

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-

DATE: November 23, 2004

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

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

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

Docket No. 040991-TC – Daytona International Speedway, Inc.
Docket No. 040992-TC – Hollywood Billiards, Inc.
Docket No. 040993-TC – Richard A. Kral
Docket No. 040996-TC – Quality Wholesale Florist Supply, Inc.
Docket No. 040998-TC – U.S. Payphones, Inc.
Docket No. 041020-TC – Ron Kain
Docket No. 041022-TC – Hans L. Singh d/b/a Southwest Communications
Docket No. 041023-TC – Frentel Communications, Inc.
Docket No. 041025-TC – Paytel USA, Inc.
Docket No. 041027-TC – Mar-Tina Petroleum Corp. d/b/a Texaco of Stuart
Docket No. 041028-TC – First Coast Hospitality One, Inc. d/b/a Johnny
Leverock's Seafood House
Docket No. 041029-TC – Nations Communication, Inc.
Docket No. 041031-TC – Bay Public Communications, Inc.
Docket No. 041032-TC – Kerstin K Krieger d/b/a All American Warrior
Vending
Docket No. 041033-TC – Gracia Inzerillo
Docket No. 041034-TC – Concepts for Advanced Technology Inc.
Docket No. 041035-TC – Thair Y. Said d/b/a Crossroads Texaco
Docket No. 041036-TC – Robert James Durkin
Docket No. 041037-TC – Morden Properties, Inc.
Docket No. 041045-TC – Sarasota Jungle Gardens Inc.
Docket No. 041046-TC – Sandra T. Avant d/b/a Avant Telcom
Docket No. 041047-TC – Donald R. Peterson and Myrna A. Peterson d/b/a F.C.
Communications
Docket No. 041048-TC – Gilbert Green
Docket No. 041051-TC – William Reilly
Docket No. 041052-TC – Rose Manor, A.L.F., Inc.

Docket Nos. 040991-TC & Others

Date: November 23, 2004

Docket No. 041053-TC – Chris OConnell
Docket No. 041054-TC – T & P Enterprises of Bay County, Inc. d/b/a Laguna
Beach Christian Retreat
Docket No. 041058-TC – A & G Investment Property, Inc.
Docket No. 041059-TC – Public Telephone Corporation
Docket No. 041060-TC – Brothers Services Corporation
Docket No. 041061-TC – Jestel Corporation

AGENDA: 12/07/04 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040991.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel each entity's pay telephone company certificate as identified in Attachment A, with an effective date of December 31, 2004, for an apparent first violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

Recommendation: Yes. (Isler; Rockette-Gray)

Staff Analysis: See attached proposed Order.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that 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 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 fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's 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 services in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate. **(Rockette-Gray)**

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Daytona International Speedway, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 040991-TC
In re: Compliance investigation of Hollywood Billiards, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 040992-TC
In re: Compliance investigation of Richard A. Kral for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 040993-TC
In re: Compliance investigation of Quality Wholesale Florist Supply, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 040996-TC
In re: Compliance investigation of U.S. Payphones, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 040998-TC
In re: Compliance investigation of Ron Kain for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041020-TC
In re: Compliance investigation of Hans L. Singh d/b/a Southwest Communications for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041022-TC
In re: Compliance investigation of Frentel Communications, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041023-TC
In re: Compliance investigation of Paytel USA, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041025-TC

In re: Compliance investigation of Mar-Tina Petroleum Corp. d/b/a Texaco of Stuart for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041027-TC
In re: Compliance investigation of First Coast Hospitality One, Inc. d/b/a Johnny Leverock's Seafood House for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041028-TC
In re: Compliance investigation of Nations Communication, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041029-TC
In re: Compliance investigation of Bay Public Communications, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041031-TC
In re: Compliance investigation of Kerstin K Krieger d/b/a All American Warrior Vending for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041032-TC
In re: Compliance investigation of Gracia Inzerillo for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041033-TC
In re: Compliance investigation of Concepts for Advanced Technology Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041034-TC
In re: Compliance investigation of Thair Y. Said d/b/a Crossroads Texaco for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041035-TC
In re: Compliance investigation of Robert James Durkin for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041036-TC
In re: Compliance investigation of Morden Properties, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041037-TC

