

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 4046 issued to
SmarTalk TeleServices, Inc.
d/b/a Pronto! for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 991249-TI
ORDER NO. PSC-99-2412-PAA-TI
ISSUED: December 8, 1999

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING INTEREXCHANGE TELECOMMUNICATIONS 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.

SmarTalk TeleServices, Inc. (SmarTalk) currently holds
Certificate of Public Convenience and Necessity No. 4046, issued by
the Commission on July 4, 1995, authorizing the provision of
Interexchange Telecommunications service. SmarTalk 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 penalties and interest
charges for the years 1995 and 1998 have not been paid.

DOCUMENT NUMBER-DATE

14976 DEC-8 99

FPSC-RECORDS/REPORTING

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 Interexchange Telecommunications 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-day prior to the date that payment of the fees is due. 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. However, pursuant to Section 350.113(4), Florida Statutes, the Commission shall provide at least a 45 days notice of the date the payment is due prior to the due date. SmarTalk was scheduled to remit its RAFs by February 1, 1999. On February 15, 1999, we received a Bankruptcy Notice. We then received a letter, on May 12, 1999, from The Rebensdorf Group, Inc. requesting cancellation of SmarTalk's certificate.

SmarTalk has not complied with Rule 25-24.474(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 cancelled.

(c) A statement on treatment of customer deposits and final bills.

(d) Proof of individual customer notice regarding discontinuance of service.

ORDER NO. PSC-99-2412-PAA-TI
DOCKET NO. 991249-TI
PAGE 3

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, SmarTalk is responsible for the RAFs. As of the date of this vote, SmarTalk continues to be in violation of our rules for non-payment of RAFS for 1998.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny SmarTalk's request for voluntary cancellation of Interexchange Telecommunications Certificate No. 4046 for failure to comply with the provisions of 25-24.474(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel SmarTalk's certificate, effective on the date of issuance of the Consummating Order, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since SmarTalk is no longer in business, there would be no purpose in requiring SmarTalk to pay a fine. By involuntarily canceling SmarTalk'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 SmarTalk's obligation to pay applicable delinquent RAFs for 1998, statutory penalties, and interest charges for 1995 and 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny SmarTalk TeleServices, Inc.'s request for voluntary cancellation of Interexchange Telecommunications Certificate No. 4046. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we hereby cancel SmarTalk TeleServices, Inc.'s Interexchange Telecommunications Certificate No. 4046, effective on the date of issuance of Consummating Order, for failure to comply with Rule 25-24.474(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

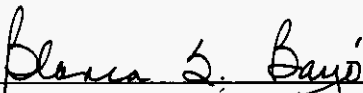
ORDERED that SmarTalk TeleServices, Inc. remains obligated for all due and owing Regulatory Assessment Fees for the year 1998, as well as accrued statutory penalties and interest charges for 1995 and 1998. It is further

ORDER NO. PSC-99-2412-PAA-TI
DOCKET NO. 991249-TI
PAGE 4

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 8th day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(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 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.

ORDER NO. PSC-99-2412-PAA-TI
DOCKET NO. 991249-TI
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 December 29, 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.