

Talbott : *wr*
Vandiver: *AV*

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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M E M O R A N D U M

December 4, 1997

DEC 04 1997
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TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO) *Records/Reporting*

FROM: DIVISION OF COMMUNICATIONS (BIEGALS) *KA RD RNT*
DIVISION OF ADMINISTRATION (LAKE) *gld*
DIVISION OF LEGAL SERVICES (PELLEGRINI) *CMCB*

RE: DOCKET NO. 971380-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4564 ISSUED TO DAVID OCCHIALINI FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

AGENDA: 12/16/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971380TC.RCM

CASE BACKGROUND

- David Occhialini (Mr. Occhialini) obtained Florida Public Service Commission Pay Telephone certificate number 4564 on April 23, 1996.
- On June 3, 1997, the Division of Administration mailed a certified letter to the address listed in the Master Commission Directory informing Mr. Occhialini that he was delinquent on his regulatory assessment fees for the year 1996. The letter was signed for and received, but to date, no response has been received by staff (Attachment A, Page 4).
- As of December 2, 1997, the delinquent regulatory assessment fees for 1996, along with statutory penalties and interest charges, have not been submitted by Mr. Occhialini.

DOCUMENT NUMBER-DATE

12391 DEC-46

FPSC-RECORDS/REPORTING

DOCKET NO. 971380-TC
DATE: December 4, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Mr. Occhialini's Pay Telephone Certificate No. 4564 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel Mr. Occhialini's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and the regulatory assessment fees, including statutory penalties and interest, are not received, certificate number 4564 should be canceled. (Biegalski)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 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.

On December 2, 1997, staff learned that Mr. Occhialini had not submitted the regulatory assessment fees for the year 1996, along with statutory penalties and interest charges. Therefore, he has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 4564 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, this docket should be closed. (Pellegrini)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then Mr. Occhialini will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees, or upon cancellation of the certificate.

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