

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 4310 issued to Manuel Serna for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies and fine assessment for violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 981300-TC
ORDER NO. PSC-98-1624-FOF-TC
ISSUED: December 7, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING
FINE OR CANCELING PAY TELEPHONE CERTIFICATE FOR
FAILURE TO PAY REGULATORY ASSESSMENT FEES AND FAILURE
TO RESPOND TO COMMISSION STAFF INQUIRIES

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.

Manuel Serna, currently holds Certificate of Public Convenience and Necessity No. 4310, issued by the Commission on January 20, 1996, authorizing the provision of pay telephone service. After receiving a request for cancellation from Mr. Manuel Serna, this docket was opened to cancel Manuel Serna's

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certificate. However, after researching the accounts, we determined that Manuel Serna had not paid his 1996 and 1997 regulatory assessment fees, which were due by January 30, 1998, along with statutory penalties, and a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. We find it appropriate to levy the fine in the amount of \$500.

Pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Manuel Serna's certificate, unless Manuel Serna pays the fine in the amount of \$500 for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, to the Florida Public Service Commission. Manuel Serna must comply with this requirement within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

Pursuant to Rule 25-4.043, Florida Administrative Code, companies are required to reply to staff inquiries in writing within 15 days of the Commission inquiry. On June 3, 1997, and June 19, 1997, staff sent Mr. Serna correspondence regarding the delinquent regulatory assessment fees and the cancellation of his pay telephone certificate. We have not received a response from Mr. Serna. Therefore, we find it appropriate to fine Mr. Serna \$10,000 for failure to comply with Commission rules.

When the fine is received, this Docket shall be closed. Should Manuel Serna fail to comply with this Order within five business days from the date this Order becomes final, Manuel Serna shall have its certificate canceled and the docket will be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Manuel Serna shall pay a \$500 fine 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 five business days from the date this Order becomes final. The fine shall be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED by the Florida Public Service Commission that Manuel Serna shall pay a \$10,000 fine to the Florida Public Service

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Commission for failure to comply with Rule 25-4.043, Florida Administrative Code, within five business days from the date of this Order becomes final.

ORDERED that should Manuel Serna fail to comply with this Order, Manuel Serna's certificate shall be canceled, and the docket shall be closed. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon payment of the fine or cancellation of the certificate.

By ORDER of the Florida Public Service Commission, this 7th day of December, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review 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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 28, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.