

State of Florida



Public Service Commission  
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TALLAHASSEE, FLORIDA 32399-0850 2 AM 9:36

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COMMISSION  
CLERK

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**DATE:** OCTOBER 22, 2003

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *ISLER*  
OFFICE OF THE GENERAL COUNSEL (CHRISTENSEN) *CHRISTENSEN*

**RE:** DOCKET NO. 030686-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 2358 ISSUED TO TELALEASING ENTERPRISES, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 11/03/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\030686.RCM

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CASE BACKGROUND

- 09/12/89 - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 2358.
- 07/31/01 - The Commission received the company's 2001 Regulatory Assessment Fee (RAF) return and payment for the period ended June 30, 2001 and on January 22, 2002, the Commission received the company's RAF return for the period ended December 31, 2001. The company reported total annual revenues in the amount of \$10,563,580 for calendar year 2001.
- 06/11/02 - The Division of the Commission Clerk & Administrative Services mailed the January thru June 2002 RAF return notice. Payment was due by July 30, 2002.

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- **08/22/02** - The Office of the General Counsel sent a delinquent notice for nonpayment of the January thru June 2002 RAF via certified mail. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on August 26, 2002.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the July thru December 2002 RAF return notice. Payment was due by January 30, 2003.
- **02/21/03** - The Office of the General Counsel sent a delinquent notice for nonpayment of the July thru December 2002 RAF via certified mail. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 24, 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.
- **10/10/03** - As of this date, the company has not contacted staff or paid the past due amount. In addition, there are no outstanding consumer complaints against Telaleasing Enterprises, Inc.

In Issue 1 of this recommendation, staff identifies Rule 25-4.0161, Florida Administrative Code, as that apparently violated by Telaleasing Enterprises, Inc. The rule is incorporated by Rule 25-24.505, Florida Administrative Code. To avoid redundancy, hereafter, the recommendation refers only to Rule 25-4.0161, 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 cancel Telaleasing Enterprises, Inc.'s PATS Certificate No. 2358 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

**RECOMMENDATION:** The Commission should cancel Telaleasing Enterprises, Inc.'s PATS Certificate No. 2358 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. 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 Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's PATS Certificate No. 2358 should be cancelled administratively. If Telaleasing Enterprises, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Telaleasing Enterprises, Inc. should be required to immediately cease and desist providing pay telephone services in Florida. **(Isler; Christensen)**

**STAFF ANALYSIS:** Telaleasing Enterprises, Inc. has not paid its 2002 RAF, plus statutory penalty and interest charges. Rule 25-4.0161 (2), Florida Administrative Code, provides that "Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year." The company paid, or should have paid, twice a year eight out of the last ten years. In the past 10 years, the company paid the RAF after the due date 13 times (paid timely five times). In addition, three other dockets were established for nonpayment of the RAFs.

On December 2, 1998, Docket No. 981798-TC was established for nonpayment of the 1997 RAF. On June 7, 1999, Order No. PSC-99-1134-AS-TC was issued, which accepted Telaleasing's settlement offer resolving this docket, along with Docket Nos. 990109-TC (Peoples Telephone Company, Inc.) and 990200-TC (Communications Central, Inc.) addressing the pay telephone service rules and nonpayment of the 1997 RAFs. Davel Communications Group, Inc. is the parent company of all three companies. Davel proposed to pay \$75,000 to resolve the service standards' violations. According to the documents in these dockets, the company paid the RAFs on April

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19, 1999, after the dockets were established but prior to staff filing its recommendation to accept the settlement offer on May 6, 1999. The company paid the past due RAFs amount in full, along with the settlement amount, and the dockets were closed.

On July 20, 2000, Docket No. 000897-TC was established for nonpayment of the RAF for the period July 1 through December 31, 1999. Staff's recommendation to impose a fine of \$1,000 was filed on September 14, 2000. On September 20, 2000, the Commission received a check for \$1,000 and a proposal to pay future RAFs on a timely basis. The company also paid the RAF for the last half of 1999 and the first half of 2000. This docket was deferred from the September 26, 2000 Agenda Conference. On November 7, 2000, Order No. PSC-00-2110-AS-TC was issued, which accepted the company's settlement offer and closed the docket.

On April 9, 2001, Docket No. 010424-TC was established for nonpayment of the July through December 2000 RAF. The company subsequently paid the past due RAF, including statutory penalty and interest charges and proposed a settlement. On July 3, 2001, Order No. PSC-01-1430-AS-TC was issued, which accepted the company's \$2,000 settlement offer. The company paid the settlement and the docket was closed.

Since this is the fourth docket established for nonpayment of the RAFs, the company 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. 020776-TC, by Order No. PSC-02-1530-PAA-TC, issued November 7, 2002, the Commission cancelled Nationwide Communications of Michigan, Inc.'s pay telephone certificate for violating the RAF rule in four separate dockets (Nos. 971317-TC, 991022-TC, 000940-TC, and 020776-TC). Based on the above, staff believes that cancellation of this company's certificate is appropriate. There are no outstanding consumer complaints against Telaleasing Enterprises, Inc.

Therefore, it appears Telaleasing Enterprises, Inc. has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. 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 cancel Telaleasing Enterprises, Inc.'s PATS Certificate No. 2358 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. 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 Florida Department of Financial Services for further collection efforts. If the Commission's Order is not protested, the company's PATS Certificate No. 2358 should be cancelled administratively. If Telaleasing Enterprises, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Telaleasing Enterprises, Inc. should be required to immediately cease and desist providing pay telephone services 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. **(Christensen)**

**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.