

MEMORANDUM

REC'D - 150

October 12, 1998

OCT 12 AM 10:38

TELEPHONE
TELEPHONE

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *vmf
MCB*

RE: DOCKET NO. 981066-TC - REQUEST FOR CANCELLATION OF PAY TELEPHONE CERTIFICATE NO. 5887 BY BENJAMIN C. BENNETT, JR., AND APPLICATION FOR CERTIFICATE TO PROVIDE PAY TELEPHONE SERVICE BY BENNETT TELECOMMUNICATIONS COMPANY.

98-1360-PJF

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER CANCELLING PAY TELEPHONE CERTIFICATE NO. 5887 AND GRANTING CERTIFICATE NO. 5941 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: 981066.kmp

*Certified
10/12/98*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for cancellation of Pay Telephone Certificate No. 5887 by Benjamin C. Bennett, Jr., and application for certificate to provide pay telephone service by Bennett Telecommunications Company.

DOCKET NO. 981066-TC
ORDER NO. PSC-98-1350-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. 5887 AND GRANTING
CERTIFICATE NO. 5941 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.

Benjamin C. Bennett, Jr., holder of Pay Telephone (PATS) Certificate of Public Convenience and Necessity No. 5887, has requested that Certificate No. 5887 be cancelled and applied for a certificate to provide PATS service pursuant to Section 364.3375, Florida Statutes, for his company, Bennett Telecommunications Company.

Benjamin C. Bennett, Jr. 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. 5887.

DOCUMENT PREPARED BY DATE

11207 OCT 12 88

REGISTRATION

ORDER NO. PSC-98-1350-FOF-TC
DOCKET NO. 981066-TC
PAGE 2

Benjamin C. Bennett, Jr. shall return his 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 Benjamin C. Bennett, Jr.; however, neither the cancellation of his certificate nor the failure to receive his Regulatory Assessment Fee Return notice for the year 1998 shall relieve Benjamin C. Bennett, Jr. from his obligation to pay due and owing regulatory assessment fees.

Upon consideration of Bennett Telecommunications Company's application, it appears to be in the public interest to grant PATS Certificate No. 5941 to Bennett Telecommunications Company.

If this Order becomes final and effective, it shall serve as Bennett Telecommunications Company's certificate. It should, therefore, be retained as proof of certification. The effective date of the cancellation of Certificate No. 5887 will be the same effective date as the new Certificate No. 5941 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 Benjamin C. Bennett, Jr. to cancel Pay Telephone Certificate No. 5887 is hereby approved. It is further

ORDERED that Benjamin C. Bennett, Jr. shall return his certificate and remit all due and owing regulatory assessment fees for the year 1998. It is further

ORDERED that we hereby grant to Bennett Telecommunications Company Certificate No. 5941 to provide Pay Telephone service, subject to the terms and conditions specified in the body of this Order. It is further

ORDER NO. PSC-98-1350-FOF-TC
DOCKET NO. 981066-TC
PAGE 3

ORDERED that this Order shall serve as Bennett Telecommunications Company'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.

ORDER NO. PSC-98-1350-FOF-TC
DOCKET NO. 981066-TC
PAGE 4

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.