



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-

RECEIVED FPSC
DEC-5 PM 12:19
COMMISSION CLERK

DATE: DECEMBER 5, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Dji*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN; ELLIOTT; DODSON) *JAC*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS
CERTIFICATES FOR VIOLATION OF RULE 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES. *JAC*

AGENDA: 12/17/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020808.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 offenders not complying with the cancellation rule be denied a voluntary cancellation.

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

13302 DEC-5 02

FPSC-COMMISSION CLERK

DOCKET NOS. 020808-TC, 020913-TC, 020914-TC, 021071-TC, 021072-TC, 021074-TC
DATE: DECEMBER 5, 2002

PAT Offenders - Nonpayment of RAFs - Deny Voluntary Cancellations

DOCKET NO. 020808-TC - STEVE P WEIS D/B/A TEFCYC SYSTEMS
DOCKET NO. 020913-TC - BJM SALES, INC.
DOCKET NO. 020914-TC - VAL TEL COMMUNICATIONS, INC.
DOCKET NO. 021071-TC - LYNDON C. SCHERR
DOCKET NO. 021072-TC - JON ADAMS
DOCKET NO. 021074-TC - UNITED PAYPHONE OWNERS, LLP

DOCKET NOS. 020808-TC, 020913-TC, 020914-TC, 021071-TC, 021072-TC, 021074-TC
DATE: DECEMBER 5, 2002

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 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. (Isler; Teitzman; Elliott; Dodson)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, 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.

Each of the companies listed on Attachment A wrote the Commission a letter and requested cancellation of their respective pay telephone certificates except in Docket No. 021072-TC. In that case, Mr. Jon Adams called staff and requested cancellation of his certificate. In addition, the companies stated that they either

DOCKET NOS. 020808-TC, 020913-TC, 020914-TC, 021071-TC, 021072-TC, 021074-TC
DATE: DECEMBER 5, 2002

had never begun operations or were no longer in the pay telephone business. Staff wrote each company listed on Attachment A and explained that the companies needed to comply with Rule 25-24.514(2)(a), Florida Administrative Code. Each of the companies listed on Attachment A have not complied. 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 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. 020808-TC, 020913-TC, 020914-TC, 021071-TC, 021072-TC, 021074-TC
DATE: DECEMBER 5, 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; Elliott; Dodson)

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.

ATTACHMENT A

DOCKET NOS. 020808-TC, 020913-TC, 020914-TC, 021071-TC, 021072-TC, 021074-TC

DATE: DECEMBER 5, 2002

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
020808-TC	Steve P Weis d/b/a TEFCYC Systems \$0 Revenues for Period Ended 12/31/00 Year RAF Unpaid 2001 and 2002 Year Penalty and Interest Unpaid 2001	7457	10/03/02
020913-TC	BJM Sales, Inc. \$324 Revenues for Period Ended 12/31/01 Year RAF Unpaid 2001 and 2002 Year Penalty and Interest Unpaid 2000 and 2001	7310	07/24/02
020914-TC	Val Tel Communications, Inc. \$0 Revenues for Period Ended 12/31/01 Year RAF Unpaid 2002 Year Penalty and Interest Unpaid 2001	7359	06/28/02
021071-TC	Lyndon C. Scherr \$0 Revenues for Period Ended 12/31/01 Year RAF Unpaid 2002	1697	05/30/02
021072-TC	Jon Adams No Previous Return Filed Year RAF Unpaid 2001 and 2002 Year Penalty and Interest Unpaid 2001	7793	06/27/02

ATTACHMENT A

DOCKET NOS. 020808-TC, 020913-TC, 020914-TC, 021071-TC, 021072-TC, 021074-TC
 DATE: DECEMBER 5, 2002

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>Effective Date of Cancellation</u>
021074-TC	United Payphone Owners, LLP No Previous Return Filed Year RAF Unpaid 2002	8083	09/23/02

NOTE: There are no outstanding consumer complaints against the companies listed on Attachment A.