

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-**

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**DATE:** June 17, 2004

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (Isler)  
Office of the General Counsel (Rojas; Rockette-Gray; Scott)

**RE:** Compliance investigation of for apparent violation of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 040399-TC – Gene McDonald d/b/a McDonald Communications  
Docket No. 040400-TC – Gary E. Akers d/b/a JB Telecom  
Docket No. 040402-TC – Keith R. Zinke & Michael Singletary d/b/a  
Communication Partners  
Docket No. 040403-TC – Daytona Telephone Company  
Docket No. 040404-TC – Payphone Partners, Inc.  
Docket No. 040405-TC – Roberta Rich d/b/a Street Phones Co  
Docket No. 040406-TC – Ocean Palms Beach Club, Inc.

**AGENDA:** 06/29/04 – Regular Agenda – Proposed Agency Action – Interested Persons May  
Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\040399.RCM.DOC

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### Discussion of Issues

**Issue 1:** Should the Commission deny granting the companies listed on Attachment A voluntary cancellation of their respective certificates and cancel the companies respective certificates on the Commission's own motion?

**Recommendation:** Yes. (Isler; Rojas; Rockette-Gray; Scott)

Docket Nos. 040399-TC, 040400-TC, 040402-TC, 040403-TC, 040404-TC, 040405-TC, 040406-TC

Date: June 17, 2004

**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.

Rule 25-24.514(2), Florida Administrative Code, Cancellation of a Certificate, provides that pay telephone companies must request cancellation from the Commission in writing and either pay the current year's Regulatory Assessment Fee or provide the date it will be paid.

On December 12, 2003, the Division of the Commission Clerk & Administrative Services mailed the 2003 Regulatory Assessment Fee return notice to the companies listed on Attachment A. Payment of the Regulatory Assessment Fee was due by January 30, 2004. The Commission received correspondence from each of the companies listed on Attachment A, which requested cancellation of their respective certificates. Staff wrote each of the companies listed on Attachment A and explained that staff could not recommend a voluntary cancellation until each company complied with the Regulatory Assessment Fee and Cancellation rules. As of June 3, 2004, none of the companies listed on Attachment A have fully complied with Rules 25-4.0161 and 25-24.514(2), Florida Administrative Code.

The Commission is vested with jurisdiction over these matters pursuant to Sections 364.285, 364.336, and 364.3375, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the company's 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 cancellation year. Therefore, staff recommends that the Commission not grant the companies listed on Attachment A voluntary cancellation of their respective certificates. The Commission should cancel each company's certificate, as listed on Attachment A, on its own motion with an effective date as listed on Attachment A.

Docket Nos. 040399-TC, 040400-TC, 040402-TC, 040403-TC, 040404-TC, 040405-TC, 040406-TC

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**Issue 2:** Should these dockets be closed?

**Recommendation:** Staff recommends that the Commission take action as set forth in the following Staff Analysis. **(Rojas; Rockette-Gray; Scott)**

**Staff Analysis:** The Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company listed on Attachment A fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company listed on Attachment A fails to pay the Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, each company's respective certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Department of Financial Services for further collection efforts. If any 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. A protest in one docket should not prevent the action in a separate docket from becoming final.

Docket Nos. 040399-TC, 040400-TC, 040402-TC, 040403-TC, 040404-TC, 040405-TC,  
040406-TC

Date: June 17, 2004

<b>Docket No.</b>	<b>Provider RAF Information</b>	<b>Cert. No.</b>	<b>Effective Date of Cancellation</b>	<b>RAF/P&amp;I Owed</b>
040399-TC	Gene McDonald d/b/a McDonald Communications  \$1,439 Revenues for Period Ended 12/31/03	3608	03/09/04	2004-RAF
040400-TC	Gary E. Akers d/b/a JB Telecom  \$0 Revenues for Period Ended 12/31/03	4264	03/02/04	2004-RAF
040402-TC	Keith R. Zinke & Michael Singletary d/b/a Communication Partners  \$14,654 Revenues for Period Ended 12/31/02	5577	02/25/04	1998-P&I 2003-RAF 2003-P&I 2004-RAF
040403-TC	Daytona Telephone Company  \$0 Revenues for Period Ended 12/31/02	6006	02/02/04	2003-RAF 2003-P&I 2004-RAF
040404-TC	Payphone Partners, Inc.  \$5,805 Revenues for Period Ended 12/31/02	7829	03/10/04	2003-RAF 2003-P&I 2004-RAF
040405-TC	Roberta Rich d/b/a Street Phones Co  \$0 Revenues for Period Ended 12/31/02	8202	12/22/03	2003-RAF 2003-P&I
040406-TC	Ocean Palms Beach Club, Inc.  \$19 Revenues for Period Ended 12/31/02	8242	03/17/04	2002-P&I 2003-RAF 2003-P&I 2004-RAF