



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

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DATE: OCTOBER 24, 2002
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) OFFICE OF THE GENERAL COUNSEL (DODSON, TEITZMAN; ELLIOTT; L. FORDHAM; BANKS; CHRISTENSEN; W. KNIGHT)
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.
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\020767.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against pay telephone companies (PATS) for nonpayment of the Regulatory Assessment Fees (RAFs). Staff is recommending that first time offenders be penalized \$500, second time offenders be penalized \$1,000, and that the fourth time offender's certificate be cancelled.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes. The following docket numbers are addressed by this recommendation.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

DOCKET NOS. 020767-TC & OTHERS
DATE: OCTOBER 24, 2002

1st Time Offenders - Nonpayment of RAFs - \$500 Penalty

DOCKET NO. 020767-TC - CHARLES BORG
DOCKET NO. 020768-TC - PAY PHONE SYSTEMS
DOCKET NO. 020769-TC - B & D PRODUCT SERVICES, INC. D/B/A QUALITY
MARKETING GROUP
DOCKET NO. 020771-TC - THOMAS G. BIALOZYNSKI D/B/A COUNTRY QUICK
STOP
DOCKET NO. 020772-TC - BROOKS L. WEBB & TOM MARSHALL D/B/A 5 SONS
INTERNATIONAL
DOCKET NO. 020773-TC - INFINITEL, INC.
DOCKET NO. 020780-TC - STEVEN C. SORENSON
DOCKET NO. 020782-TC - EXPORT EXPERTS & IMPORTS, INC.
DOCKET NO. 020784-TC - CITIZENS PAYPHONE COMPANY
DOCKET NO. 020785-TC - 20/20 COMMUNICATIONS
DOCKET NO. 020790-TC - HITSU, INC.
DOCKET NO. 020791-TC - TARIQ EL-YAMAN
DOCKET NO. 020792-TC - PARCOM COMMUNICATIONS, INC. D/B/A PAR COM
COMMUNICATIONS
DOCKET NO. 020794-TC - WILLIE B. YOUNG JR.
DOCKET NO. 020795-TC - PREMIUM COMMUNICATION SERVICES, INC.
DOCKET NO. 020800-TC - DALLAS & CHARLENE MERRITT D/B/A A & O
COMMUNICATIONS
DOCKET NO. 020806-TC - TRANSTAR COMMUNICATIONS, INC.
DOCKET NO. 020807-TC - PHONEXPERT, INC.
DOCKET NO. 020809-TC - MICHAEL S SIMS D/B/A SUNDIAL
DOCKET NO. 020810-TC - VAN J. COMPOLI AND ROBERT BERG D/B/A
SOUTHEAST TEL-TECH
DOCKET NO. 020812-TC - ROGER HESTER D/B/A CATCH 84 COMMUNICATIONS
DOCKET NO. 020813-TC - MICHAEL BRANDENBERGER
DOCKET NO. 020816-TC - DIXON, INC. D/B/A DIXON TELECOM
DOCKET NO. 020818-TC - HERVE SALNAVE
DOCKET NO. 020819-TC - JOSEPH D CAIN D/B/A J & C COMMUNICATIONS
DOCKET NO. 020821-TC - TFT FOUNDATION, INC.
DOCKET NO. 020915-TC - JULIE L. STANFIELD AND FRANK K. HUNT D/B/A
S & H COMMUNICATIONS
DOCKET NO. 020917-TC - BOULEVARD HOTEL, INC.
DOCKET NO. 020956-TC - PAYSTAR COMMUNICATIONS, INC.

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2nd Time Offenders - Nonpayment of RAFs - \$1,000 Penalty

DOCKET NO. 020764-TC - PHONE PLUS, INC.
DOCKET NO. 020770-TC - TEL CALL COMMUNICATION INC.
DOCKET NO. 020777-TC - LAURSTAR TELECOMMUNICATIONS, INC.
DOCKET NO. 020778-TC - I P P S OF ORLANDO, INC.
DOCKET NO. 020779-TC - JOHN MCDERMOTT
DOCKET NO. 020783-TC - COLONIAL SYSTEMS, INC.
DOCKET NO. 020793-TC - VICTORY FINANCIAL GROUP, INC.
DOCKET NO. 020796-TC - CYBERTEX COMPUTER, INC. D/B/A CTX PAYPHONE
COMPANY

4th Time Offender - Nonpayment of RAFs - Cancellation of Certificate

DOCKET NO. 020776-TC - NATIONWIDE COMMUNICATIONS OF MICHIGAN, INC.

