

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
PATS Certificate No. 7023 issued
to Don Duke d/b/a Duke
Consultants for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 010568-TC
ORDER NO. PSC-01-1776-PAA-TC
ISSUED: August 31, 2001

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF
DELINQUENT REGULATORY ASSESSMENT FEES, OR
CANCELING PAY TELEPHONE CERTIFICATE

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.

Don Duke d/b/a Duke Consultants (Duke Consultants) currently holds Certificate of Public Convenience and Necessity No. 7023, issued by the Commission on June 25, 1999, authorizing the provision of Pay Telephone service (PATS). The Division of the Commission Clerk and Administrative Services advised our staff by memorandum that Duke Consultants 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 2000 and the balance of the RAF payment for 1999 has not been

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paid. Also, accrued statutory penalties and interest charges for late RAFs payments for the years 1999 and 2000 had 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 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 PATS service.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs 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. Duke Consultants has been given adequate opportunity to pay. As of the date of the vote, Duke Consultants has 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 Duke Consultants's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Duke Consultants pays a \$500 fine and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. Duke Consultants must comply with these requirements within five business days after the issuance of the Consummating Order, as explained in the Notice of Further Proceedings attached to this Order. The payment should be identified with the docket number and the entity's name. The fine will be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and fine are received, this Docket shall be closed. Should Duke Consultants fail to comply with this Order within five business days after the issuance of the Consummating Order, Duke Consultants shall have its certificate canceled, effective on the date of issuance of the Consummating Order, the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts, and the Docket shall be closed.

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The cancellation of the certificate in no way diminishes Duke Consultants's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.3375, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Don Duke d/b/a Duke Consultants shall 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 after the issuance of the Consummating Order. The fine will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should Don Duke d/b/a Duke Consultants fail to comply with this Order, Don Duke d/b/a Duke Consultants's Certificate No. 7023 shall be canceled, effective on the date of issuance of the Consummating Order, the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts, and the Docket shall be closed. It is further

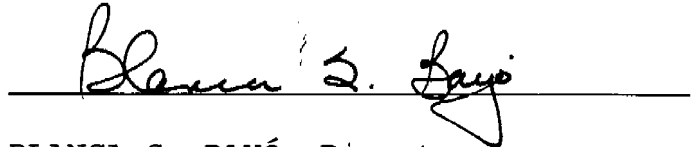
ORDERED that the cancellation of the certificate in no way diminishes Don Duke d/b/a Duke Consultants's obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

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 the Commission Clerk and Administrative Services, 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

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ORDERED that in the event this Order becomes final, this Docket shall be closed upon payment of the fine, and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 31st Day of August, 2001.

A handwritten signature in black ink, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(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

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Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 21, 2001.

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.