

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5041
issued to Pay-Tel Services Inc.
for violation of Rules 25-
24.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies,
and 25-4.043, F.A.C., Response
to Commission Staff Inquiries.

DOCKET NO. 981375-TC
ORDER NO. PSC-99-2216-PAA-TC
ISSUED: November 10, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELLING PAY TELEPHONE CERTIFICATE FOR
FAILURE TO COMPLY WITH ORDER PSC-99-0809-AS-TC

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.

Pay-Tel Services Inc. (Pay-Tel) currently holds Certificate of
Public Convenience and Necessity No. 5041, issued by the Commission
on January 7, 1997, authorizing the provision of pay telephone
service. 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 phone 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 Division of Administration advised our staff by memorandum that Pay-Tel 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 year 1997, nor statutory penalties and interest charges for late RAFs payments for the year 1997. Further, on December 18, 1997, our staff mailed Pay-Tel a letter concerning service evaluation violations and requested a response by January 2, 1998. Due to the failure to respond, our staff made a second attempt by certified mail on January 9, 1998, requesting a response by January 20, 1998.

After this docket was opened, our staff received a call from Mr. Luis Alfaro, Vice-President of Pay-Tel. He stated that the company would pay all the past due charges, respond to staff's inquiry, and would propose a settlement offer. Mr. Alfaro paid all the past due 1997 RAFs, statutory penalties and interest charges, and submitted a settlement offer. Pay-Tel agreed to pay future regulatory assessment fees in a timely manner, respond to staff inquiries in a timely manner, and offered \$2,500 settlement. Mr. Alfaro proposed to pay \$500 in April 1999, and the balance to be paid in \$100 monthly installments by no later than the last working day of each month until paid in full.

By Order No. PSC-99-0809-AS-TC, issued April 21, 1999, we approved Pay-Tel's settlement offer. The initial \$500 contribution was due by April 30, 1999. When the contribution was not received by the due date, our staff sought to contact Pay-Tel on May 21, 1999, to remind it that the \$500 was past due. On May 24, 1999, we received a \$600 payment from Pay-Tel, which represented the \$500 initial payment and the May 1999 installment.

Our staff contacted Pay-Tel via telephone on July 20, 1999, and via certified mail on July 21, 1999, informing Pay-Tel that it had failed to remit the June 1999 payment and that both the June 1999 and July 1999 installments were due by July 30, 1999. We received the June and July installments payments, totaling \$200, on July 30, 1999. As of October 19, 1999, we have not received neither the August 1999 nor the September 1999 installments.

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We believe that our staff has made every effort to assist Pay-Tel in complying with Order No. PSC-99-0809-AS-TC. Pay-Tel has, however, been repeatedly delinquent on its payments under the approved settlement, and has demonstrated a willful disregard for the requirements in the Order.

For the reason described above, pursuant to Rule 25-24.514(1)(b), Florida Administrative Code, we find it appropriate to cancel Pay-Tel's Pay Telephone Certificate No. 5041, effective October 19, 1999, for failure to comply with Order No. PSC-99-0809-AS-TC. In addition, as previously stated, 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. A RAFs Return notice for the year 1999 will be mailed to Pay-Tel. Neither the cancellation of its certificate nor the failure to receive a RAFs Return notice for the year 1999 shall relieve Pay-Tel from its obligation to pay RAFs for 1999.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Pay-Tel Services Inc's Certificate No. 5041 to provide Pay Telephone services is hereby canceled, effective October 19, 1999, for failure to comply with Order No. PSC-99-0809-AS-TC. It is further


ORDERED that Pay-Tel Services Inc. shall return its certificate to this Commission and remit Regulatory Assessment Fees for the year 1999, once they become due. 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 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" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission this 10th
day of November, 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 December 1, 1999.

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.