DISCUSSION OF ISSUES

1st Time Offenders - Nonpayment of RAFs - \$500 Penalty

ISSUE 1: Should the Commission impose a \$500 penalty 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, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty 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 and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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, 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; Teitzman; Elliott; L. Fordham; Banks; Christensen; W. Knight)

STAFF ANALYSIS: Each of the telecommunications providers listed on Attachment A have not paid their 2001 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, incorporated by Rule 25-24.505, Florida Administrative Code, 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

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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 \$500 penalty 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 and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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, 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.

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2nd Time Offenders - Nonpayment of RAFs - \$1,000 Penalty

ISSUE 2: Should the Commission impose a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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, are not received, that company's certificate, as listed on Attachment B, 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 B, 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; Teitzman; Dodson; Elliott; L. Fordham; Banks)

STAFF ANALYSIS: Each of the companies listed on Attachment B have not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. This is the second docket opened against each company for nonpayment of the RAF. In each of the prior dockets, the companies listed on Attachment B either paid a penalty or settlement amount to resolve the dockets. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amount recommended in

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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 \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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, are not received, that company's certificate, as listed on Attachment B, 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 B, 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.

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4th Time Offender - Nonpayment of RAFs - Cancellation of Certificate

ISSUE 3: Should the Commission cancel Nationwide Communications of Michigan, Inc.'s Certificate No. 3950 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should cancel Nationwide Communications of Michigan, Inc.'s Certificate No. 3950 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Office of the Comptroller for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 3950 as listed on Attachment C should be cancelled administratively. If Nationwide Communications of Michigan, Inc.'s certificate as listed on Attachment C is cancelled in accordance with the Commission's Order from this recommendation, Nationwide Communications of Michigan, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. (Isler; Dodson)

STAFF ANALYSIS: Nationwide Communications of Michigan, Inc. has not paid its 2001 Regulatory Assessment Fee, plus statutory penalty and interest charges. Nationwide Communications of Michigan, Inc. has a history of late payments. The company's certificate became effective January 31, 1995, and in five out of seven years, the company has paid the Regulatory Assessment Fee after the due date. In addition, three other dockets were established for nonpayment of the Regulatory Assessment Fees. In Docket No. 971317-TP, Order No. PSC-98-1651-AS-TP was issued on December 8, 1998, which approved the company's settlement for three rule violations, including the RAF rule; in Docket No. 991022-TC, Order No. PSC-99-2407-AS-TC issued December 8, 1999, approved the company's \$500 settlement; and in Docket No. 000940-TC, Order No. PSC-01-0154-AS-TC issued January 19, 2001, approved the company's \$1,000 settlement. In Docket Nos. 991022-TC and 000940-TC, the company proposed to pay future RAFs on a timely basis. Therefore, it appears that the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications

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Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and is not in compliance with its previous settlement proposals.

Since this is the fourth docket established for nonpayment of the RAFs, Nationwide Communications of Michigan, Inc. should be well aware when the fees are due each year. The cancellation of a certificate for a fourth offense is consistent with a prior Commission decision. In Docket No. 000968-TC, by Order No. PSC-00-1815-PAA-TC, issued October 4, 2000, the Commission cancelled James M. Bracewell d/b/a Southern Tele-Communications' pay telephone certificate for violating the RAF rule in three separate dockets (Nos. 971340-TC, 981273-TC, and 000968-TC). Therefore, staff believes that cancellation of the company's certificate is appropriate. 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 should cancel Nationwide Communications of Michigan, Inc.'s Certificate No. 3950 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Office of the Comptroller for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 3950 as listed on Attachment C should be cancelled administratively. If Nationwide Communications of Michigan, Inc.'s certificate as listed on Attachment C is cancelled in accordance with the Commission's Order from this recommendation, Nationwide Communications of Michigan, Inc. should be required to immediately cease and desist providing pay telephone services in Florida.

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ISSUE 4: 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 and fees 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; Teitzman; Elliott; L. Fordham; Banks; Christensen; W. Knight)

