

State of Florida



# 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-

COMMISSION  
CLERK

NOV 20 AM 10:13

GENERAL COUNSEL

*Pji*  
*BMH*

**DATE:** NOVEMBER 20, 2003

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

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

**RE:** DOCKET NO. 030701-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PATS CERTIFICATE NO. 4882 ISSUED TO DAVID P. MANDEVILLE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 12/02/03 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\030701.RCM

### CASE BACKGROUND

- **07/24/96** - This company obtained Florida Public Service Commission Pay Telephone Certificate No. 4882.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
- **02/21/03** - The Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 24, 2003.

DOCUMENT NUMBER DATE

11720 NOV 20 03

FPSC-COMMISSION CLERK

DOCKET NO. 030701-TC  
DATE: NOVEMBER 20, 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 and explained that payment for the RAF needed to be paid by June 13, 2003, to avoid an enforcement docket from being established.
- **07/28/03** - Payment was not received; therefore, this docket was established.
- **09/18/03** - Staff filed a recommendation to penalize the company \$500 for nonpayment of the 2002 RAF or cancel its certificate.
- **09/23/03** - Mrs. Mandeville called staff and stated the company was no longer in the pay telephone business and asked what she needed to do to cancel the company's certificate. Staff faxed the company the 2002 and 2003 RAF return forms and the requested information.
- **09/26/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges, the 2003 RAF, along with a letter requesting cancellation of its certificate. The company reported revenues in the amount of \$15,000 for the period ended December 31, 2002, and reported no revenues for 2003.
- **09/30/03** - This docket was deferred from the September 30, 2003, Agenda Conference.

In Issue 1 of this recommendation, staff identifies Rule 25-4.0161, Florida Administrative Code, as that apparently violated by the company. 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 grant David P. Mandeville a voluntary cancellation of Pay Telephone Certificate No. 4882?

**RECOMMENDATION:** The Commission should grant David P. Mandeville a voluntary cancellation of his pay telephone certificate with an effective date of September 26, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, David P. Mandeville 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 of the subsequent year for telecommunications companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of the Commission Clerk & Administrative Services notified staff that the company had not submitted the 2002 Regulatory Assessment Fee, along with statutory late payment charges. Therefore, the company had failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

On May 21, 2003, staff wrote the company attempting collection of the RAFs prior to establishing a docket. The company did not contact staff nor was payment of the RAF received. After establishing the docket, the company paid the past due amount in full, including statutory late payment charges, paid the 2003 RAF, and requested voluntary cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff believes the Commission should grant David P. Mandeville a voluntary cancellation of his pay telephone certificate with an effective date of September 26, 2003. If the company's certificate is cancelled in accordance with the Commission's Order from this recommendation, David P. Mandeville should be required to immediately cease and desist providing pay telephone service in Florida.

DOCKET NO. 030701-~~1~~  
DATE: NOVEMBER 20, 2003

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission. **(McKay)**

**STAFF ANALYSIS:** If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the certificate as no other issues need to be addressed by the Commission.