

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5002
issued to Penn Boys Legend
Telecom, Inc. for violation of
Rule 25-24.043, F.A.C., Response
to Commission Staff Inquiries,
and Rule 25-24.520, F.A.C.,
Reporting Requirements.

DOCKET NO. 980707-TC
ORDER NO. PSC-98-0904-FOF-TC
ISSUED: July 7, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION ORDER
LEVYING FINES OR CANCELING CERTIFICATE

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.

BACKGROUND

Penn Boys Legend Telecom, Inc., (PBLTI) obtained Florida
Certificate No. 5002 on December 25, 1996, for the provision of pay
telephone services in Florida. On March 20, 1998, we received a
complaint against PBLTI alleging that the company did not have a
working telephone number or valid address. On April 17, 1998, our
Division of Communications attempted to call PBLTI, but found that

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FPSC-RECORDS/REPORTING

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the telephone number was disconnected. As of May 30, 1998, its service was still disconnected.

On April 20, 1998, the Division of Communications mailed a certified letter to the address listed for PBLTI in the Master Commission Directory, informing PBLTI that by rule it must notify the Commission within ten days of any change in address or telephone, and forwarding the customer complaint. The letter was returned by the United States Postal Service with the notation "refused."

PBLTI has been dissolved as a Florida corporation since September 26, 1997. PBLTI's regulatory assessment fees are current.

RESPONSE TO COMMISSION STAFF INQUIRIES

Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, Cancellation of Certificate, establishes the requirements for cancellation of a pay telephone company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission rules and orders.

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, requires a reply to a complaint received by the Commission to be furnished in writing within 15 days of the Commission staff's inquiry. Well more than 15 days have elapsed since PBLTI refused the certified mailing. Also, there is no known telephone number for PBLTI. As a result, there appears to be no way to communicate with PBLTI in order to resolve the complaint. Accordingly, we find it appropriate to levy a penalty in the amount of \$10,000 for failure to comply with Rule 25-4.043, Florida Administrative Code, or to cancel Certificate No. 5002 if the penalty is not paid within five business days of the date this Order becomes final.

REPORTING REQUIREMENT

Pursuant to Rule 25-24.520, Florida Administrative Code, Reporting Requirements, a company is allowed ten days after a change occurs to file updated information indicating any changes in

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the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. As we have noted, mail sent to PBLTI was refused. It has been well over ten days and we have not been informed of PBLTI's correct mailing address, phone number, or liaison information, nor has PBLTI requested cancellation of its certificate pursuant to Rule 25-24.514, Florida Administrative Code.

Accordingly, we find it appropriate to levy a further penalty in the amount of \$500 for failure to comply with Rule 25-24.514, Florida Administrative Code, and to cancel PBLTI's certificate if the penalty is not paid and the information required by Rule 25-24.520, Florida Administrative Code, is not received within five business days of the date this Order becomes final.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that a penalty in the amount of \$10,000 shall be levied on Penn Boys Legend Telecom, Inc., for violation of Rule 25-4.043, Florida Administrative Code. It is further

ORDERED that Certificate No. 5002 shall be canceled if the penalty in the amount of \$10,000 is not paid within five business days of the date this Order becomes final. It is further

ORDERED that a penalty in the amount of \$500 shall be levied on Penn Boys Legend Telecom, Inc., for violation of Rule 25-24.520, Florida Administrative Code. It is further

ORDERED that Certificate No. 5002 shall be canceled if the penalty in the amount of \$500 is not paid and the information required by Rule 25-24.520, Florida Administrative Code, is not received within five business days of the date this Order becomes final. It is further

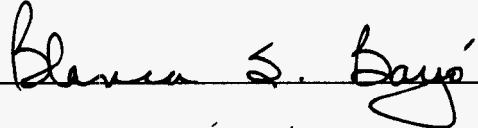
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth

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in the "Notice of Further Proceedings or Judicial Review" 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 7th day of July, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CJP

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 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.

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 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 28, 1998.

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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.

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.