STAFF ANALYSIS: Whether staff's recommendations on Issue 1, 2, and 3 are 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 and fees 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 - \$500 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>
020767-TC	Charles Borg \$2,558 Revenues 12/31/00	3310	2001	1997 2001
020768-TC	Pay Phone Systems \$11,517 Revenues 12/31/00	3328	2001	1997 1998 2000 2001
020769-TC	B & D Product Services, Inc. d/b/a Quality Marketing Group \$0 Revenues 12/31/00	3393	2001	2001
020771-TC	Thomas G. Bialozynski d/b/a Country Quick Stop \$0 Revenues 12/31/00	3710	2001	2001
020772-TC	Brooks L. Webb & Tom Marshall d/b/a 5 Sons International \$615 Revenues 12/31/00	3735	2001	2001
020773-TC	Infinitel, Inc. \$151,465 Revenues 12/31/00	3885	2001	2001
020780-TC	Steven C. Sorenson \$0 Revenues 12/31/00	4639	2001	2001
020782-TC	Export Experts & Imports, Inc. \$0 Revenues 12/31/00	5409	2001	1999 2000 2001
020784-TC	Citizens Payphone Company \$0 Revenues 12/31/00	5898	2001	1998 2001
020785-TC	20/20 Communications \$15,256 Revenues 12/31/00	5911	2001	2001

*Years penalty and/or interest was not paid

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1st Time Offenders - Nonpayment of RAFs - \$500 Penalty - Continued

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020790-TC	Hitsu, Inc. \$0 Revenues 12/31/00	5991	2001	2001
020791-TC	Tariq El-Yaman \$0 Revenues 12/31/00	6018	2001	2001
020792-TC	Parcom Communications, Inc. d/b/a Par Com Communications \$0 Revenues 12/31/00	6046	2001	1999 2000 2001
020794-TC	Willie B. Young Jr. \$0 Revenues 12/31/00	7075	2001	2001
020795-TC	Premium Communication Services, Inc. \$187 Revenues 12/31/00	7084	2001	1999 2000 2001
020800-TC	Dallas & Charlene Merritt d/b/a A & O Communications -\$253 Revenues 12/31/00	7368	2001	2000 2001
020806-TC	TranStar Communications, Inc. -\$2,927 Revenues 12/31/00	7391	2001	2001
020807-TC	Phonexpert, Inc. \$0 Revenues 12/31/00	7424	2001	2001
020809-TC	Michael S Sims d/b/a SunDial \$0 Revenues 12/31/00	7482	2001	2001
020810-TC	Van J. Compoli and Robert Berg d/b/a SouthEast Tel-Tech \$0 Revenues 12/31/00	7548	2001	2001

*Years penalty and/or interest was not paid

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1st Time Offenders - Nonpayment of RAFs - \$500 Penalty - Continued

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020812-TC	Roger Hester d/b/a Catch 84 Communications No Previous Return Filed	7671	2001	2001
020813-TC	Michael Brandenberger No Previous Return Filed	7673	2001	2001
020816-TC	Dixon, Inc. d/b/a Dixon Telecom No Previous Return Filed	7766	2001	2001
020818-TC	Herve Salnave No Previous Return Filed	7777	2001	2001
020819-TC	Joseph D Cain d/b/a J & C Communications No Previous Return Filed	7778	2001	2001
020821-TC	TFT Foundation, Inc. No Previous Return Filed	7876	2001	2001
020915-TC	Julie L. Stanfield and Frank K. Hunt d/b/a S & H Communications \$0 Revenues 12/31/00	7480	2001	2001
020917-TC	Boulevard Hotel, Inc. No Previous Return Filed	7836	2001	2001
020956-TC	PayStar Communications, Inc. \$26,145 Revenues 12/31/00	7561	2001	2001

*Years penalty and/or interest was not paid

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2nd Time Offenders - Nonpayment of RAFs - \$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>
020764-TC	Phone Plus, Inc. \$134,900 Revenues 12/31/00	2704	2001	2000 2001
020770-TC	Tel Call Communication Inc. \$43,703 Revenues 12/31/00	3715	2001	1998 2001
020777-TC	Laurstar Telecommunications, Inc. \$1,037 Revenues 12/31/00	4172	2001	1997 1999 2001
020778-TC	I P P S of Orlando, Inc. \$0 Revenues 12/31/00	4323	2001	2001
020779-TC	John McDermott \$0 Revenues 12/31/00	4551	2001	2001
020783-TC	Colonial Systems, Inc. \$0 Revenues 12/31/00	5543	2001	2001
020793-TC	Victory Financial Group, Inc. \$0 Revenues 12/31/00	6047	2001	2000 2001
020796-TC	Cybertex Computer, Inc. d/b/a CTX Payphone Company \$0 Revenues 12/31/00	7212	2001	2001

*Years penalty and/or interest was not paid

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4th Time Offender - Nonpayment of RAFs - Cancellation of Certificate

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020776-TC	Nationwide Communications of Michigan, Inc. -\$76,822 Revenues 12/31/00	3950	2001	2001

*Years penalty and/or interest was not paid