

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 3046
issued to South Florida
Bioavailability Clinic for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 981561-TC
ORDER NO. PSC-99-0903-PAA-TC
ISSUED: May 10, 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 FINES 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.

South Florida Bioavailability Clinic (SFBC) currently holds
Certificate of Public Convenience and Necessity No. 3046, issued by
the Commission on June 2, 1992, authorizing the provision of pay
telephone service. After researching SFBC's account and status
with the Commission, it was determined that SFBC had failed to
comply with 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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REG-RECORDS/REPORTING

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

SFBC has not paid the regulatory assessment fees (RAF) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1997. Also, accrued statutory penalties and interest charges for the years 1995 and 1997 have not been paid. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF 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. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fees is due.

On September 16, 1998, our staff contacted the company and spoke with Mr. Arnold Hantman, who advised our staff that he would pay the past due amount and make a settlement offer. Mr. Hantman further requested that we provide him with the correct RAFs form and the amount due. Our staff mailed the information on September 17, 1998, and requested a response by September 30, 1998.

The Division of Administration's records show that SFBC paid the 1997 RAFs, a partial amount on the statutory penalty accrued, but failed to pay interest charges accrued. SFBC also failed to pay the 1995 statutory penalties and interest charges accrued. Further, the Division of Administration's records show that the 1998 RAFS, as well as the statutory penalties and interest charges accrued for 1998, are still outstanding.

Our staff sought to contact Mr. Hantman on January 28, 1999, and February 4, 1999, but all attempts were unsuccessful. SFBC has been given adequate opportunity to pay. As of the date of this vote, SFBC has neither paid the balance of the past due amount nor filed a settlement offer. Thus, it appears that SFBC has violated

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Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries

Rule 25-4.043, Florida Administrative Code, requires companies to respond to inquiries from Commission staff within 15 days. SFBC has failed to respond to our staff's inquiries relating to the payment of the balance of the amount due and the settlement offer. To date, SFBC has not responded. Thus, it appears that SFBC has violated Rule 25-4.043, Florida Administrative Code.

Conclusion

For the reason described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel SFBC's certificate, effective December 31, 1998, unless SFBC 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 balance of the past due amount and the 1998 regulatory assessment fees, as well as statutory penalties and interest charges accrued, to the Florida Public Service Commission. We also find it appropriate to cancel SFBC's certificate, effective December 31, 1998, unless SFBC pays a \$10,000 fine for failure to comply with Rule 25-4.043, Florida Administrative Code.

SFBC must comply with these requirements within five business days from the date this Order becomes final. The fine will be remitted to the Comptroller for deposit in the State of 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 SFBC fail to comply with this Order within five business days from the date this Order becomes final, SFBC shall have its certificate canceled, effective December 31, 1998, and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes SFBC's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that South Florida Bioavailability Clinic must pay the past due regulatory assessment fees, statutory penalties, interest charges, 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 the cancellation of the certificate and the closing of the docket in no way diminishes South Florida Bioavailability Clinic's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. It is further

ORDERED that South Florida Bioavailability Clinic must pay a \$10,000 fine to the Florida Public Service Commission for failure to comply with Rule 25-4.043, 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

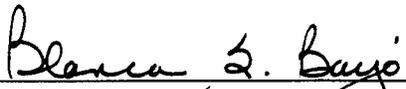
ORDERED that should South Florida Bioavailability Clinic fail to comply with this Order, South Florida Bioavailability Clinic's certificate shall be canceled and the Docket shall be closed. It is further

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 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.

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By ORDER of the Florida Public Service Commission this 10th
day of May, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(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 May 31, 1999.

In the absence of such a petition, this Order shall become final the day a consummation order is issued.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it

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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.