

State of Florida



## Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** April 23, 2015

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of Telecommunications (Williams) *Williams*  
Office of the General Counsel (Ames) *Ames*

**RE:** Docket No. 150021-TC – Application for certificate to provide pay telephone service by Florida Payphone Operations, Inc.

**AGENDA:** 05/5/15 – Regular Agenda – Proposed Agency Action – Except Issue 1 - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

In December 2014, Office of Telecommunications staff became aware that Florida Payphone Operations, Inc. (Florida Payphone or company) was providing pay telephone service in Florida without a certificate from the Florida Public Service Commission (Commission). Staff investigated the company to determine the extent of the statutory and rule violations, and notified the company that it needed to have a certificate to operate a pay telephone company in Florida. Staff determined that the company began operations in December 2013, and currently has 450 pay telephones in operation in Florida.

On January 6, 2015, Florida Payphone filed an application for certificate to provide pay telephone service based on staff bringing the violation to its attention. The company also acknowledged in response to a staff data request, that it was unaware that certification with the Commission was necessary.

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Pay telephone service providers are required to comply with all applicable provisions of Chapter 364, Florida Statutes (F.S.), and Chapters 25-4 and 25-24, Florida Administrative Code (F.A.C.). This recommendation addresses whether the Commission should accept Florida Payphone's settlement offer of \$1,500 for operating without a certificate and whether the Commission should approve the company's application for certification.

The Commission has jurisdiction pursuant to Sections 364.285 and 364.3375, F.S., and Rule 25-24.511, F.A.C.

### **Discussion of Issues**

**Issue 1:** Should the Commission accept the settlement offer of \$1,500 submitted by Florida Payphone Operations, Inc. for operating without a certificate in violation of Section 364.3375(1)(a), F.S.?

**Recommendation:** Yes. Staff recommends that the Commission accept the offer of \$1,500 submitted by Florida Payphone Operations, Inc. for violation of Section 364.3375(1)(a), F.S. The \$1,500 settlement should be remitted to the State of Florida General Revenue Fund pursuant to Section 364.285, F.S. (Williams, Ames)

**Staff Analysis:** As discussed in the Case Background, in December 2014, the Office of Telecommunications staff became aware that Florida Payphone was providing pay telephone service in Florida without a certificate from the Commission. Pursuant to Section 364.3375(1)(a), F.S. “A person may not provide pay telephone service without first obtaining from the Commission a certificate of authority.” On January 6, 2015, Florida Payphone filed an application for certificate to provide pay telephone service. In addition, the company acknowledged that it was unaware that certification with the Commission was necessary.

Commission staff is not aware of a previous occurrence of a pay telephone company operating without a certificate. However, staff believes the offer amount is appropriate in lieu of a show cause based on the specific issues and circumstances in this case.

In arriving at its recommendation, staff considered Florida Payphone’s diligence and timely responses to staff’s inquiries to address its violation. Florida Payphone has indicated that it is now aware of the statutes and rules governing pay telephone service providers in Florida. In addition, staff took into consideration that the number of pay telephones in Florida continues to decline and the company’s 450 pay telephones represent approximately five percent of pay telephones currently operating in Florida by certificated pay telephone providers. Further, the company’s pay telephones are operated primarily in low-income communities where pay telephone service is vital.

Therefore, staff recommends that the Commission accept the offer of \$1,500 submitted by Florida Payphone Operations, Inc. for violation of Section 364.3375(1)(a), F.S. The \$1,500 settlement should be remitted to the State of Florida General Revenue Fund pursuant to Section 364.285, F.S.

**Issue 2:** Should the Commission grant Florida Payphone Operations, Inc. a certificate to provide pay telephone service?

**Recommendation:** Yes. Staff recommends the Commission grant Florida Payphone Operations, Inc. a certificate to provide pay telephone service. (Williams, Ames)

**Staff Analysis:** In accordance with Section 364.3375(1)(a), F.S., a person may not provide pay telephone service without first obtaining from the Commission a certificate of authority to provide such service. A certificate authorizes the pay telephone service provider to provide services statewide and to provide access to both local and intrastate interexchange pay telephone service.

Pay telephone providers are subject to Chapter 25-24, F.A.C., Rules Governing Pay Telephone Service Provided by Other Than Local Exchange Telephone Companies. Pay telephone providers are also required to comply with all applicable provisions of Chapter 364, F.S., and Chapter 25-4, F.A.C. In addition, under Section 364.336, F.S., certificate holders must pay a minimum annual Regulatory Assessment Fee (RAF) if the certificate was active during any portion of the calendar year. A RAF Return Notice will be mailed each December to Florida Payphone for payment by January 30. Neither the cancellation of the certificate nor the failure to receive a RAF Return notice shall relieve Florida Payphone from its obligation to pay RAFs.

Staff believes it is in the public interest to issue a certificate to Florida Payphone Operations, Inc. Staff has taken into consideration many of the same considerations from Issue 1. Namely, the number of pay telephones in Florida continues to decline and the company's 450 pay telephones represent approximately five percent of pay telephones currently operating in Florida. Further, the company's pay telephones are operated primarily in low-income communities where pay telephone service is vital. Florida Payphone appears to have the financial capability to operate and has committed to abide by the statutes and rules for pay telephone providers in Florida. The company has submitted a settlement offer payment of \$1,500. Therefore, staff recommends that the Commission grant Florida Payphone Operations, Inc. a certificate to provide pay telephone service.

**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interest are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Williams, Ames)

**Staff Analysis:** If no person whose substantial interest are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

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