

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Cancellation by Florida) DOCKET NO. 940884-TC
Public Service Commission of Pay) ORDER NO. PSC-94-1307-FOF-TC
Telephone Certificate No. 3062) ISSUED: October 24, 1994
issued to GERALD PATRICK)
CUMMINGS d/b/a DEPENDABLE)
PAYPHONES for violation of Rule)
25-4.043, F.A.C., Response to)
Commission Staff Inquiries)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE OR CANCELLING 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.

Pay Telephone Certificate Number 3062 was issued to Gerald Patrick Cummings d/b/a Dependable Payphones on June 7, 1992. On March 2, 1994, a letter was sent to Mr. Cummings concerning the results of a service evaluation that had been conducted on two pay telephones operated by his company. The letter requested a written response within 15 days. No response was received so on April 18, 1994, a letter was sent via certified mail. This letter also requested a response within 15 days. No response was received, although the certified mail receipt card was returned on April 25, 1994 with an illegible signature.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

On July 27, 1994, our staff attempted to reach Mr. Cummings by telephone. Our staff left a message asking Mr. Cummings to return the call but to date the call has not been returned.

Mr. Cummings is in apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Rule 25-4.043 requires companies to respond to inquiries from our staff within 15 days. Mr. Cummings has not responded to two letters from our staff and has not returned our staff's telephone call.

Pursuant to Section 364.285(1), Florida Statutes, we may impose a fine or cancel a company's certificate for violation of Commission rules and orders. Accordingly, we order Gerald Patrick Cummings d/b/a Dependable Payphones to pay a \$100 fine and respond to our staff's inquiry. If Mr. Cummings complies within 60 days of this Order becoming final, this docket shall be closed. If Mr. Cummings does not comply within 60 days, Certificate 3062 shall be cancelled and this docket closed. If Certificate 3062 is cancelled, the serving local exchange companies are directed to discontinue service to any pay telephones operated by Gerald Patrick Cummings d/b/a Dependable Payphones.

It is, therefore,

ORDERED by the Florida Public Service Commission that Gerald Patrick Cummings d/b/a Dependable Payphones pay a \$100 fine and respond to the staff inquiry within 60 days of this Order becoming final. It is further

ORDERED that if Mr. Cummings complies with this Order, this docket shall be closed. It is further

ORDERED that if Mr. Cummings does not comply with this Order within 60 days of its becoming final, Certificate 3062 shall be cancelled and this docket shall be closed. It is further

ORDERED that if Certificate 3062 is cancelled, the local exchange companies shall discontinue service to any pay telephones operated by Gerald Patrick Cummings d/b/a Dependable Payphones. It is further

ORDERED that, unless a person whose interests are substantially affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this Order will become final.

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By ORDER of the Florida Public Service Commission, this 24th
day of October, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Dwyer
Chief, Bureau of Records

(S E A L)

LMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 14, 1994.

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.

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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.