

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5029
issued to Patricia Deihl for
violation of Rule 25-24.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 981371-TC
ORDER NO. PSC-99-0315-FOF-TC
ISSUED: February 18, 1999

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF
REGULATORY ASSESSMENT FEES OR
CANCELING PAY TELEPHONE CERTIFICATE

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.

Patricia Deihl (Mrs. Deihl) is the holder of Pay
Telephone(PATS) Certificate of Public Convenience and Necessity No.
5029, issued on December 27, 1996. On September 22, 1997, our
Division of Communications received a request from Mrs. Deihl for
the cancellation of its certificate. After researching Mrs.
Deihl's account and status with the Commission, it was determined
that Mrs. Deihl had failed to comply with Rule 25-24.514 (2),
Florida Administrative Code; Section 364.336, Florida Statutes, and
Rule 25-4.0161, Florida Administrative Code; and Rule 25-4.043,
Florida Administrative Code.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Rule 25-24.514 (2), Florida Administrative Code, Cancellation of a Certificate

Mrs. Deihl has not complied with Rule 25-24.514 (2), Florida Administrative Code, which states,

if a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

- (a) statement of intent and date to pay Regulatory Assessment Fee.
- (b) statement of why the certificate is proposed to be canceled.

Our staff sought to contact Mrs. Deihl by registered mail, regular mail and telephone to inform Mrs. Deihl of its obligations as a certificated pay telephone provider. All attempts were unsuccessful. To date, we have not received a response nor payment for the delinquent fees. Accordingly, it appears that Mrs. Deihl has failed to comply with Rule 25-24.514 (2), Florida Administrative Code.

Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees

After researching Mrs. Deihl's account, our staff determined that Mrs. Deihl has failed to submit the Regulatory Assessment Fees, along with statutory penalties and interest charges for the years 1996 and 1997.

Under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual regulatory assessment fee of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. All entities that apply for certification receive a copy of our rules governing pay telephone service and an affidavit in which the applicants attest that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed.

Staff Inquiries

Rule 25-4.043 requires companies to respond to inquiries from Commission staff within 15 days. Our staff sought to contact Mrs. Deihl by telephone. Mrs. Deihl assured our staff that it would respond to our inquiries to assure that the request for voluntary cancellation could be processed. Mrs. Deihl has failed to respond to three inquiries, one of which was certified. To date, Mrs. Deihl has not responded nor paid for the delinquent fees. Thus, it appears that Mrs. Deihl has violated Rule 25-4.043, Florida Administrative Code.

Conclusion

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Mrs. Deihl's request for cancellation of PATS Certificate No. 5029 for failure to comply with Rule 25-24.514(2), Florida Administrative Code. Further, we find it appropriate to cancel Mrs. Deihl's certificate, effective December 31, 1997, for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Mrs. Deihl pays a \$500 fine and remits all past due regulatory assessment fees for the years 1996 and 1997, along with statutory penalties and interest charges, to the Florida Public Service Commission. Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. We also find it appropriate to assess a \$10,000 fine to Mrs. Deihl for failure to comply with Rule 25-4.043, Florida Administrative Code.

Mrs. Deihl must comply with these requirements within five business days from the date this Order becomes final. The fines will be remitted to the Comptroller for deposit in the State of

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Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and fines are received, this Docket shall be closed. Should Mrs. Deihl fail to comply with this Order within five business days from the date this Order becomes final, Mrs. Deihl shall have its certificate canceled; the \$10,000 fine shall be assessed and forwarded to the Office of the Comptroller for collection; and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes Mrs. Deihl's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Patricia Deihl's request for cancellation of Pay Telephone Certificate No. 5029. It is further

ORDERED that Patricia Deihl must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$500 fine to the Florida Public Service Commission, or have its certificate canceled, effective December 31, 1997, 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 will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that Patricia Deihl must pay a \$10,000 fine to the Florida Public Service Commission for failure to comply with Rule 25-24.520, Florida Administrative Code, 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. If Patricia Deihl fails to pay the \$10,000 fine, the fine shall be forwarded to the Office of the Comptroller for collection. It is further

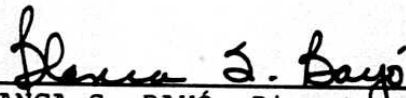
ORDERED that should Patricia Deihl fail to comply with this Order, Patricia Deihl's certificate shall be canceled, the \$10,000 fine shall be assessed, and the Docket shall be closed. It is further

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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 28-106.201, 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 fines, and fees, or upon cancellation of the certificate and assessment of the \$10,000 fine.

By ORDER of the Florida Public Service Commission this 18th day of February, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CBW

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 March 11, 1999.

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.