

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 2250  
issued to Walker Memorial  
Hospital for violation of Rule  
25-4.0161, F.A.C., Regulatory  
Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 991247-TC  
ORDER NO. PSC-99-2415-PAA-TC  
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 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.

Walker Memorial Hospital (Walker Memorial) currently holds Certificate of Public Convenience and Necessity No. 2250, issued by the Commission on March 24, 1989, authorizing the provision of Pay Telephone service. Walker Memorial had not paid the regulatory assessment fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years 1997 and 1998. Also, accrued statutory penalties and interest charges for the years 1991, 1994, 1997, and 1998 had not been paid.

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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-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. Walker Memorial was scheduled to remit its RAFs by February 1, 1999.

On February 9, 1999, Walker Memorial advised our staff that it wished to change its name to Florida Hospital Heartland Medical Center. Our staff advised the company that Department of State, Division of Corporations' records show that Walker Memorial Hospital is not a fictitious name or a corporation, that the new name would be a fictitious name, and that the new name is owned by another company. Further, our staff advised that the company would have to cancel its current certificate and apply for a new certificate. Subsequently, on April 16, 1999, Walker Memorial requested cancellation of its certificate and asked that a new application be mailed. The application was mailed. On July 20, 1999, our staff wrote to Walker Memorial for a follow-up on the status of the application and provided another application. Our staff further advised the company that a voluntary cancellation could not be processed since RAFs, including penalty and interest were outstanding. Walker Memorial responded on August 18, 1999, and advised that the hospital had decided not to reapply for a certificate and again requested cancellation of its certificate in the name of Walker Memorial Hospital. The Division of Administration advised that a check had been received on September 13, 1999, for the 1997 and 1998 RAFs, and a portion of the past due statutory penalty and interest charges.

Walker Memorial 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 cancelled.

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, Walker Memorial is responsible for the RAFs. As of the date of this vote, Walker Memorial continues to be in violation of our rules for non-payment of the past due statutory penalties and interest charges.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Walker Memorial's request for voluntary cancellation of Pay Telephone Certificate No. 2250 for failure to comply with the provisions of 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Walker Memorial'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 Walker Memorial is no longer in business, there would be no purpose in requiring Walker Memorial to pay a fine. By involuntarily canceling Walker Memorial'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 Walker Memorial's obligation to pay applicable delinquent statutory penalties, and interest charges for 1991, 1994, 1997, and 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Walker Memorial Hospital's request for voluntary cancellation of Pay Telephone Certificate No. 2250. It is further

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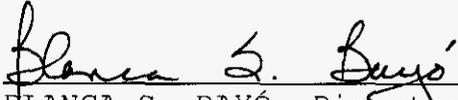
ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Walker Memorial Hospital's Pay Telephone Certificate No. 2250, effective on the date of issuance of the Consummating Order, for failure to comply with Rule 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that Walker Memorial Hospital remains obligated to remit Regulatory Assessment Fees for the year 1999, as well as the accrued balance of statutory penalties and interest charges for the years 1991, 1994, 1997, and 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 8th day of December, 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 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 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.