

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :  
 On Its Own Motion :  
 -vs- :  
 4M Communications, Inc. :  
 Alton P.H. Brewer d/b/a ALCAR :  
 Communications Services :  
 American Public Payphone :  
 Corporation :  
 Devon Citgo, Inc. :  
 Gemini Electronics, L.L.C. :  
 Illinois Bell Telephone Company d/b/a :  
 Ameritech-Illinois :  
 Inmate Communications Corporation :  
 K. Michael Norris and Marsha Norris :  
 d/b/a Mirex Communication :  
 Kayla Communications, Inc. :  
 Larry Kenzal and Mike Kenzal d/b/a :  
 K&M Communications :  
 Lawrence A. Dennis d/b/a Universal :  
 Communication Investments :  
 M&M Tele Services, Inc. :  
 Midwest Communication Solutions, :  
 Inc. :  
 Missouri Telephone & Telegraph, Inc. :  
 Namaste, Inc. (f/k/a Telepaths, Inc.) :  
 O'Donnell's Foods, Inc. d/b/a PSM :  
 Pay-Tel :  
 Pay Phone Co., Inc. :  
 Pay-Tel Hospitality :  
 Telecommunications, Inc. :  
 Perisho Vending, Inc. :  
 PMT Pay Telephone Co. :  
 ProCom International, Ltd. :  
 R.E.H. Enterprises, Inc. :  
 Ruben Linares :  
 Sprint Payphone Services, Inc. :

05-0203

Telephone Technologies, Inc. :  
Removal of Carriers from List of :  
Telecommunications Carriers for :  
failure to file tariffs for the provision of :  
customer-owned pay telephone :  
telecommunications services :  
:

ORDER

By the Commission:

On March 1, 2005, the Chief Clerk of the Illinois Commerce Commission ("Commission") issued a Staff Report in which were listed specified telecommunications carriers that were granted certificates of service authority to provide customer-owned pay telephone telecommunications services, the dockets in which the certificates were granted, and the date the certificates were granted.

Section 13-401(a) of the Public Utilities Act provides, in relevant part, that

Unless exercised within a period of two years from the issuance thereof, authority conferred by a Certificate of Service Authority shall be null and void.

Section 13-501 of the Act further provides that

No telecommunications carrier shall offer or provide telecommunications service unless and until a tariff is filed with the Commission which describes the nature of the service, applicable rates and other charges, terms and conditions of service, and the exchange, exchanges or other geographical area or areas in which the service shall be offered or provided.

In the Staff Report dated March 1, 2005, the Chief Clerk of the Commission has stated that an examination of the records of the Commission indicates that each listed respondent has failed to file any tariffs with the Commission for the provision of local exchange telecommunications services. This failure to lawfully exercise the certificates, as evidenced by the failure to file tariffs, has caused the authorities to lapse as a matter of law. No revocation is necessary to revoke the certificate. *The Chicago Railways Company v. The Commerce Commission*, 336 Ill. 51, 71 (1929).

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter of this proceeding;

- (2) the Staff Report, dated March 1, 2005, should be filed in this docket and made a part of the record of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) any offer or provision of telecommunications services without tariffs for such services having been filed with the Commission pursuant to Section 13-501 of the Public Utilities Act does not constitute the exercise of authority as contemplated in Section 13-401(a) of the Public Utilities Act;
- (5) no telecommunications carrier listed as a respondent in this proceeding shall file tariffs for the provision of customer-owned pay telephone telecommunications services until a final order is entered in this proceeding that finds that the carrier has been in compliance with those Sections of the Public Utilities Act requiring the filing of tariffs prior to the provision of telecommunications services in the State of Illinois.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that

4M Communications, Inc.;

Alton P.H. Brewer d/b/a ALCAR Communications Services;

American Public Payphone Corporation; Devon Citgo, Inc.;

Gemini Electronics, L.L.C.;

Illinois Bell Telephone Company d/b/a Ameritech-Illinois;

Inmate Communications Corporation;

K. Michael Norris and Marsha Norris d/b/a Mirex Communication;

Kayla Communications, Inc.;

Larry Kenzal and Mike Kenzal d/b/a K&M Communications;

Lawrence A. Dennis d/b/a Universal Communication Investments;

M&M Tele Services, Inc.;

Midwest Communication Solutions, Inc.;

Missouri Telephone & Telegraph, Inc.;

Namaste, Inc. (f/k/a Telepaths, Inc.);

O'Donnell's Foods, Inc. d/b/a PSM Pay-Tel;

Pay Phone Co., Inc.;

Pay-Tel Hospitality Telecommunications, Inc.;

Perisho Vending, Inc.;

PMT Pay Telephone Co.;

ProCom International, Ltd.;

R.E.H. Enterprises, Inc.;

Ruben Linares;  
Sprint Payphone Services, Inc.;  
Telephone Technologies, Inc.

appear before the Commission at its offices in Springfield, Illinois, at the hour of 9:30 am on April 26, 2005, to adduce evidence with respect to the matters stated hereinabove and to show cause, if any there be, why the Commission should not rescind the certificates of service authority granted to respondents and to take any other appropriate action.

IT IS FURTHER ORDERED that the Staff Report, dated March 1, 2005, be filed in this docket and made a part of the record of this proceeding.

IT IS FURTHER ORDERED that no telecommunications carrier listed as a respondent in this proceeding shall file tariffs for the provision of customer-owned pay telephone telecommunications services until a final order is entered in this proceeding that finds that the carrier has been in compliance with those Sections of the Public Utilities Act requiring the filing of tariffs prior to the provision of telecommunications services in the State of Illinois.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

By order of the Commission this 23rd day of March, 2005.

(SIGNED) Edward C. Hurley

Chairman