

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5454
issued to Justus Communications,
Inc. for violation of Rule 25-
4.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies.

DOCKET NO. 990809-TC
ORDER NO. PSC-99-1782-PAA-TC
ISSUED: September 10, 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 PAY TELEPHONE 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 a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

Justus Communications, Inc. (Justus Communications) currently
holds Certificate of Public Convenience and Necessity No. 5454,
issued by the Commission on October 7, 1997, authorizing the
provision of Pay telephone service. Justus Communications has not
paid the regulatory assessment fees (RAFs) required by Section
364.336, Florida Statutes, and Rule 25-4.0161, Florida
Administrative Code, for the year 1998. Also, accrued statutory

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penalties and interest charges for the year 1998 have not been paid.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay 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 pay telephone 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. Justus Communications has been given adequate opportunity to pay. The Commission's correspondence regarding the RAFs was returned by Justus Communications on March 22, 1999, with a notation that the company had ceased doing business in December 1998.

By letter dated March 22, 1999, Justus Communications responded and stated that he was no longer in business and that he had requested for a cancellation of his certificate in October of 1998. After examining Justus Communications account and file, our staff determined that there was no record of receiving a request for cancellation in 1998 from Justus Communications. Therefore, on April 9, 1999, our staff mailed a letter to Justus Communications explaining that until it paid the outstanding RAFs and accrued statutory penalties and interest charges for the year 1998, our staff could not recommend to the Commission approval of a voluntary cancellation of the certificate. Justus Communications returned our staff's letter with comments regarding the inability to comply due to lack of funds and assets. As of the date of this vote, the Division of Administration's records do not show a payment of the past due amount.

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Justus Communications has not complied with Rule 25-24.514(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be canceled.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.514(2), Florida Administrative Code, or we involuntarily cancel the certificate, Justus Communications is responsible for the RAFS. As of the date of this vote, Justus Communications is in violation of our rules for non-payment of RAFS for 1998.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Justus Communications's request for voluntary cancellation of Pay telephone Certificate No. 5454 for failure to comply with the provisions of 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161 (2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Justus Communications's certificate for failure to pay RAFS pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since Justus Communications is no longer in business, there would be no purpose in requiring Justus Communications to pay a fine. By involuntarily canceling Justus Communications'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 Justus Communications's obligation to pay applicable delinquent RAFS, statutory penalties, and interest charges for 1998.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Justus Communications, Inc.'s request for voluntary cancellation of Pay telephone Certificate No. 5454. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Justus Communications, Inc.'s Pay telephone Certificate No. 5454 for failure to comply with Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that Justus Communications, Inc. remains obligated for all due and owing regulatory assessment fees for the year 1998, as well as accrued 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 upon the issuance of a Consummating Order 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 10th day of September, 1999.



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 October 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.

MEMORANDUM

September 7, 1999
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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

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

RE: DOCKET NO. 990809-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5454 ISSUED TO JUSTUS COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

1782 - PAA

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER CANCELING PAY TELEPHONE CERTIFICATE INVOLUNTARILY, to be issued in the above-referenced docket. (Number of pages in order - 5)

KMP/anc
Attachment
cc: Division of Communications
I: 990809ix.kmp

See 1782

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