

Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

April 16, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB, LEO*
DIVISION OF ADMINISTRATION (LAKE)
DIVISION OF LEGAL SERVICES (PELLEGRINI) *Cy*

RE: DOCKET NO. 971385-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4545 ISSUED TO JAMES W. DEBOLT FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES AND RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, REPORTING REQUIREMENTS

AGENDA: 04/28/98 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/971385TC.RCM

CASE BACKGROUND

The above docket was initiated pursuant to a request filed by staff to cancel James W. DeBolt's (Mr. DeBolt) certificate of public convenience and necessity, authorizing the provision of pay telephone service in Florida. The Division of Administration mailed a certified letter to Mr. DeBolt using the address listed in the Master Commission Directory informing him that he was delinquent on his regulatory assessment fees for the year 1996. This letter was returned by the United States Postal Service stamped "Addressee Unknown". Failing to keep its address current is a violation of Rule 25-24.520, Florida Administrative Code. Based on this evidence, staff recommended the cancellation of the certificate unless Mr. DeBolt paid a \$1000 fine, submitted the delinquent regulatory assessment fees, along with statutory penalties and interest and provided the required address and liaison information. The Commission approved the recommendation, and Order PSC-98-0086-FOF-TC was issued on January 14, 1998 (Attachment A, Pages 4-8). The delinquent regulatory assessment fees, the fine, and the required information were not received by the close of business on February 11, 1998, and therefore Mr. DeBolt's certificate was canceled.

DOCUMENT CONTROL DATE

~~CONFIDENTIAL~~ APR 16 1998

END

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DATE: April 16, 1998

On April 5, 1998, Mr. DeBolt contacted staff to inquire about the cancellation of his certificate. Mr. DeBolt requested reinstatement of his certificate. The delinquent regulatory assessment fees and the fine were received by the Division of Administration on April 6, 1998. The required address and liaison information were received by the Division of Records and Reporting on April 15, 1998.

Therefore, staff is recommending that Mr. DeBolt's Pay Telephone Certificate No. 4545 be reinstated. Although Mr. DeBolt did not comply with Order No. PSC-98-0086-FOF-TC before his certificate was canceled, Mr. DeBolt has paid the delinquent regulatory assessment fees, along with statutory penalties and interest, paid the \$1000 fine, and submitted the required address and liaison information.

STAFF DISCUSSION

ISSUE 1: Should James W. DeBolt's Pay Telephone Certificate No. 4545 be reinstated?

RECOMMENDATION: Yes. Mr. DeBolt's Pay Telephone Certificate No. 4545 should be reinstated.

STAFF ANALYSIS: Mr. DeBolt has supplied us with the correct liaison and address information, paid the fine, and paid the delinquent regulatory assessment fees, including statutory penalties and interest, therefore, staff believes that Mr. DeBolt's Certificate No. 4545 should be reinstated.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's Proposed Agency Action, files a protest within 21 days of the issuance date of the order, this docket should be closed.

STAFF ANALYSIS: This docket should be closed if no person whose substantial interests are affected by the Commission's Proposed Agency Action, files a protest within 21 days of the issuance date of the order.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 4545 issued to James W. DeBolt, for violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees and Rule 25-24.520, Florida Administrative Code, Reporting Requirements.

DOCKET NO. 971385-TC
ORDER NO. PSC-98-0086-POF-TC
ISSUED: January 14, 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, REQUIRING PAYMENT OF REGULATORY ASSESSMENT FEES AND REQUIRING INFORMATION IN ACCORDANCE WITH RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, 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.

James W. DeBolt (Mr. DeBolt) currently holds Certificate of Public Convenience and Necessity No. 4545, issued by the Commission on February 27, 1996, authorizing the provision of pay telephone service. Mr. DeBolt has not paid the regulatory assessment fee(s) required by Section 364.336, Florida Statutes, and Rule 25-4.0161,

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FPSC-REC'D PSC/REPORTING

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Florida Administrative Code, for the year 1996. The regulatory assessment fee form was mailed to Mr. DeBolt in December, 1996, for the period of January 1, 1996, through December 31, 1996. 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. Mr. DeBolt was notified of his delinquency on June 3, 1997. Mr. DeBolt has been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was returned, marked "Addressee Unknown." To date, Mr. DeBolt has not paid the required fee(s).

