

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for cancellation of PATS Certificate No. 8510 by Erik Lerman d/b/a Smart Tel, effective March 25, 2010. | DOCKET NO. 100145-TC  
ORDER NO. PSC-10-0490-PAA-TC  
ISSUED: August 6, 2010

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR  
NATHAN A. SKOP  
ART GRAHAM  
RONALD A. BRISÉ

NOTICE OF PROPOSED AGENCY ACTION ORDER CANCELLING PAY TELEPHONE  
SERVICE CERTIFICATE  
ON THE COMMISSION'S OWN MOTION

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.

Erik Lerman d/b/a Smart Tel (Smart Tel) currently holds Pay Telephone Service (PATS) Certificate No. 8510. Pursuant to Section 364.336, Florida Statutes, telecommunications companies must pay a minimum annual Regulatory Assessment Fee (RAF) for each certificate if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-24.514, Florida Administrative Code, a pay telephone service company must state its intent and date to pay any current and past due Regulatory Assessment Fees with its request for cancellation.

This Commission received correspondence from Smart Tel requesting cancellation of its certificate and stating that the company did not want to pay any additional RAFs. Our staff contacted the company and advised that since the pay telephone provider did not intend to pay the 2010 RAF, staff would process the request as an involuntary cancellation.

For the reasons described above, we deny Smart Tel's request for voluntary cancellation of its certificate. However, we find it appropriate to involuntarily cancel the company's certificate effective March 25, 2010, on this Commission's own motion for failure to comply with Rule 25-24.514, Florida Administrative Code, and pursuant to Section 364.336, Florida Statutes.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The cancellation of a PATS certificate in no way diminishes that company's obligation to pay the applicable Regulatory Assessment Fee. If this Order is not protested, the company's PATS certificate shall be cancelled. If the company pays the 2010 Regulatory Assessment Fee prior to the expiration of the Proposed Agency Action Order, then the cancellation of the PATS certificate will be voluntary. If the company fails to protest the Order or pay the 2010 Regulatory Assessment Fee prior to the expiration of the Proposed Agency Action Order, then the company's PATS certificate shall be involuntarily cancelled administratively and the collection of the unpaid 2010 Regulatory Assessment Fee shall be referred to the Florida Department of Financial Services for further collection efforts. If the company's PATS certificate is cancelled in accordance with this Order, the company shall be required to immediately cease and desist providing telecommunications service in Florida. This docket shall be closed administratively either upon receipt of the payment of the 2010 Regulatory Assessment Fee for a voluntary cancellation, or upon this Commission's own motion as an involuntary cancellation. If the company's PATS certificate is involuntarily cancelled, and the company subsequently decides to reapply as a telecommunications company, the company shall be required to first pay the 2010 Regulatory Assessment Fee. We are vested with jurisdiction over these matters pursuant to Sections 350.113, 364.285, 364.336, and 364.3375, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that pursuant to Rule 25-24.514, Florida Administrative Code, Smart Tel's Certificate No. 8510 is hereby cancelled effective March 25, 2010, on this Commission's own motion for failure to pay the 2010 Regulatory Assessment Fee pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the cancellation of the company's PATS certificate in no way diminishes the company's obligation to pay the 2010 Regulatory Assessment Fee. If the company's PATS certificate is cancelled, and the company subsequently decides to reapply as a telecommunications company, the company shall be required to first pay the 2010 Regulatory Assessment Fee. It is further

ORDERED that if Smart Tel pays the 2010 Regulatory Assessment Fee prior to the expiration of the Proposed Agency Action Order, the cancellation of its certificate shall be deemed voluntary. It is further


ORDERED that if Smart Tel does not pay the 2010 Regulatory Assessment Fee prior to the expiration of the Proposed Agency Action Order, the collection of the Regulatory Assessment Fee shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that if Smart Tel's PATS certificate is cancelled in accordance with this Order, the company shall immediately cease and desist providing telecommunications service in Florida. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed administratively as a voluntary cancellation upon receipt of the payment of the 2010 Regulatory Assessment Fee, or as an involuntary cancellation on this Commission's own motion.

By ORDER of the Florida Public Service Commission this 6th day of August, 2010.



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ANN COLE  
Commission Clerk

(SEAL)

VSM

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 27, 2010.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.