

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Alternative Local Exchange
Telecommunications Certificate
No. 5249 issued to Preferred
Payphones, Inc. for violation of
Rule 25-4.043, F.A.C., Response
to Commission Staff Inquiries.

DOCKET NO. 981248-TX
ORDER NO. PSC-98-1656-FOF-TX
ISSUED: December 9, 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 IMPOSING FINE OR CANCELING ALTERNATIVE LOCAL EXCHANGE
TELECOMMUNICATIONS 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.

I. BACKGROUND

Preferred Payphones, Inc. (Preferred) was granted a Florida
Public Service Commission Alternative Local Exchange
Telecommunications certificate number 5249 on October 22, 1997.

On August 5, 1998, we received a notice from BellSouth
Telecommunications, Inc. (BellSouth) stating that Preferred was
going to be disconnected for non-payment of services provided on
August 14, 1998. On August 6, 1998, our staff attempted to call

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Preferred, but the telephone number was disconnected. As of October 1, 1998, the number was still disconnected, and no forwarding number was available.

On August 14, 1998, our staff mailed a certified letter to the address listed in the Master Commission Directory informing Preferred that it must respond to our inquiries within 15 days of the inquiry. The letter also contained a request for acknowledgment of BellSouth's disconnect notification and explanation of how many customers will be affected. The letter was returned by the United States Postal Service stamped "Refused."

On August 31, 1998 our staff searched the Internet for a another address for Preferred and found a different address for the company. On September 9, 1998, our staff mailed a second certified letter to the new address listed on the Internet informing Preferred that this was a "Second Notice," and it must notify us within 15 days of any inquiry. This letter also contained a request for acknowledgment of BellSouth's disconnect notification and explanation of how many customers will be affected, as well as a statement regarding the penalties we may pursue if no response is received. This letter was returned by the United States Postal Service stamped "Return To Sender" and handwritten "Vacant." Further, it appears Preferred's Florida corporation status was "Revoked For Annual Report" as of October 16, 1998. At the present time, Preferred's regulatory assessment fees are current.

II. DISCUSSION

Pursuant to Section 364.285, Florida Statutes, we may impose a fine or cancel a certificate if a company fails to comply with this Commission's rules. Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, requires a reply to an inquiry by this Commission to be furnished in writing within 15 days of our inquiry. It has been over 60 days since Preferred refused the first certified mail, which included the initial information request. Additionally, there is no known telephone number or forwarding address for Preferred. As a result, we have no way to communicate or resolve the issue which generated the inquiry. Thus, it appears that Preferred has violated Rule 25-4.043, Florida Administrative Code.

III. CONCLUSION

Accordingly, we find it appropriate to assess a \$10,000 fine to Preferred for failure to comply with Rule 25-4.043, Florida Administrative Code. Preferred must pay this fine within five

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business days from the date this Order becomes final. The fines will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes. Upon remittance of the fine, this Docket shall be closed.

Should Preferred fail to comply with this Order within five business days from the date this Order becomes final, Preferred shall have its certificate canceled, and the \$10,000 fine shall be forwarded to the Office of the Comptroller for collection; and the docket shall be closed.

Based on the foregoing, it is

ORDERED that Preferred Payphones, Inc. must pay a \$10,000 fine to the Florida Public Service Commission for failure to comply with Rule 25-4.043, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

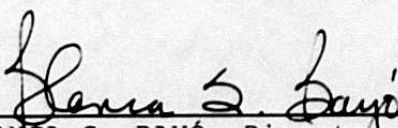
ORDERED that should Preferred Payphones, Inc. fail to comply with this Order, Preferred Payphones, Inc.'s certificate shall be canceled, the \$10,000 fine shall be assessed, and the docket shall be closed. The fine shall be forwarded to the Office of the Comptroller for collection. It is further

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 28-106.201, 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 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 upon payment of the fine, or upon cancellation of the certificate and assessment of the \$10,000 fine.

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By ORDER of the Florida Public Service Commission this 9th day of December, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

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. 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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 30, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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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 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.