

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 4972  
issued to Starbrite Payphones  
for violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 981314-TC  
ORDER NO. PSC-99-1032-PAA-TC  
ISSUED: May 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.

Starbrite Payphones (Starbrite) obtained Certificate No. 4972  
on December 11, 1996. The Division of Administration informed our  
staff by memorandum that Starbrite had not paid the regulatory  
assessment fees (RAF) required by Section 364.336, Florida  
Statutes, and Rule 25-4.0161, Florida Administrative Code, for the  
year 1997. Also, accrued statutory penalties and interest charges  
for the year 1997 had not been paid. Pursuant to Section 364.336,  
Florida Statutes, certificate holders must pay a minimum annual  
regulatory assessment fee of \$50 if the certificate was active

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FPSC-RECORDS/REPORTING

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 pay telephone service. All applicants 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 RAF 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. The Commission's correspondence regarding the RAFs was signed for and delivered to Starbrite on December 16, 1997.

After the docket was opened, but prior to a recommendation being filed, the company's owner, Mr. Robert Young, contacted our staff and stated he believed that the company had paid the 1997 RAFs. He further stated that he would check the company's records, pay the past due amount if it had not been paid, and make a settlement offer. On September 14, 1998, in recognition of its apparent violation of Rule 25-4.0161, Florida Administrative Code, Starbrite paid the past due amount in full, including accrued statutory penalties and interest charges. However, our staff did not receive a settlement offer from the company.

Our staff contacted Mr. Young on two occasions to inquire about the settlement offer. On both occasion, Mr. Young asserted that the company would submit a settlement offer. Our staff further informed Mr. Young that the 1998 RAFs were past due. Mr. Young asked that our staff provide him with a 1998 RAF form. As of the date of this vote, Starbrite has neither paid its 1998 RAF, along with accrued statutory penalties and interest charges, nor submitted a settlement offer.

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

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Accordingly, for the reason described above, pursuant to Section 364.285, Florida Statutes, and Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Starbrite's certificate, effective December 31, 1998, for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Starbrite pays a \$500 fine and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. Starbrite 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 Starbrite fail to comply with this Order within five business days from the date this Order becomes final, Starbrite 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 Starbrite's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges for 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Starbrite Payphones must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$500 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 Starbrite Payphones fail to comply with this Order, Starbrite Payphones' Certificate No. 4972 shall be canceled, effective December 31, 1998, and the Docket shall be closed. It is further

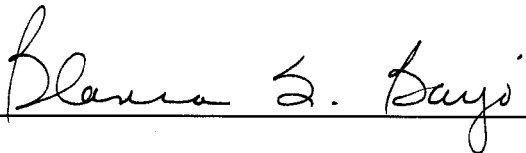
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ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes Starbrite Payphones' obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges for 1998. It is further

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 and fees, or upon cancellation of the certificate.

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



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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

KMP

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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 that is available under Section 120.57, 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 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 June 11, 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.

M E M O R A N D U M

May 21, 1999

RECEIVED-FPSC

99 MAY 21 AM 10:33

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

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

RE: DOCKET NO. 981314-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4972 ISSUED TO STARBRITE PAYPHONES FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

99-1032-PAA

Attached is a 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/anr  
Attachment  
cc: Division of Communications  
I: 981314.kmp

*See 3.4*

*1 certified*

Requisition for Photocopying and Mailing

Date 5, 24, 99  
 Number of Originals 5 Copies Per Original \_\_\_\_\_  
 Requested By Ruth

Item Presented \_\_\_\_\_  
 Agenda For (Date) \_\_\_\_\_ Order No. 9-1032 In Docket No. 981314  
 Notice of \_\_\_\_\_ For (Date) \_\_\_\_\_ In Docket No. \_\_\_\_\_  
 Other \_\_\_\_\_

Special Handling Instructions \_\_\_\_\_

Distribution/Mailing		Distribution/Mailing	
Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>	---	_____
_____	<u>Docket Mailing List - Mailed</u>	_____	_____
_____	<u>Docket Mailing List - Faxed</u>	_____	_____

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

Print Shop Verification  
 Job Number 248 Verified By H. Del  
 Date and Time Completed 5/26 Job Checked For Correctness and Quality (Initial) "

Mail Room Verification  
 Date Mailed / Verified By /