In re: Compliance investigation of Sarasota Jungle Gardens Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041045-TC
In re: Compliance investigation of Sandra T. Avant d/b/a Avant Telcom for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041046-TC
In re: Compliance investigation of Donald R. Peterson and Myrna A. Peterson d/b/a F.C. Communications for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041047-TC
In re: Compliance investigation of Gilbert Green for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041048-TC
In re: Compliance investigation of William Reilly for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041051-TC
In re: Compliance investigation of Rose Manor, A.L.F., Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041052-TC
In re: Compliance investigation of Chris OConnell for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041053-TC
In re: Compliance investigation of T & P Enterprises of Bay County, Inc. d/b/a Laguna Beach Christian Retreat for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041054-TC
In re: Compliance investigation of A & G Investment Property, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041058-TC

In re: Compliance investigation of Public Telephone Corporation for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041059-TC
In re: Compliance investigation of Brothers Services Corporation for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041060-TC
In re: Compliance investigation of Jestel Corporation for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 041061-TC ORDER NO. ISSUED:

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING PENALTIES AND
COLLECTION COSTS, AND REQUIRING PAYMENT OF DELINQUENT REGULATORY
ASSESSMENT FEES, OR CANCELLING PAY TELEPHONE COMPANY CERTIFICATES
FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Pursuant to Section 364.336, Florida Statutes, pay telephone companies must pay a minimum annual Regulatory Assessment Fee of \$50 if the registration was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for registration receive a copy of our rules governing pay telephone service.

The Division of the Commission Clerk & Administrative Services advised our staff that the entities had not paid the Regulatory Assessment Fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years specified below. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for the year(s) specified below had not been paid. The entities listed below were scheduled to remit their respective 2003 Regulatory Assessment Fees by January 30, 2004. In addition, on May 26, 2004, our staff wrote the entities specified below and advised that payment of the 2003 Regulatory Assessment Fees should be paid by June 25, 2004, to avoid dockets from being established. As of November 15, 2004, the entities listed below have not paid the past due Regulatory Assessment Fees, including statutory late payment charges, requested cancellation of their respective certificate, or proposed a settlement.

Pursuant to Section 364.285, Florida Statutes, this Commission may impose a penalty or cancel a certificate if a company refuses to comply with Commission rules, Orders, or Florida Statutes.

<u>ENTITY'S NAME</u>	<u>CERTIFICATE NO.</u>	<u>PAST DUE RAFS</u>	<u>PAST DUE LATE PAYMENT CHARGES</u>
Daytona International Speedway, Inc.	543	2003	1998 1999 2000 2003
Hollywood Billiards, Inc.	2164	2003	2002 2003
Richard A. Kral	2278	2003	2003
Quality Wholesale Florist Supply, Inc.	3079	2003	2003
U.S. Payphones, Inc.	3278	2003	2002 2003
Ron Kain	4166	2003	1998 1999 2002 2003
Hans L. Singh d/b/a Southwest Communications	4556	2003	2002 2003
Frentel Communications, Inc.	4930	2003	2002 2003
Paytel USA, Inc.	5592	2003	2003

