These dockets should then be closed upon receipt of the fees or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (K. Peña; B. Keating; 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, these dockets should be closed upon the issuance of a Consummating Order and upon receipt of the 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 LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
010487-TC	FKI Enterprises, Inc. \$0 Revenues for Period Ended 12/31/99	4542	04/30/01
010496-TC	Gary Michael Capasso \$0 Revenues for Period Ended 12/31/99	5104	05/15/01
010588-TC	TelCommunications \$0 Revenues for Period Ended 12/31/99	7181	05/16/01