

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for cancellation) DOCKET NO. 941016-TC
of Pay Telephone Certificate No.) ORDER NO. PSC-94-1433-FOF-TC
3791 issued to JOHN C. MALKIN) ISSUED: November 23, 1994
and application for certificate)
to provide pay telephone service)
by INFINITEL, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELLING PAY TELEPHONE CERTIFICATE NO. 3791 AND
GRANTING A PAY TELEPHONE CERTIFICATE TO INFINITEL, INC.

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.

I. Background

On October 14, 1994, John C. Malkin requested that Pay Telephone Certificate Number 3791 be changed to reflect a corporate name, Infinitel, Inc. Infinitel, Inc. is a separate legal entity from Mr. Malkin. In order to change the name on the certificate, the certificate must be transferred from one entity to the other. Pursuant to Rule 25-24.512, Florida Administrative Code, Improper Use of a Certificate, pay telephone certificates cannot be transferred. In order to complete the name change, Mr. Malkin requested that Certificate No. 3791 be cancelled and applied for a new certificate for Infinitel, Inc.

DOCUMENT NUMBER-DATE

11848 NOV 23 1994

FPSC-RECORDS/REPORTING

II. Approval of Grant of Certificate

Upon review, we find that Infnitel's application contains the information required for certification as set forth in Sections 364.3375 and 364.335, Florida Statutes, and Rule 25-24.511, Florida Administrative Code. Accordingly, we propose to grant a certificate to provide pay telephone service to Infnitel consistent with the conditions and requirements set forth in Rules 25-24.505 through 25-24.520, Florida Administrative Code.

III. Cancellation of Certificate No. 3791

We cancel Pay Telephone Certificate Number 3791 effective when the issuance of a certificate to Infnitel becomes final. If he has not already done so, John C. Malkin is directed to return the certificate to the Commission. Our cancellation of this certificate in no way diminishes Mr. Malkin's obligation to pay due and owing regulatory assessment fees.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that a certificate to provide pay telephone service be issued to Infnitel, Inc. subject to the conditions stated in the body of this Order. It is further

ORDERED that Certificate Number 3791 be cancelled effective when the issuance of a certificate to Infnitel, Inc. becomes final. It is further

ORDERED that John C. Malkin shall return Certificate Number 3791 and remit any and all outstanding Regulatory Assessment Fees due the Florida Public Service Commission, if it has not already done so. It is further

ORDERED that, unless a person whose substantial interests are affected by the actions proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, the certificate issued Infnitel, Inc. shall become effective and Certificate 3791 shall be cancelled on the following date and this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 23rd
day of November, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Lynn
Chief, Bureau of Records

(S E A L)

LMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 14, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

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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.