<u>ENTITY'S NAME</u>	<u>CERTIFICATE NO.</u>	<u>PAST DUE RAFS</u>	<u>PAST DUE LATE PAYMENT CHARGES</u>
Mar-Tina Petroleum Corp. d/b/a Texaco of Stuart	5985	2003	2002 2003
First Coast Hospitality One, Inc. d/b/a Johnny Leverock's Seafood House	7120	2003	1999 2003
Nations Communication, Inc.	7366	2003	2001 2003
Bay Public Communications, Inc.	7476	2003	2003
Kerstin K Krieger d/b/a All American Warrior Vending	7615	2003	2002 2003
Gracia Inzerillo	7747	2003	2003
Concepts for Advanced Technology Inc.	7776	2003	2003
Thair Y. Said d/b/a Crossroads Texaco	7798	2003	2003
Robert James Durkin	7809	2003	2003
Morden Properties, Inc.	7819	2003	2001 2002 2003
Sarasota Jungle Gardens Inc.	7920	2003	2003
Sandra T. Avant d/b/a Avant Telcom	8062	2003	2003
Donald R. Peterson and Myrna A. Peterson d/b/a F.C. Communications	8059	2003	2003
Gilbert Green	8078	2003	2003
William Reilly	8099	2003	2003
Rose Manor, A.L.F., Inc.	8170	2003	2003
Chris OConnell	8217	2003	2003
T & P Enterprises of Bay County, Inc. d/b/a Laguna Beach Christian Retreat	8269	2003	2003

<u>ENTITY'S NAME</u>	<u>CERTIFICATE NO.</u>	<u>PAST DUE RAFS</u>	<u>PAST DUE LATE PAYMENT CHARGES</u>
A & G Investment Property, Inc.	8286	2003	2003
Public Telephone Corporation	8300	2003	2003
Brothers Services Corporation	8315	2003	2003
Jestel Corporation	8372	2003	2003

Accordingly, we hereby find it appropriate to cancel each entity's pay telephone company certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless each entity pays a penalty and cost of collection, together totaling \$500, and remits all past due Regulatory Assessment Fees, along with accrued statutory late payment charges, to the Florida Public Service Commission. Each entity must comply with these requirements within 14 days after the issuance of the Consummating Order, as explained in the Notice of Further Proceedings attached to this Order. The payment should be identified with the docket number and the company's name. For any payment (full or partial) of the penalty and cost of collection received, the cost of collection will be subtracted and will be deposited in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Any monetary amount exceeding the cost of collection will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes.

When the appropriate fees, statutory late payment charges, penalties and collection costs are received, each docket shall be closed. Should any of the entities fail to comply with this Order within 14 days after the issuance of the Consummating Order, the entity shall have its pay telephone company certificate cancelled, effective December 31, 2004. The collection of the past due Regulatory Assessment Fee, including statutory late payment charges, shall be referred to the Florida Department of Financial Services for further collection efforts, and the dockets shall be closed. The cancellation of the certificate in no way diminishes any of the entities' obligations to pay applicable delinquent Regulatory Assessment Fees and accrued statutory late payment charges. If an entity's pay telephone company certificate is cancelled in accordance with this Order, that entity shall immediately cease and desist providing pay telephone services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.3375, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the entities listed herein shall pay a penalty and cost of collection, together totaling \$500, and the past due Regulatory Assessment Fees, including statutory late payment charges, to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-

4.0161, Florida Administrative Code, within 14 days after the issuance of the Consummating Order. The cost of collection will be subtracted from any monies collected as payments (full or partial) of the penalty and cost of collection, and will be deposited, along with the past due Regulatory Assessment Fees, in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. The statutory late payment charges and any portion of the monies collected as payments (full or partial) of the penalty and cost of collection exceeding the cost of collection will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that should any of the entities fail to comply with this Order, that entity's certificate shall be cancelled, effective December 31, 2004, and the respective docket shall be closed. It is further

ORDERED that the cancellation of the certificate in no way diminishes any of the entities' obligations to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory late payment charges. Any unpaid Regulatory Assessment Fees and accrued statutory late payment charges shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that if an entity's certificate is cancelled in accordance with this Order, that entity shall immediately cease and desist providing pay telephone services in Florida. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, these dockets shall be closed upon receipt of the imposed penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this _____ day of _____, _____.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on _____.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.