

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5514
issued to Semper Padron for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 981608-TC
ORDER NO. PSC-99-0959-PAA-TC
ISSUED: May 12, 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 CANCELING PAY TELEPHONE CERTIFICATE INVOLUNTARILY

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 formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

Semper Padron currently holds Certificate of Public Convenience and Necessity No. 5514, issued by the Commission on November 22, 1997, authorizing the provision of Pay Telephone service. Semper Padron has not paid the regulatory assessment fees (RAFs), or the accrued statutory penalties and interest charges, required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1997.

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

Pursuant to Section 350.113(4), Florida Statutes, the RAF forms for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fees is due. The Commission's correspondence regarding the RAFs was delivered to Mr. Semper Padron and signed for on December 16, 1997. Semper Padron has been given adequate opportunity to pay.

On February 9, 1999, Order No. PSC-99-0227-FOF-TC was issued, imposing a \$500 fine and requiring payment of the fine and past due RAFs, along with statutory penalties and interest charges accrued, by March 9, 1999. The Division of Administration notified our staff that Semper Padron's 1998 RAF form was returned by Mr. Padron with a statement that he had never purchased any pay telephones, and therefore was requesting cancellation of the certificate.

Semper Padron has not complied with Rule 25-24.514(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

A certificate remains active until a voluntary cancellation request is appropriately made pursuant to Rule 25-24.514(2), Florida Administrative Code, or until we involuntarily cancel the certificate. Semper Padron is responsible for the unpaid RAFs, which must be settled before a voluntary cancellation may be granted. As of the date of this vote, Mr. Padron continues to be in violation of our rules for non-payment of RAFs for 1997 and 1998.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby deny Mr. Padron's request for voluntary cancellation of Pay Telephone Certificate No. 5514 for failure to comply with the provisions of 25-24.514(2), Florida Administrative Code. Instead, it is appropriate to involuntarily cancel Mr. Padron's certificate, effective December 31, 1998, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since Mr. Semper Padron is no longer in business, we are not requiring Mr. Padron to pay an additional fine for violation of Commission rules. By involuntarily canceling Mr. Padron's certificate, however, we are able to track this company should it apply for another certificate in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes Mr. Padron's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges for 1997 and 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Semper Padron's request for voluntary cancellation of Pay Telephone Certificate No. 5514. It is further

ORDERED that Semper Padron's Pay Telephone Certificate No. 5514 is hereby canceled, effective December 31, 1998, for failure to comply with Rule 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

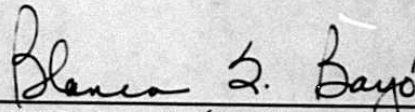
ORDERED that the cancellation of the certificate in no way diminishes Semper Padron's obligation to pay regulatory assessment fees for the years 1997 and 1998, as well as accrued statutory penalties and interest charges. It is further

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

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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 May, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 that is available under Section 120.57, 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 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. 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 June 2, 1999.

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In the absence of such a petition, this order shall become final and effective upon the issuance of a consummating order.

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.