

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for cancellation) DOCKET NO. 940115-TC
of Pay Telephone Certificate No.) ORDER NO. PSC-94-0575-FOF-TC
2728 by SOUTHERN STAR) ISSUED: May 16, 1994
COMMUNICATIONS, INC. and)
application for certificate to)
provide pay telephone service by)
SUNDOWN COMMUNICATIONS, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER CANCELLING PAY TELEPHONE CERTIFICATE NO. 2728 AND
NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING A PAY
TELEPHONE CERTIFICATE TO SUNDOWN COMMUNICATIONS, INC.

BY THE COMMISSION:

I. Background

Southern Star Communications, Inc. (Southern Star) requested that Pay Telephone Certificate Number 2728 be changed to reflect a new corporate name, Sundown Communications, Inc. (Sundown). Sundown is a separate legal entity from Southern Star. 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, Southern Star requested that Certificate No. 2728 be cancelled and Sundown applied for a new certificate.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

II. Approval of Grant of Certificate

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed in this section 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.

Upon review, we find that Sundown'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 Sundown Communications, Inc. 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. 2728

We cancel Pay Telephone Certificate Number 2728, effective when the issuance of a certificate to Sundown becomes final. If it has not already done so, Southern Star is directed to return the certificate to the Commission. Our cancellation of this certificate in no way diminishes Southern Star's obligation to pay due and owing regulatory assessment fees.

It is, therefore,

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

ORDERED that Certificate Number 2728 be cancelled effective when the issuance of a certificate to Sundown Communications, Inc. becomes final. It is further

ORDERED that Southern Star Communications, Inc. shall return Certificate Number 2728 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 shall become effective on the following date and this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 16th
day of May, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
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.

As identified in Section II of this order, our action granting Sundown Communications, Inc. a pay telephone certificate 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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 6, 1994. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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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.

If Section II of this order granting a pay telephone certificate to Sundown Communications, Inc. becomes final and effective on the date described above, any party adversely 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.

Any party adversely affected by the Commission's final action in Section III cancelling Southern Star Communications, Inc. certificate to provide pay telephone service may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.