

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-

COMMISSION
CLERK

RECEIVED-FPSC
02 JUN 24 PM 3:27

DATE: JUNE 27, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *PK*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN; *K.* PEÑA; *B.*
KEATING) *W*

RE: DOCKET NO. 020479-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PATS CERTIFICATE NO. 4589 ISSUED TO
JEFF & SANDI LUND D/B/A LUND COMMUNICATIONS FOR VIOLATION
OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 020480-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PATS CERTIFICATE NO. 7863 ISSUED TO
DIGITAL IMAGING & GRAPHICS, INC. FOR VIOLATION OF RULE 25-
4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

AGENDA: 07/09/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020479.RCM

CASE BACKGROUND

The companies listed on Attachment A were mailed the 2001
Regulatory Assessment Fee (RAF) return notice and payment was due
by January 30, 2002. On February 20, 2002, the Office of the
General Counsel mailed a delinquent notice for the 2001 RAF.

The Commission received correspondence from each of the
companies listed on Attachment A, which requested cancellation of

DOCUMENT NUMBER-DATE

06484 JUN 24 02

FPSC-COMMISSION CLERK

DOCKET NOS. 020479-TC, 020480-TC

DATE: JUNE 27, 2002

their respective certificates. Staff wrote each of the companies listed on Attachment A and explained that staff could not recommend a voluntary cancellation until each company complied with Rule 25-24.514, Florida Administrative Code. However, each of the companies listed on Attachment A have not complied 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 the companies listed on Attachment A a voluntary cancellation of their respective certificates?

RECOMMENDATION: No. The Commission should not grant the companies a voluntary cancellation of their respective certificates. 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 outstanding fees should be referred to the Office of the Comptroller for further collection efforts. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing pay telephone services in Florida. (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 for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Rule 25-24.514(2) (a) and (b), Florida Administrative Code, states:

- (2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request.
 - (a) Statement of intent and date to pay Regulatory Assessment Fee.
 - (b) Statement of why the certificate is proposed to be cancelled.

Although each of the companies listed on Attachment A requested cancellation of their respective certificates, the companies either have past due RAFs or have not provided the date the 2002 RAF will be paid.

Jeff & Sandi Lund d/b/a Lund Communications
Docket No. 020479-TC

On March 11, 2002, Mr. Jeff Lund, co-owner, called staff and stated that he had forgotten to notify the Commission that he was no longer in the payphone business. He asked staff to mail him the 2002 RAF return form. Staff explained that he would need to notify the Commission in writing that he is requesting cancellation of his certificate. The 2002 RAF return form was mailed on March 11, 2002.

On April 1, 2002, the Commission received a note from the company requesting cancellation of its certificate. The company did not include payment of the 2002 RAF or provide a date certain it would be paid. As of June 19, 2002, the 2002 RAF has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Digital Imaging & Graphics, Inc.
Docket No. 020480-TC

On April 30, 2002, the Commission received correspondence from this company advising that it was no longer in business and that its assets had been sold to another company. On May 3, 2002, staff wrote the company and explained that prior to granting a voluntary cancellation, the company must pay the 2001 RAF, including statutory penalty and interest charges, and either pay the 2002 RAF or provide a date certain it would be paid. As of June 19, 2002, the 2001 RAF has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff believes 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. If the certificates for each company as listed on Attachment A are cancelled in accordance with the Commission's Order from this recommendation, the respective companies should be required to immediately cease and desist providing pay telephone services in Florida.

DOCKET NOS. 020479-TC, 020480-TC
DATE: JUNE 27, 2002

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: 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 issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final. (Teitzman; 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. A protest in one docket should not prevent the action in a separate docket from becoming final.

DOCKET NOS. 020479-TC, 020480-TC
DATE: JUNE 27, 2002

ATTACHMENT A

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
020479-TC	Lund Communications \$5,249 Revenues for Period Ended 12/31/01	4589	03/11/02
020480-TC	Digital Imaging & Graphics, Inc. No Previous Return Filed	7863	04/30/02