The return of these materials indicates that Mr. DeBolt may have violated Rule 25-24.520(1)(a), Florida Administrative Code, which requires the reporting to the Commission of an address change within ten (10) days of its effectiveness. Accordingly, Commission staff attempted to reach the contact person of Mr. DeBolt by telephone. This effort was unsuccessful, indicating that Mr. DeBolt may have also violated Rule 25-24.520(1)(b), Florida Administrative Code, which requires the reporting to the Commission of a change in the name, title, or telephone No. of the individual responsible for Commission contacts.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Mr. DeBolt's certificate, unless Mr. DeBolt pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, Rule 25-4.0161, Florida Administrative Code, and remits all past due regulatory assessment fees, along with statutory penalties and interest charges. We also find it appropriate to cancel Mr. DeBolt's certificate unless he pays a \$500 fine for failure to comply with Rule 25-24.480 (2), Florida Administrative Code, and provides the information required by Rule 25-24.520, Florida Administrative Code, to the Florida Public Service Commission. Mr. DeBolt 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 Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

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

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applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that James W. DeBolt shall pay the past due regulatory assessment fee(s), 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 James W. DeBolt shall provide the correct mailing address, liaison information, and other information in accordance with Rule 25-24.520, Florida Administrative Code, and pay a \$500 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. It is further

ORDERED that should James W. DeBolt fail to comply with this Order, James W. DeBolt'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 James W. DeBolt's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. It is further

ORDERED that all certificated local exchange companies shall discontinue service to James W. DeBolt upon verification of the cancellation of the certificate at the conclusion of the response period set forth in this Order. 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 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0050, 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 14th day of January, 1998.



BLANCA S. BAYO, Director
Division of Records and Reporting

(S E A L)

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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 February 4, 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 notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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My date
4/15/98

RECEIVED

APR 15 1998

FPSC - Records Reporting

April 15, 1998

Florida Public Service Commission
Tallahassee, Florida

Attention: Nonnye Grant

971385-7C


Re: James W. DeBolt Company code T7579

Please update your records to reflect my current mailing address
and telephone number.

Old address: 1715 Tampa Street Tampa, Fl 33602
813-221-1900

New address: Box 270378 Tampa, Florida 33688 - 0378
813-948-2687

Thank you for your assistance.



James W. DeBolt

Cent canceled 2-11-98

Cent Rescued 4-13-98 due to
4-9-98 payment for fines & fees received by
friend
Awaiting further word for all regarding
status of cent.

Old
m/l 1715 North Tampa Street
Tampa, FL 33602-2647

P- 813)221-1900

Copy to
Cruz/Bragalaki
StH/Martin
Winters

P.22
Mg DeBolt
4-15-98

April 15, 1998

RECEIVED

APR 15 1998

FPSC - Records Reporting

Florida Public Service Commission
Tallahassee, Florida

Attention: Mennye Grant

971385-1C

Re: James W. DeBolt Company code IF579

parties list
updated

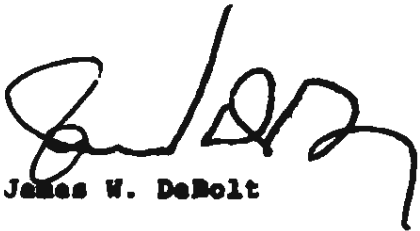
Please update your records to reflect my current mailing address and telephone number. Mg

Old address: 1715 Tampa Street Tampa, FL 33602
813-221-1900

New address: Box 270378 Tampa, Florida 33688 - 0378
813-948-2647

Thank you for your assistance.

Cert canceled 2-11-98



James W. DeBolt

cert rescinded 4-13-98 due to
4-9-98 payment for fines & fees received by
parent
Awaiting further word for all regarding
status of cert.

Old
m/l 1715 North Tampa Street
Tampa, FL 33602-2647

Cypt.
Cruz/Bacalachi
StH/Martin
Wilken

P- 813)221-1900