

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 4538  
issued to Kevin Russell  
Gallagher for violation of Rule  
25-4.0161, F.A.C., Regulatory  
Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 981277-TC  
ORDER NO. PSC-99-0794-FOF-TC  
ISSUED: April 21, 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.

ORDER CANCELING PAY TELEPHONE CERTIFICATE

BY THE COMMISSION:

Kevin Russell Gallagher (Mr. Gallagher) currently holds Certificate of Public Convenience and Necessity No. 4538, issued by the Commission on March 19, 1996, authorizing the provision of pay telephone service (PATS). The Division of Administration advised our staff by memorandum that Mr. Gallagher had not paid the regulatory assessment fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years 1996 and 1997, nor statutory penalties and interest charges for late RAFs payments for the years 1996 and 1997.

Under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF 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

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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. The RAF form was mailed to Mr. Gallagher for the period of January 1, 1997, through December 31, 1997. Our correspondence regarding the RAFs was signed for and delivered to Mr. Gallagher on December 12, 1997.

On January 5, 1999, Order No. PSC-99-0030-FOF-TC was issued, which imposed a \$500 fine and required payment of the fine and fees. The company has now paid all past due charges and requested voluntary cancellation of his certificate because he is no longer in the pay telephone business. Mr. Gallagher 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 PATS certificate and by submitting his regulatory assessment fees for the year 1997. Accordingly, we find it appropriate to cancel PATS Certificate No. 4538, effective December 31, 1998.

Mr. Gallagher 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 1998 has been mailed to Mr. Gallagher. Neither the cancellation of his certificate nor the failure to receive a Regulatory Assessment Fee Return notice for the year 1998 shall relieve Mr. Gallagher from his obligation to pay due and owing regulatory assessment fees.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Kevin Russell Gallagher's Certificate No. 4538 to provide Pay Telephone services is hereby canceled, effective December 31, 1998. It is further

ORDERED that Kevin Russell Gallagher shall return his certificate to this Commission and remit all due and owing regulatory assessment fees for the year 1998. It is further

ORDERED that this Docket is closed.



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By ORDER of the Florida Public Service Commission, this 21st  
day of April, 1999.

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/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 after the issuance 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.