

State of Florida



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION  
CLERK

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RECEIVED FPSC

DATE: SEPTEMBER 6, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pji* *MD*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING; ELLIOTT) *BR* *JAE* *VMP*

RE: DOCKET NO. 010687-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5081 ISSUED TO SOUTHWEST PAY TELEPHONE CORPORATION FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 010692-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 6001 ISSUED TO FAGUN ENTERPRISES INC. D/B/A COIN 'O' WASH FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 010695-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 7306 ISSUED TO CHRISTOPHER AND MELISSA WILLIS D/B/A MCW COMMUNICATIONS FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/18/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010687.RCM

CASE BACKGROUND

The Division of the Commission Clerk & Administrative Services mailed each of the certificated telecommunications providers listed

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11047 SEP-5a

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on Attachment A the 2000 Regulatory Assessment Fee (RAF) notice. When full payment had not been received by the due date, the Division of the Commission Clerk & Administrative Services mailed a delinquent notice to the companies. As of August 22, 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 \$500 fine or cancel each company's respective certificate as listed on Attachment A 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 respective certificate as listed on Attachment A 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 Attachment A should be cancelled 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

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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 the Commission Clerk & Administrative Services' records show that each of the telecommunications providers listed on Attachment A had 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. The fine amount recommended in these dockets is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel each company's respective certificate as listed on Attachment A if the fine and the regulatory assessment fees, along with statutory penalty and interest charges, are not paid 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 Attachment A should be cancelled administratively and 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 the issuance of the Proposed Agency Action Order. The 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. (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 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 LAST REPORTED REVENUES &amp; PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I</u>
010687-TC	Southwest Pay Telephone Corporation \$169,178.00 Revenues for Period Ended 12/31/99	5081	2000	2000
010692-TC	COIN 'O' WASH \$638.71 Revenues for Period Ended 12/31/00	6001	2000 bal.*	1999 2000
010695-TC	MCW COMMUNICATIONS \$2,894.33 Revenues for Period Ended 12/31/00	7306	2000 bal.*	2000

\*Partial payment received leaving a balance due.