

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
PATS Certificate No. 5579 issued  
to Branch Associates, Inc. for  
violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 020361-TC  
ORDER NO. PSC-02-0736-PAA-TC  
ISSUED: May 31, 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 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.

Branch Associates, Inc. (Branch Associates) currently holds  
Certificate of Public Convenience and Necessity No. 5579, issued by  
the Commission on February 17, 1998, authorizing the provision of  
Pay Telephone service. The Division of the Commission Clerk and  
Administrative Services advised our staff that Branch Associates  
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 2001. Also, accrued statutory  
penalties and interest charges for late RAFs payments for the year  
2001 had not been paid. Branch Associates 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

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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 January 21, 2002, we received Branch Associates' 2001 RAFs return showing zero revenues. Branch Associates did not pay the minimum RAFs nor requested cancellation of its certificate. On March 5, 2002, we received correspondence from Branch Associates, which advised it was not active in the payphone business nor owned any payphones and requested cancellation of its certificate. On March 7, 2002, our staff wrote to Branch Associates and advised that prior to granting a voluntary cancellation, it must be up-to-date on its RAFs, including statutory penalties and interest charges. Our staff further advised Branch Associates to pay the 2001 RAFs, statutory penalties and interest charges for the year 2001, and either pay the 2002 RAFs or provide a date certain it would be paid.

As of the date of the vote, the outstanding RAFs amount, including statutory penalties and interest charges, has not been paid and Branch Associates 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.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-

ORDER NO. PSC-02-0736-PAA-TC  
DOCKET NO. 020361-TC  
PAGE 3

24.514(2), Florida Administrative Code, or we involuntarily cancel the certificate, Branch Associates is responsible for the RAFs.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Branch Associates's request for voluntary cancellation of Pay Telephone Certificate No. 5579 for failure to comply with the provisions of Rule 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Branch Associates' certificate, effective March 5, 2002, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since Branch Associates is no longer in business, there would be no purpose in requiring Branch Associates to pay a penalty. By involuntarily canceling Branch Associates' 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 Branch Associates' 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. If Branch Associates' certificate is cancelled in accordance with this Order, Branch Associates shall immediately cease and desist providing Pay Telephone services in Florida. We are 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 we hereby deny Branch Associates, Inc.'s request for voluntary cancellation of Pay Telephone Certificate No. 5579. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Branch Associates, Inc.'s Pay Telephone Certificate No. 5579, effective March 5, 2002, 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

ORDERED that the cancellation of the certificate in no way diminishes Branch Associates, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory

ORDER NO. PSC-02-0736-PAA-TC  
DOCKET NO. 020361-TC  
PAGE 4

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 if Branch Associates, Inc.'s certificate is cancelled in accordance with this Order, Branch Associates, Inc. shall immediately cease and desist providing Pay Telephone services in Florida.

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 31st 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 )

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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 21, 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.