

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of CLEC Certificate No. 5625 issued to Choctaw Communications, Inc. d/b/a Smoke Signal Communications for violation of Rule 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 030968-TX
ORDER NO. PSC-04-0125-PAA-TX
ISSUED: February 9, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER CANCELING CLEC CERTIFICATE NO. 5625 ISSUED TO CHOCTAW COMMUNICATIONS, INC. D/B/A SMOKE SIGNAL COMMUNICATIONS FOR VIOLATION OF RULE 25-24.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

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.

Pursuant to Section 364.285, Florida Statutes, this Commission may impose a penalty or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for this Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The Division of the Commission Clerk & Administrative Services' records show that the company had not paid its 2002 RAF, plus statutory late payment charges. In addition, on April 11, 2003, our staff wrote the company and advised that payment of the 2002 RAF should be paid by April 30, 2003, to avoid a docket from being established.

As of December 12, 2003, Choctaw Communications, Inc. d/b/a Smoke Signal Communications has not paid the past due RAF, including statutory late payment charges, requested cancellation of its certificate as required in Rule 25-24.820, Florida Administrative Code, or proposed a settlement. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

This is the second docket opened against Choctaw Communications, Inc. d/b/a Smoke Signal Communications for nonpayment of the RAF. On April 28, 2000, Order No. PSC-00-0850-AS-TX was issued in Docket No. 991985-TX. The Order accepted the company's \$100 settlement proposal. The company subsequently paid the past due RAFs and the \$100 settlement and the docket was then closed.

Accordingly, this Commission finds it appropriate to assess a \$1,000 penalty or cancel the company's certificate with an effective date of December 31, 2003, if the penalty and the Regulatory Assessment Fees, including statutory late payment charges, are not received by this Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty shall be paid to the Florida Public Service Commission. If this Commission's Order is not protested and the penalty and Regulatory Assessment Fees, including statutory late payment charges, are not received, the company's Certificate No. 5625 shall be cancelled administratively with an effective date of December 31, 2003, and the collection of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts. If Choctaw Communications, Inc. d/b/a Smoke Signal Communications' certificate is cancelled in accordance with this Commission's Order, the company shall immediately cease and desist providing competitive local exchange services in Florida.

It is therefore,

ORDERED by the Florida Public Service Commission that Choctaw Communications, Inc. d/b/a Smoke Signal Communications shall be required to pay a \$1000 penalty. 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

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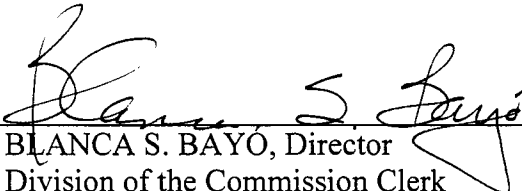
Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that the penalty shall be paid to the Florida Public Service Commission. If this Commission's Order is not protested and the penalty and Regulatory Assessment Fees, including statutory late payment charges, are not received within (14) calendar days of the issuance of the Consummating Order, the company's Certificate No. 5625 shall be cancelled administratively with an effective date of December 31, 2003, and the collection of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that if Choctaw Communications, Inc. d/b/a Smoke Signal Communications' certificate is cancelled in accordance with this Commission's Order, the company shall immediately cease and desist providing competitive local exchange services in Florida. It is further

ORDERED that this docket shall be closed either upon receipt of the imposed penalty, Regulatory Assessment Fees, including statutory late payment charges or upon the referral of past due fees to the Florida Department of Financial Services for further collection efforts.

By ORDER of the Florida Public Service Commission this 9th day of February, 2004.


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

(SEAL)

JPR

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 March 1, 2004.

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.