



Public Service Commission  
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: SEPTEMBER 18, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Aji*  
OFFICE OF THE GENERAL COUNSEL (MCKAY) *vs m plv* *BMS*

RE: DOCKET NO. 030685-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 2357 ISSUED TO HUGHES' PAY TELEPHONES FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/30/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030685.RCM

CASE BACKGROUND

- 09/12/89 - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 2357.
- 01/22/02 - The Commission received the company's 2001 Regulatory Assessment Fee (RAF) return and payment for the period ended December 31, 2001. The company reported no revenues.
- 12/12/02 - The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF return notice. Payment was due by January 30, 2003.
- 02/21/03 - The Office of the General Counsel mailed a delinquent notice for nonpayment of the 2002 RAF via certified

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mail. The notice was signed for and delivered on March 4, 2003.

- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **05/21/03** - Staff wrote the company at the address on file in the Master Commission Directory and explained that payment for the RAF needed to be paid by June 13, 2003, to avoid an enforcement docket from being established.
- **05/27/03** - The US Postal Service returned staff's letter dated May 21, 2003, which had "deceased" handwritten on the envelope.
- **05/29/03** - Staff attempted to call the telephone number on file in the Master Commission Directory, but was unsuccessful. In addition, staff researched the internet in Polk County and confirmed that the owner, Columbus Hughes, was deceased. Staff contacted Verizon Florida Inc. and was advised that it did not bill any payphones to Hughes' Pay Telephones.
- **09/02/03** - As of this date, the company has not paid the past due amount. In addition, there are no outstanding consumer complaints against Hughes' Pay Telephones.

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 cancel Hughes' Pay Telephones' PATS Certificate No. 2357 on its own motion with an effective date of May 27, 2003?

**RECOMMENDATION:** The Commission should cancel the company's PATS Certificate No. 2357 on its own motion, effective May 27, 2003. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2002 and 2003 RAFs, including statutory penalty and interest charges for calendar year 2002, should not be sent to the Florida Department of Financial Services for collection, but that permission for the Commission to write-off the uncollectible amount should be requested. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida. (Isler; McKay)

**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, or the next business day, 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.

Staff wrote the company on May 21, 2003, and attempted to collect the 2002 RAF. The letter was returned by the US Postal Service with the note "deceased" written on the envelope. Staff then attempted to call the company without success. Staff confirmed, via the internet, that Mr. Columbus Hughes, the owner of Hughes' Pay Telephones, was deceased by researching documents on

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Polk County's website. In addition, staff checked the Commission's data base and with Verizon Florida Inc., the local telephone company in Auburndale, Florida, and found that the company did not have any active pay telephones.

Accordingly, the Commission should cancel the company's PATS Certificate No. 2357 on its own motion, effective May 27, 2003. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2002 and 2003 RAFs, including statutory penalty and interest charges for calendar year 2002, should not be sent to the Florida Department of Financial Services for collection, but that permission for the Commission to write-off the uncollectible amount should be requested. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida.

**ISSUE 2:** Should this docket 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 issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order. (McKay)

**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, this docket should be closed upon issuance of a Consummating Order.