

MEMORANDUM

October 12, 1998

RECOMMENDED - SC

OCT 12 AM 10:38

RECEIVED
FBI

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *KMP
MCS*

RE: DOCKET NO. 981056-TC - REQUEST FOR CANCELLATION OF PAY TELEPHONE CERTIFICATE NO. 3745 BY COMMTRACK ENTERPRISE, INC., AND APPLICATION FOR CERTIFICATE TO PROVIDE PAY TELEPHONE SERVICE BY FAYYAZ A. SHUJA D/B/A COMMTRACK ENTERPRISE.

98-1349-FOF

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER CANCELLING PAY TELEPHONE CERTIFICATE NO. 3745 AND GRANTING CERTIFICATE NO. 5945 TO PROVIDE PAY TELEPHONE SERVICE, to be issued in the above-referenced docket. (Number of pages in order - 4)

KMP/anr
Attachment
cc: Division of Communications
I: 981056.kmp

*Certified
10/12/98*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for cancellation of Pay Telephone Certificate No. 3745 by Commtrack Enterprise, Inc., and application for certificate to provide pay telephone service by Fayyaz A. Shuja d/b/a Commtrack Enterprise.

DOCKET NO. 981056-TC
ORDER NO. PSC-98-1349-FOF-TC
ISSUED: October 12, 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 CANCELLING PAY TELEPHONE CERTIFICATE NO. 3745
AND GRANTING CERTIFICATE NO. 5945 TO PROVIDE
PAY TELEPHONE 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.

Commtrack Enterprise, Inc., holder of Pay Telephone (PATS) Certificate of Public Convenience and Necessity No. 3745, has requested that Certificate No. 3745 be cancelled and applied for a certificate to provide PATS service, pursuant to Section 364.3675, Florida Statutes, under the name Fayyaz A. Shuja d/b/a Commtrack Enterprise

DOCUMENT NUMBER-DATE

11206 OCT 12 98

REGISTRATION

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Commtrack Enterprise, Inc. has complied with the provision of Rule 25-24.514(2), Florida Administrative Code, by providing adequate notice in writing of his request for cancellation of his Pay Telephone certificate and by submitting his regulatory assessment fees for 1997. Accordingly, we find it appropriate to cancel PATS Certificate No. 3745.

Commtrack Enterprise, Inc. shall return its certificate to this Commission. In addition, 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. A Regulatory Assessment Fee Return notice for the year 1998 will be mailed to Commtrack Enterprise, Inc.; however, neither the cancellation of its certificate nor the failure to receive its Regulatory Assessment Fee Return notice for the year 1998 shall relieve Commtrack Enterprise, Inc. from its obligation to pay due and owing regulatory assessment fees.

Upon consideration of Fayyaz A. Shuja d/b/a Commtrack Enterprise's application, it appears to be in the public interest to grant PATS Certificate No. 5945 to Fayyaz A. Shuja d/b/a Commtrack Enterprise

If this Order becomes final and effective, it shall serve as Fayyaz A. Shuja d/b/a Commtrack Enterprise's certificate. It should, therefore, be retained as proof of certification. The effective date of the cancellation of Certificate No. 3745 will be the same effective date as the new Certificate No. 5945 to avoid a break in service.

Non-local exchange company Pay Telephone service providers are subject to Chapter 25-24, Florida Administrative Code, Part XI, Rules Governing Pay Telephone Service Provided by Other Than Local Exchange Telephone Companies. They are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapter 25-4, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request by Commtrack Enterprise, Inc. to cancel Pay Telephone Certificate No. 3745 is hereby approved. It is further

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ORDERED that Commtrack Enterprise, Inc. shall return its certificate and remit all due and owing regulatory assessment fees for the year 1998. It is further

ORDERED that we hereby grant to Fayyaz A. Shuja d/b/a Commtrack Enterprise Certificate No. 5945 to provide Pay Telephone service, subject to the terms and conditions specified in the body of this Order. It is further

ORDERED that this Order shall serve as Fayyaz A. Shuja d/b/a Commtrack Enterprise's certificate and this Order should be retained as proof of certification. 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 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.

By ORDER of the Florida Public Service Commission, this 12th day of October, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

KMP

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 November 2, 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.