

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5356
issued to N.T. Enterprise Group,
Inc. d/b/a Harris & Co The
Restaurant for violation of Rule
25-4.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies.

DOCKET NO. 981436-TC
ORDER NO. PSC-99-1131-FOF-TC
ISSUED: June 7, 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 REINSTATING PAY TELEPHONE CERTIFICATE NO. 5356 AND
GRANTING VOLUNTARY CANCELLATION OF PAY TELEPHONE CERTIFICATE NO.
5356

N.T. Enterprise Group, Inc. d/b/a Harris & Co The Restaurant
(Harris & Co The Restaurant) currently holds Certificate of Public
Convenience and Necessity No. 5356, issued by the Commission on
June 11, 1997, authorizing the provision of pay telephone service.
Harris & Co The Restaurant has not paid the regulatory assessment
fees (RAFs) required by Section 364.336, Florida Statutes, and Rule
25-4.0161, Florida Administrative Code, for the year 1997. Also,
accrued statutory penalties and interest charges for the years 1996
and 1997 have not been paid. 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 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

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must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs 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. Harris & Co The Restaurant has been given adequate opportunity to pay. The Commission's correspondence regarding the RAFs was signed for and delivered to Harris & Co The Restaurant on December 13, 1997.

On January 26, 1999, Order No. PSC-99-0160-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 February 23, 1999. The Order further stated that failure to comply would result in the cancellation of Harris & Co The Restaurant's Pay telephone Certificate No. 5356. When the Order was not protested; and the fine and past due amount were not paid, the certificate was canceled and the docket was closed.

However, on March 4, 1999, the Division of Administration notified our staff that Harris & Co The Restaurant's 1998 RAFS form was returned by Harris & Co The Restaurant, on February 8, 1999, with a statement that the company had previously requested a voluntary cancellation. The docket was reopened to address the company's statement since it had been received within the protest period.

On March 8, 1999, our staff wrote the company and asked for a copy of its letter where it had previously requested cancellation of its certificate and explained that, depending upon the date of its previous letter, regulatory assessment fees would still be due. By April 8, 1999, the company had not provided a copy of its previous correspondence or paid the past due fees, therefore, our staff filed a recommendation. This Commission denied the company a voluntary cancellation of its certificate at the April 20, 1999 Agenda Conference.

On April 23, 1999, the company paid the 1997 and 1998 regulatory assessment fees, including penalty and interest charges,

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and provided staff a copy of its letter dated October 25, 1998, which requested voluntary cancellation of its certificate.

Therefore, we believe that Harris & Co The Restaurant has demonstrated the intent to operate in conformance with the Commission's Rules and Orders by providing notice in writing of its request for cancellation of its PATS certificate and by submitting the past due regulatory assessment fees for 1997 and 1998, along with accrued statutory penalties and interest charges for the years 1996, 1997, and 1998. Accordingly, we find it appropriate to reinstate PATS Certificate No. 5356, and grant Harris & Co The Restaurant's request for voluntary cancellation of PATS Certificate No. 5356, effective October 25, 1998. Harris & Co The Restaurant shall return its certificate to this Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby approve the reinstatement of N.T. Enterprise Group, Inc. d/b/a Harris & Co The Restaurant's Pay Telephone Certificate No. 5356. It is further

ORDERED that N.T. Enterprise Group, Inc. d/b/a Harris & Co The Restaurant's Certificate No. 5356 to provide Pay Telephone services is hereby canceled, effective October 25, 1998. It is further

ORDERED that N.T. Enterprise Group, Inc. d/b/a Harris & Co The Restaurant shall return its certificate to this Commission. It is further

ORDERED that this Docket is closed.

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By ORDER of the Florida Public Service Commission this 7th
day of June, 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.