

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 2602
issued to Charles Kaye d/b/a US
Phoneline for violation of Rule
25-4.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies.

DOCKET NO. 981190-TC
ORDER NO. PSC-99-0778-FOF-TC
ISSUED: April 21, 1999

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF REGULATORY
ASSESSMENT FEES, OR CANCELING PAY TELEPHONE 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.

Charles Kaye d/b/a US Phoneline (US Phoneline) obtained
Certificate No. 2602 on December 5, 1990. US Phoneline has not
paid the regulatory assessment fees required by Section 364.336,
Florida Statutes, and Rule 25-4.0161, Florida Administrative Code,
for the year 1997, nor statutory penalties and interest charges for
the years 1991, 1994, 1995, 1996, and 1997. Under Section 364.336,
Florida Statutes, certificate holders must pay a minimum annual
regulatory assessment fee of \$50 if the certificate was active
during any portion of the calendar year. Pursuant to Rule 25-

DOCUMENT NUMBER-DATE

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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. All entities that apply for certification receive a copy of our rules governing pay telephone service and an affidavit in which the applicants attest that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the regulatory assessment fee forms, for the period of January 1, through December 31, are mailed to the entities at least 45 days prior to the date that payment of the fee is due. US Phonenumber has been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was received but not acknowledged. To date, US Phonenumber has not paid the required fees.

After our staff had filed a recommendation, but prior to the December 1, 1998 Agenda Conference, Mr. Kaye called our staff and stated that he would do what was necessary to resolve this matter. Therefore, our staff requested that this item be deferred from the Agenda Conference to address Mr. Kaye's request.

Since the deferral, our staff has contacted Mr. Kaye on three separate occasions. On each occasion, Mr. Kaye has advised staff that he would be paying the outstanding charges and make a settlement offer. To date, Mr. Kaye has neither paid the past due charges nor proposed a settlement offer.

Further, after researching the data bank, our staff discovered that this is the second docket opened for this rule violation. The first was Docket No. 920431-TC. By Order No. PSC-92-1064-FOF-TC, issued September 24, 1992, Mr. Kaye was ordered to show cause in writing by October 14, 1992, why a fine should not be imposed or the certificate would be canceled. On October 28, 1992, Mr. Kaye paid the \$100 fine. The certificate was reinstated by Order No. PSC-93-0299-FOF-TC, issued February 25, 1993, and the docket was closed.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel US Phonenumber's certificate, effective December 31, 1998, for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code,

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unless US Phonenumber pays a \$1,000 fine and remits all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. US Phonenumber must comply with these requirements within five business days from the date this Order becomes final. The fine will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and fine are received, this Docket shall be closed. Should US Phonenumber fail to comply with this Order within five business days from the date this Order becomes final, US Phonenumber shall have its certificate canceled, effective December 31, 1998, and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes US Phonenumber's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Charles Kaye d/b/a US Phonenumber must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$1,000 fine to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, 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 Charles Kaye d/b/a US Phonenumber fail to comply with this Order, Charles Kaye d/b/a US Phonenumber's Certificate No. 2602 shall be canceled, effective December 31, 1998, and the Docket shall be closed. It is further

ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes Charles Kaye d/b/a US Phonenumber's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. 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,

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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, and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 21st day of April, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

KMP

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

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Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 12, 1999.

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

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.

MEMORANDUM

April 20, 1999

RECEIVED-FPSC

99 APR 21 AM 10:53

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *KMP CB*

RE: DOCKET NO. 981190-TC -In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 2602 issued to Charles Kaye d/b/a US Phonenumber for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

99-0778-FOF

Attached is an:

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF REGULATORY
ASSESSMENT FEES, OR CANCELING PAY TELEPHONE CERTIFICATE

to be issued in the above-referenced docket. (Number of pages in order - 5)

KMP/slh
Attachment
cc: Division of Communications
I:981190.kmp

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 4, 22, 99

Number of Originals _____

Copies Per Original 16

Requested By Kubla

Item Presented

Agenda For (Date) _____ Order No. 99-0778 In Docket No. 981190

Notice of _____ For (Date) _____ In Docket No. _____

Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>16</u>	Commission Offices		
	Docket Mailing List - Mailed		
	Docket Mailing List - Faxed		

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 297 Verified By Michael

Date and Time Completed 4/23 Job Checked For Correctness and Quality (Initial) _____

Mail Room Verification

Date Mailed _____ Verified By _____