

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5971
issued to THETA COMM, INC. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 991345-TC
ORDER NO. PSC-00-0431-AS-TC
ISSUED: March 1, 2000

The following Commissioners participated in the disposition of
this matter:

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

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

THETA COMM, INC. (THETA COMM) currently holds Certificate of
Public Convenience and Necessity No. 5971, issued by the Commission
on December 22, 1998, authorizing the provision of Pay Telephone
service. The Division of Administration advised our staff by
memorandum that THETA COMM had not paid the 1998 Regulatory
Assessment Fees (RAFs). Also, accrued statutory penalties and
interest charges for late RAFs payments for the year 1998 had not
been paid. RAFs are required by Section 364.336, Florida Statutes,
and Rule 25-4.0161, Florida Administrative Code.

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

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. The RAFs form was
mailed to THETA COMM for the period of January 1, 1998, through
December 31, 1998, on December 10, 1998. Pursuant to Rule 25-

DOCUMENT NUMBER-DATE

02765 MAR-18

FPSC-RECORDS/REPORTING

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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. However, pursuant to Section 350.113(4), Florida Statutes, the Commission shall provide at least a 45 days notice of the date the payment is due prior to the due date. THETA COMM was scheduled to remit its RAFs by February 1, 1999.

On November 22, 1999, Mr. Don Strickland, representative of THETA COMM, contacted our staff and advised that THETA COMM would pay the past due amount and make a settlement proposal. We approved our staff's recommendation to fine \$500 or cancel its certificate at the November 30, 1999, Agenda Conference. On December 6, 1999, we received THETA COMM's past due amount, including accrued statutory penalties and interest charges, along with a letter proposing to contribute \$100 to the State General Revenue Fund and advising that future fees would be paid on a timely basis.

We believe that the terms of the settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. THETA COMM must comply with these requirements within ten business days from the date of issuance of this Order. The contribution will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If THETA COMM fails to comply with this Order, its certificate will be canceled administratively. Upon remittance of the \$100 contribution or cancellation of the certificate, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that THETA COMM, INC.'s settlement proposal summarized in the body of this Order is hereby approved. It is further


ORDERED that this docket shall remain open pending receipt of the \$100 contribution. The contribution will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further It is further

ORDERED that if THETA COMM, INC. fails to comply with this Order, its Pay Telephone Certificate No. 5971 will be canceled administratively. It is further

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ORDERED that upon receipt of the \$100 contribution or cancellation of the certificate, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 1st day of March, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(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.

RECEIVED-FPSC

M E M O R A N D U M

00 MAR -1 PM 12:46

February 29, 2000

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING *imp pl*
FROM: DIVISION OF LEGAL SERVICES (PEÑA)
RE: DOCKET NO. 991345-TC - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5971
ISSUED TO THETA COMM, INC. FOR VIOLATION OF RULE 25-
4.0161, F.A.C., REGULATORY ASSESSMENT FEES;
TELECOMMUNICATIONS COMPANIES.

0431-AS

Attached is an ORDER APPROVING SETTLEMENT, to be issued in the
above-referenced docket. (Number of pages in order - ~~4~~
3)

KMP/anc
Attachment
cc: Division of Communications
I: 991345s.kmp

*raised - 0/1
winded - 1*