

MEMORANDUM

March 5, 1998

RECEIVED

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FSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PELLEGRINI) *mcB*

RE: DOCKET NO. 971384-^{TR} - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4529 ISSUED TO EQUIPHONE SYSTEMS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES, AND RULE 25-24.520, F.A.C., REPORTING REQUIREMENTS.

98-0363-F2F-TR

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING FINE AND REQUIRING PAYMENT OF REGULATORY ASSESSMENT FEES OR CANCELING PAY TELEPHONE CERTIFICATE AND DIRECTING CERTIFICATED LOCAL EXCHANGE COMPANIES TO DISCONTINUE SERVICE, to be issued in the above referenced docket. (Number of pages in order - 6)

CJP/anr
Attachment
cc: Division of Communications
I: 97138401.cjp

see 5

TF 593

VO.

10 - faxed to TCS 3.9.98
1 ent. 6/6/98

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 4529
issued to EquiPhone Systems,
Inc. for violation of Rule 25-
4.0161, F.A.C., Regulatory
Assessment Fees, and Rule 25-
24.520, F.A.C., Reporting
Requirements.

DOCKET NO. 971384-TC
ORDER NO. PSC-98-0363-FOF-TC
ISSUED: March 6, 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 AND REQUIRING PAYMENT OF
REGULATORY ASSESSMENT FEES OR CANCELING
PAY TELEPHONE CERTIFICATE AND DIRECTING CERTIFICATED LOCAL
EXCHANGE COMPANIES TO DISCONTINUE SERVICE

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.

EquiPhone Systems, Inc., (EquiPhone) obtained Florida Public
Service Commission Pay Telephone certificate number 4529 on
February 27, 1996. On June 3, 1997, the Division of Administration
mailed a certified letter to the address listed in the Master
Commission Directory informing EquiPhone that payment of its
regulatory assessment fee for the year 1996 was delinquent. The

DOCUMENT NUMBER-DATE

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letter was returned by the U.S. Postal Service stamped "forward time expired." A forwarding address was shown on the returned envelope. The staff forwarded the letter to that address. The letter was returned with a notation that the company is no longer in business.

Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, require telecommunications companies to pay regulatory assessment fees by January 30 of the subsequent year. As of February 17, 1998, the day of our vote, EquiPhone had not remitted its regulatory assessment fee for 1996, along with statutory penalties and interest charges, pursuant to Section 350.113, Florida Statutes. Therefore, the company is in violation of statute and of a Commission rule.

Pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, and Section 364.285, Florida Statutes, we find it appropriate to cancel EquiPhone's certificate, unless EquiPhone pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, and remits the past due regulatory assessment fee, along with statutory penalties and interest, to the Commission.

Furthermore, pursuant to Rule 25-24.520, Florida Administrative Code, EquiPhone is allowed 10 days after a change occurs to file updated information indicating any changes in its address (including street name and address, post office box, and city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail to EquiPhone at its address of record was undeliverable. It has been well over 10 days. EquiPhone has not furnished a new mailing address, phone number, or liaison information. Neither has it requested cancellation of its certificate pursuant to Rule 25-24.514(2), Florida Administrative Code.

Also pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, and Section 364.285, Florida Statutes, we therefore find it appropriate to cancel EquiPhone's certificate, unless EquiPhone pays a \$500 fine and submits the required information, for failure to comply with Rule 25-24.520, Florida Administrative Code.

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EquiPhone must comply with these requirements within five business days from the date this Order becomes final. The fines will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fee, statutory penalties, interest charges, fines and information are received, this docket shall be closed. Should EquiPhone fail to comply with this Order within five business days from the date this Order becomes final, EquiPhone shall have its certificate canceled and the docket will be closed. The cancellation of the certificate and the closing of the docket in no way diminishes EquiPhone's obligation to pay the applicable delinquent regulatory assessment fee, statutory penalties, and interest.

Should EquiPhone's certificate be canceled, all certificated local exchange companies are instructed to discontinue service to EquiPhone, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. Any certificated local exchange company providing service to EquiPhone must contact the Commission at the conclusion of the response period indicated herein in order to determine if EquiPhone's certificate has been canceled.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that EquiPhone System, Inc., shall pay its past due regulatory assessment fee, statutory penalties, interest charge, and 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 will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that EquiPhone Systems, Inc., shall pay a \$500 fine and submit the required information 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. It is further

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

ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes EquiPhone Systems, Inc.'s obligation to pay the applicable delinquent regulatory assessment fee, statutory penalties, and interest charges. It is further

ORDERED that all certificated local exchange companies shall discontinue service to EquiPhone Systems, Inc., upon verification of the cancellation of the certificate at the conclusion of the response period set forth in this Order. 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 25-22.016, 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.

By ORDER of the Florida Public Service Commission this 6th day of March, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)
CJP

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 and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), 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 27, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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

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notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure. Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate number 4529 if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.