

MEMORANDUM

January 25, 1999

RECEIVED-PPSC

99 JAN 25 PM 3:50

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (COX) *WPC MKB*

RE: DOCKET NO. 981452-TC - In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5429 issued to Laura Ann Miraglia d/b/a 13th Phone Company for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.
DOCKET NO. 981453-TC - In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5443 issued to Omar M. Morell for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

99-0162-FDF-TC

Attached is a **Notice of Proposed Agency Action Order Imposing Fines and Requiring Payment of Regulatory Assessment Fees, or Canceling Pay Telephone Certificates**, to be issued in the above-referenced docket. (Number of pages in order - 5)

WPC/slh
Attachment
cc: Division of Communications
I:981452.wpc

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5429
issued to Laura Ann Miraglia
d/b/a 13th Phone Company for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 981452-TC

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5443
issued to Omar M. Morell for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 981453-TC
ORDER NO. PSC-99-0162-FOF-TC
ISSUED: January 26, 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 FINES AND REQUIRING PAYMENT OF REGULATORY
ASSESSMENT FEES, OR CANCELING PAY TELEPHONE CERTIFICATES

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.

DOCUMENT NUMBER-DATE

01034 JAN 26 99

FPSC-RECORDS/REPORTING

The entities listed below have not paid the regulatory assessment fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year specified below, along with statutory penalties and interest charges. 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. The entities have been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was received but not acknowledged. To date, the entities have not paid the required fees.

For the reason described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel each entity's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless each entity 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. Each entity must comply with these requirements within five business days from the date this Order becomes final. The fines will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

| <u>ENTITY'S NAME</u> | <u>CERTIFICATE NO.</u> | <u>PAST DUE RAFS</u> | <u>PAST DUE PENALTIES AND INTEREST</u> |
|--|----------------------------|--------------------------|--|
| Laura Ann Miraglia d/b/a 13th Phone Company | 5429 | 1997 | 1997 |
| Omar M. Morell | 5443 | 1997 | 1997 |

As the appropriate fees, statutory penalties, interest charges, and fines are received, each Docket shall be closed. Should any of the entities fail to comply with this Order within five business days from the date this Order becomes final, the entity shall have its certificate canceled and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes any of the entity's 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 each of the entities listed herein 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 fines will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should any of the entities fail to comply with this Order, that entity's certificate shall be canceled, and the respective docket shall be closed. It is further

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

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that, if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final

ORDER NO. PSC-99-0162-FOF-TC
DOCKETS NOS. 981452-TC, 981453-TC
PAGE 4

with regard to the remaining entities listed in this Order. 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

ORDERED that in the event this Order becomes final, these dockets shall be closed upon payment of the fines, and fees, or upon cancellation of the certificates.

By ORDER of the Florida Public Service Commission this 26th day of January, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: _____

Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

WPC/slh

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.

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 16, 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.