

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
Alternative Access Vendor  
Certificate No. 4097 issued to  
U.S. Telesys, L.P. for violation  
of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 981233-TA  
ORDER NO. PSC-99-0940-PAA-TA  
ISSUED: May 11, 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 CANCELING ALTERNATIVE ACCESS VENDOR CERTIFICATE  
INVOLUNTARILY

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 formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

U.S. Telesys, L.P. (U.S. Telesys) currently holds Certificate of Public Convenience and Necessity No. 4097, issued by the Commission on February 3, 1996, authorizing the provision of Alternative Access Vendor service. U.S. Telesys has not paid the regulatory assessment fees (RAF) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years 1997. Also, accrued statutory penalties and interest charges for the years 1996 and 1997 have not been paid. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay

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a minimum annual RAF of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161 (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 Alternative Access Vendor service. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fees is due. U.S. Telesys has been given adequate opportunity to pay. The Commission's correspondence regarding the RAFs was signed for and delivered to U.S. Telesys on December 15, 1997.

On December 18, 1998, Order No. PSC-98-1714-FOF-TC was issued, imposing a \$500 fine and requiring payment of the fine and past due RAFs, along with statutory penalties and interest charges accrued, by January 15, 1999. The company's attorney, Mr. David Wintersgill, responded to the Order and requested that the company's certificate be canceled. As of the date of this vote, U.S. Telesys has not paid the past due fees or the statutory penalties and interest charges accrued.

U.S. Telesys has not complied with Rule 25-24.735(2), Florida Administrative Code, which states:

(2) If a certificated AAV service provided seeks to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following information with its request:

(a) the date of the final Regulatory Assessment Fee was paid;

(b) a statement of the reasons for cancellation;

(c) a statement on the treatment of customer deposits and final bills; and

(d) a representative copy of a customer notice regarding discontinuance of service.



Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.735(2), Florida Administrative Code, or we involuntarily cancel the certificate, U.S. Telesys is responsible for the RAFS. As of the date of this vote, U.S. Telesys continues to be in violation of our rules for non-payment of RAFS for 1997 and 1998, as well as statutory penalties, and interest charges accrued for 1996, 1997, and 1998.

For the reasons described above, pursuant to Rule 25-24.735(1)(b) and (c), Florida Administrative Code, we deny U.S. Telesys's request for voluntary cancellation of Alternative Access Vendor Certificate No. 4097 for failure to comply with the provisions of 25-24.735(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel U.S. Telesys's certificate, effective December 31, 1999, for failure to pay RAFS pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since U.S. Telesys is no longer in business, there would be no purpose in requiring U.S. Telesys to pay a fine. By involuntarily canceling U.S. Telesys's certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes U.S. Telesys's obligation to pay applicable delinquent RAFS for 1997 and 1998, as well as statutory penalties, and interest charges accrued for 1996, 1997, and 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny U.S. Telesys, L.P.'s request for voluntary cancellation of Alternative Access Vendor Certificate No. 4097. It is further

ORDERED that pursuant to Rule 25-24.735(1)(b) and (c), Florida Administrative Code, we hereby cancel U.S. Telesys, L.P.'s Alternative Access Vendor Certificate No. 4097, effective December 31, 1998, for failure to comply with Rule 25-24.735(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

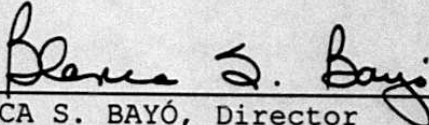
ORDERED that U.S. Telesys, L.P. remains obligated for all due and owing regulatory assessment fees for the years 1997 and 1998, as well as accrued statutory penalties and interest charges for 1996, 1997, and 1998. It is further

ORDER NO. PSC-99-0940-PAA-TA  
DOCKET NO. 981233-TA  
PAGE 4

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.

By ORDER of the Florida Public Service Commission, this 11th day of May, 1999.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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.



ORDER NO. PSC-99-0940-PAA-TA  
DOCKET NO. 981233-TA  
PAGE 5

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 June 1, 1999.

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 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.