

MEMORANDUM

January 22, 1999

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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *KMP/PE*

RE: DOCKET NO. 981455-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5351 ISSUED TO JOSEPH WAYNE WATERS FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.520, F.A.C, REPORTING REQUIREMENT.

99-0109-FOF-TC

Attached is a 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, to be issued in the above-referenced docket. (Number of pages in order - 5)

KMP/anr
Attachment
cc: Division of Communications
I: 981455.kmp

See

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5351
issued to Joseph Wayne Waters
for violation of Rules 25-
4.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies,
and 25-24.520, F.A.C, Reporting
Requirement.

DOCKET NO. 981455-TC
ORDER NO. PSC-99-0109-FOF-TC
ISSUED: January 22, 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 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

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.

Joseph Wayne Waters (Mr. Waters) is the holder of Pay
Telephone (PATS) Certificate of Public Convenience and Necessity
No. 5351, issued on May 16, 1997. Mr. Waters 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 1997, along with statutory penalties and interest charges.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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. 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 and an affidavit in which the applicants attest that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the regulatory assessment fee forms, for the period of January 1, through December 31, are mailed to the entities at least 45 days prior to the date that payment of the fee is due. Mr. Waters has been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was returned by the United States Postal Service. To date, Mr. Waters has not paid the required fees.

The return of these materials indicates that Mr. Waters may have violated Rule 25-24.520, Florida Administrative Code, which requires the reporting to the Commission of an address change and/or a change in the name, title, or telephone number of the individual responsible for Commission contacts within ten (10) days of its effectiveness. It has been well over 10 days and Mr. Waters has not provided the information required by Rule 25-24.520, Florida Administrative Code, nor has he requested cancellation of his certificate in compliance with Rule 25-24.514, Florida Administrative Code.

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. Waters' certificate, effective December 31, 1998, for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Mr. Waters pays a \$500 fine and remits all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. We also find it appropriate to cancel Mr. Waters' certificate, effective December 31, 1998, for failure to comply with Rule 25-24.520, Florida Administrative Code, unless Mr. Waters pays a \$500 fine and provides the information required by Rule 25-24.520, Florida Administrative Code, to the Florida Public Service Commission. Mr.

Waters must comply with these requirements within five business days from the date this Order becomes final. The two fines, totaling \$1,000, will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Joseph Wayne Waters 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 Joseph Wayne Waters must 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 Joseph Wayne Waters fail to comply with this Order, Joseph Wayne Waters' Certificate No. 5351 shall be canceled, and this Docket shall be closed. It is further

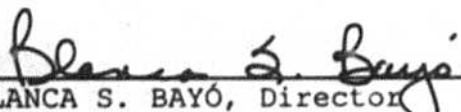
ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes Joseph Wayne Waters' obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. It is further

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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 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.

By ORDER of the Florida Public Service Commission this 22nd day of January, 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.

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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 February 12, 1999.

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.