

MEMORANDUM

February 5, 1998

REC
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TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (PEÑA) *VP MCB*
RE: DOCKET NO. 971378-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4559 ISSUED TO ACTION TELECOM AND DATA, INC., FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES.

98-0236-FOF-TC

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. (No. of pages in order - 5)

KMP/anr
Attachment
cc: Division of Communications
Division of Administration
I: 971378.kmp

Card 2/6

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 4559
issued to Action Telecom and
Data, Inc., for violation of
Rule 25-4.0161, Florida
Administrative Code, Regulatory
Assessment Fees.

DOCKET NO. 971378-TC
ORDER NO. PSC-98-0236-FOF-TC
ISSUED: February 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.

Action Telecom and Data, Inc. (Action Telecom) currently holds
Certificate of Public Convenience and Necessity No. 4559, issued by
the Commission on April 20, 1996, authorizing the provision of pay
telephone service. Action Telecom has not paid the regulatory
assessment fees required by Section 364.336, Florida Statutes, and
Rule 25-4.0161, Florida Administrative Code, for the year 1996.
The regulatory assessment fee form was mailed to Action Telecom on

DOCUMENT NUMBER-DATE

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FPSC-REG. DIVISION

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. Action Telecom was notified of its delinquency on June 3, 1997. Action Telecom has been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was returned, marked "Forward Time Expired." To date, Action Telecom has not paid the required fees.

For the reason described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Action Telecom's certificate, unless Action Telecom pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, and remits all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. Action Telecom 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 fine are received, this docket shall be closed. Should Action Telecom fail to comply with this Order within five business days from the date this Order becomes final, Action Telecom 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 Action Telecom's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

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

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Action Telecom and Data, Inc. 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 should Action Telecom and Data, Inc. fail to comply with this Order, Action Telecom and Data, 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 Action Telecom and Data, Inc.'s obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. It is further

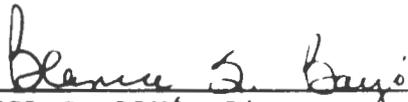
ORDERED that all certificated local exchange companies shall discontinue service to Action Telecom and Data, Inc. upon verification of the cancellation of the certificate at the conclusion of the response period set forth in this Order. It is further

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 25-22.036, 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 23
day of February, 1998.



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 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 27, 1998.

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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.