

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 6002  
issued to George T. Tobin, Sr.  
d/b/a PT Communications for  
violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 001091-TC  
ORDER NO. PSC-00-2216-PAA-TC  
ISSUED: November 21, 2000

The following Commissioners participated in the disposition of  
this matter:

J. TERRY DEASON, Chairman  
E. LEON JACOBS, JR.  
LILA A. JABER  
BRAULIO L. BAEZ

NOTICE OF PROPOSED AGENCY ACTION  
ORDER CANCELING PAY TELEPHONE CERTIFICATE INVOLUNTARILY

BY THE COMMISSION:

George T. Tobin Sr. d/b/a PT Communications (PT Communications) currently holds Certificate of Public Convenience and Necessity No. 6002, issued by the Commission on February 16, 1999, authorizing the provision of pay telephone service. PT Communications has not paid the Regulatory Assessment Fees (RAF(s)) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1999. Also, accrued statutory penalties and interest charges for the year 1999 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

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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 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. 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. 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. PT Communications was scheduled to remit its RAFs by January 31, 2000.

On February 29, 2000, the Division of Administration mailed a delinquent notice to the company. On September 5, 2000, the Commission received a letter from the company requesting a voluntary cancellation of its certificate. On September 12, 2000, staff wrote Mr. Tobin, owner, to discuss the company's request for voluntary cancellation. On September 29, 2000, Mr. Tobin called staff and advised that he was unable to pay the RAF's. As of this date the company has not paid the due amount.

PT Communications has not complied with Rule 25-24.514(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

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Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.514(2), Florida Administrative Code, or we involuntarily cancel the certificate, PT Communications is responsible for the RAFs. As of the date of this vote, PT Communications continues to be in violation of our rules for non-payment of RAFs for 1999.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny PT Communications's request for voluntary cancellation of pay telephone Certificate No. 6002 for failure to comply with the provisions of 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel PT Communications's certificate, effective November 7, 2000, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. PT Communications shall return to this Commission the Order granting authority to provide pay telephone services.

Since PT Communications is no longer in business, there would be no purpose in requiring PT Communications to pay a fine. By involuntarily canceling PT Communications's certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes PT Communications's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny George T. Tobin Sr. d/b/a PT Communications's request for voluntary cancellation of Pay Telephone Certificate No. 6002. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel George T. Tobin Sr. d/b/a PT Communications's Pay telephone Certificate No. 6002, effective November 7, 2000, for failure to comply with Rule 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

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ORDERED that George T. Tobin Sr. d/b/a PT Communications shall return to this Commission the Order granting authority to provide pay telephone services. It is further

ORDERED that George T. Tobin Sr. d/b/a PT Communications remains obligated for all due and owing Regulatory Assessment Fees for the year 1999, as well as accrued statutory penalties and interest charges. 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 or Judicial Review" attached hereto. It is further

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

By ORDER of the Florida Public Service Commission, this 21st day of November, 2000.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

JAE

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 12, 2000.

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.