



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-

RECEIVED FPSC
DEC 21 AM 9:33
RECORDS AND REPORTING

DATE: DECEMBER 22, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (COX) *WPC/NCB*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C., REPORTING REQUIREMENTS

DOCKET NO. 981480-TC - JORGE ZUBIZARRETA
DOCKET NO. 981481-TC - ARGYLE CAPITAL HOLDINGS, INC.
D/B/A ARGYLE COMMUNICATIONS
DOCKET NO. 981482-TC - PETER LLOYD

AGENDA: 01/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981480.RCM

CASE BACKGROUND

1.) Docket #981480-TC - Jorge Zubizarreta - This company obtained Certificate Number 5025 on December 27, 1996. On December 11, 1997, the Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the notice was signed for and delivered on December 18, 1997. The Division of Records and Reporting notified staff by memorandum that other mail to this company was returned by the USPS marked "return to sender" and "forwarding order expired". The Division of Administration notified staff by memorandum that this company did not pay its 1996 and 1997 RAFs, plus statutory penalties and interest charges for

DOCUMENT NUMBER-DATE

14325 DEC 21 98

FPSC-RECORDS/REPORTING

the years 1996 and 1997. As of December 9, 1998, the company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

2.) Docket #981481-TC - Argyle Capital Holdings, Inc. d/b/a Argyle Communications - This company obtained Certificate Number 5053 on January 29, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the notice was signed for and delivered on December 15, 1997. The Division of Records and Reporting notified staff by memorandum that other mail to this company was returned by the USPS marked "return to sender" and "moved, left no forwarding address." The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of December 9, 1998, this company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

3.) Docket #981482-TC - Peter Lloyd - This company obtained Certificate Number 5066 on February 12, 1997. On December 11, 1997, the Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the unopened envelope stamped "return to sender" and "unclaimed". The envelope also indicates that the USPS attempted delivery on December 13, 1997 and December 20, 1997. Staff attempted to call the company but was unsuccessful. In addition, Directory Assistance was unable to provide a new listing. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of December 9, 1998, this company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 7 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's certificate as listed on page 7 if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five 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 regulatory assessment fees, including statutory penalties and interest, are not received, the pay telephone certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998. (Isler)

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.

Staff was notified by the Division of Administration that each of the pay telephone providers listed on page 7 had not paid their 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the companies respective certificate numbers if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within five 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 regulatory assessment fees, including statutory penalties and interest, are

DOCKET NOS. 98148 TC, 981481-TC, 981482-TC
DATE: DECEMBER 22, 1998

not received, the certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998.

ISSUE 2: Should the Commission impose a \$500 fine or cancel the pay telephone certificates issued to each company listed on page 7 for apparent violation of Rule 25-24.520, Florida Administrative Code, Reporting Requirements?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the companies' respective certificate numbers if the information required by Rule 25-24.520, F.A.C. and fine are not received by the Commission within five 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 required information and fine are not received, the pay telephone certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rule 25-24.520, Florida Administrative Code, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to each of the companies listed on page 7 was returned to the Commission by the USPS. It is been well over 10 days and staff has not been informed of the providers' correct mailing address, phone number, or liaison information, nor have any of the companies requested cancellation of their certificates in compliance with Rule 25-24.514, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the companies respective certificate numbers if the fine and information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public

DOCKET NOS. 981480-TC, 981481-TC, 981482-TC
DATE: DECEMBER 22, 1998

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 required information and fine are not received, the certificate numbers listed on page 7 should be canceled with an effective date of December 31, 1998.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: Yes, 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, these dockets should be closed. (Cox)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, these dockets should be closed upon payment of the fines and fees, or upon cancellation of the certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.

DOCKET NOS. 981480-TC, 981481-TC, 981482-TC
DATE: DECEMBER 22, 1998

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>CERTIFICATE NO.</u>	<u>RAFs</u>	<u>P and I</u>
981480-TC	Jorge Zubizarreta	5025	1996 1997	1996 1997
981481-TC	Argyle Capital Holdings, Inc. d/b/a Argyle Communications	5053	1997	1997
981482-TC	Peter Lloyd	5066	1997	1997