

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
PATS Certificate No. 7734 issued  
to Balance, Inc. for violation  
of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 020289-TC  
ORDER NO. PSC-02-0697-PAA-TC  
ISSUED: May 22, 2002

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION  
ORDER CANCELING PAY TELEPHONE SERVICE CERTIFICATE INVOLUNTARILY

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.

Balance, Inc. (Balance) currently holds Certificate of Public  
Convenience and Necessity No. 7734, issued by the Commission on  
February 23, 2001, authorizing the provision of Pay Telephone  
service. The Division of the Commission Clerk and Administrative  
Services advised our staff that Balance 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(s) 2001 and 2002. Also, accrued statutory penalties and  
interest charges for late RAFs payments for the year(s) 2001 and

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2002 had not been paid. Balance was scheduled to remit its RAFs by January 30, 2002.

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. 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 fee is due. All entities that apply for certification receive a copy of our rules governing Pay Telephone service.

On March 12, 2002, we received correspondence from this company requesting cancellation of its certificate as it was no longer in business. On March 14, 2002, Commission staff wrote the company and explained that prior to granting a voluntary cancellation, the company must either pay the 2002 RAF or provide a date certain it would be paid. On March 20, 2002, Ms. Denise Orff, Office Manager, called staff and advised that the company would not be sending any more money and understood that the unpaid RAF amount would be turned over to collections. As of April 29, 2002, the 2002 RAF amount has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Balance 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, Balance is responsible for the RAFs. As of the date of the vote, Balance continues to be in violation of our rules for nonpayment of RAFs for the year(s) 2001 and 2002.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Balance's request for voluntary cancellation of Pay Telephone Certificate No. 7734 for failure to comply with the provisions of Rule 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Balance's certificate, effective March 12, 2002, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since Balance is no longer in business, there would be no purpose in requiring Balance to pay a fine. By involuntarily canceling Balance'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 Balance's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. We are vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Balance, Inc.'s request for voluntary cancellation of Pay Telephone Certificate No. 7734. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Balance, Inc.'s Pay Telephone Certificate No. 7734, effective, 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 the cancellation of the certificate in no way diminishes Balance, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. 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

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

By ORDER of the Florida Public Service Commission this 22nd Day of May, 2002.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

LHD

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 12, 2002.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.