



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: OCTOBER 24, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (DODSON; ELLIOTT; CHRISTENSEN) *me* *YAD* *JAE* *HL*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATES 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: 11/05/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020781.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against pay telephone companies (PATS) for nonpayment of the Regulatory Assessment Fees (RAFs) and not providing the Commission with its updated reporting requirements. Staff is recommending that first time offenders for both rule violations be penalized \$1,000. The following docket numbers are addressed by this recommendation.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, 364.3375, and 364.183, Florida Statutes.

DOCKET NOS. 020781-TC, 020789-TC, 020797-TC, 020811-TC, 020814-TC, 020815-TC, 020817-TC, 020916-TC
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1st Time Offenders - Nonpayment of RAFs and Reporting Requirements
Violation - \$1,000 Penalty

DOCKET NO. 020781-TC - PAY-TEL SERVICES INC.
DOCKET NO. 020789-TC - BURNEY COMMUNICATIONS GROUP, INC.
DOCKET NO. 020797-TC - ADVANCE PAYPHONES U.S.A., INC.
DOCKET NO. 020811-TC - MICHAEL R. SPENCE D/B/A CONSTELLATION
TELECOM
DOCKET NO. 020814-TC - FEL-TEL COMMUNICATION, INC.
DOCKET NO. 020815-TC - SANDRA K. STROHL
DOCKET NO. 020817-TC - JAMES FAIRHURST
DOCKET NO. 020916-TC - COASTAL PHONE SERVICES, INC.

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DISCUSSION OF ISSUES

1st Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: Yes. The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 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 a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that company's certificate, as 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. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Dodson; Elliott; Christensen)

STAFF ANALYSIS: Each of the providers listed on Attachment A have not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges, in compliance with Rule 25-4.0161,

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Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code.

In addition, each of the companies listed on Attachment A have had returned mail and have not updated the information within 10 days of the change of their respective address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission as required by Rule 25-24.520, Florida Administrative Code. Staff attempted to call each company, but was unsuccessful. Therefore, it appears the companies listed on Attachment A have failed to comply with Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and 25-24.520, Florida Administrative Code, Reporting Requirements, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 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 a company does not protest the Commission's Order or

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the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that company's certificate, as 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. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing pay telephone services in Florida.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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 Orders. The dockets should then be closed upon receipt of the penalty, fees, and updated information or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (Dodson; Elliott; Christensen)

STAFF ANALYSIS: Whether staff's recommendations on Issue 1 is approved or denied, the result will be Proposed Agency Action Orders. If no timely protest to the Proposed Agency Actions are filed within 21 days of the date of issuance of the Orders, these dockets should be closed upon receipt of the penalty, fees, and updated information or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

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1ST Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020781-TC	Pay-Tel Services Inc. \$10,525 Revenues 12/31/00	5041	2001	2000 2001
020789-TC	Burney Communications Group, Inc. \$4,055 Revenues 12/31/00	5936	2001	1999 2000 2001
020797-TC	Advance Payphones U.S.A., Inc. \$0 Revenues 12/31/00	7324	2001	2001
020811-TC	Michael R. Spence d/b/a Constellation Telecom \$0 Revenues 12/31/00	7346	2001	2000 2001
020814-TC	Fel-Tel Communication, Inc. No Previous Return Filed	7703	2001	2001
020815-TC	Sandra K. Strohl No Previous Return Filed	7750	2001	2001
020817-TC	James Fairhurst No Previous Return Filed	7774	2001	2001
020916-TC	Coastal Phone Services, Inc. No Previous Return Filed	7690	2001	2001

*Years penalty and/or interest was not paid