

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 4606  
issued to Vertex Enterprize &  
Investment, Inc. for violation  
of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 981294-TC  
ORDER NO. PSC-99-2500-FOF-TC  
ISSUED: December 21, 1999

The following Commissioners participated in the disposition of  
this matter:

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

FINAL ORDER DISMISSING PROTEST OF  
ORDER NO. PSC-99-1031-PAA-TC  
AND CANCELING PAY TELEPHONE CERTIFICATE

BY THE COMMISSION:

On May 10, 1996, Order No. PSC-96-0641-FOF-TC was issued, granting Certificate No. 4606, to Vertex Enterprize & Investment, Inc., (Vertex). On October 8, 1998, the Commission opened this docket for nonpayment of 1997 RAFs. On October 15, 1998, Vertex paid a \$50 RAF, and \$5 toward the penalty. After experiencing great difficulty in contacting Vertex, our staff eventually did make contact and, on December 8, 1998, Vertex paid the balance on the penalty and interest for 1997. On December 10, 1998, Vertex made a settlement offer of \$100. On February 19, 1999, the Commission issued Order No. PSC-99-0339-AS-TC, approving Vertex's settlement offer. Vertex did not, however, remit the settlement amount, and made no further efforts to comply with the Order. On May 21, 1999, we issued proposed agency action (PAA) Order No. PSC-99-1031-PAA-TC, requiring Vertex to either pay a \$30,500 fine or have its certificate canceled for failure to comply with Section 364.336,

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FPSC-RECORDS/REPORTING

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Florida Statutes, Rules 25-4.0161, 25-24.520, 25-4.043, Florida Administrative Code, and Order No. PSC-99-0339-AS-TC. Vertex was ordered to comply with these requirements within five business days from the date Order No. PSC-99-1031-PAA-TC became final. The fines were to be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes. We also indicated that when the appropriate fines were received, this docket would be closed.

In addition, we explained that if Vertex failed to comply with Order No. 99-1031-PAA-TC within five business days from the date the Order became final, Vertex's certificate would be canceled and the docket would be closed. Furthermore, if the certificate were canceled, then all certificated local exchange companies would be instructed to discontinue service to Vertex, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

On June 10, 1999, Vertex protested Order No. PSC-99-1031-PAA-TC, thereby rendering the proposed agency action order a nullity. Vertex has, however, failed to pursue its protest to any degree. Vertex also failed to appear at the November 15, 1999, prehearing conference and did not comply with any portion of the Order Establishing Procedure for this Docket, Order No. PSC-99-1581-PCO-TC, issued August 11, 1999. Therefore, we hereby dismiss Vertex's June 10, 1999, protest and reinstate Order No. PSC-99-1031-PAA-TC as a final order, effective November 30, 1999, with the modification that Vertex no longer has five days to pay the \$30,500 fine in order to avoid cancellation of their certificate. Vertex has failed to pursue its protest and has refused to pay the settlement amount; therefore, its certificate shall be canceled. All past due regulatory assessment fees for Vertex, along with statutory penalties and interest charges, will be forwarded to the Office of the Comptroller for further collection efforts, and all certificated local exchange companies will be instructed to discontinue service to Vertex, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

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Furthermore, this action will in no way relieve Vertex of its obligation to pay 1999 regulatory assessment fees, which are not yet past due. If Vertex fails to pay 1999 regulatory assessment fees, the 1999 fees will be forwarded to the Office of the Comptroller for further collection efforts. However, failure to pay 1999 fees will not result in additional punitive action by the Commission because further action would be unnecessarily redundant.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the protest of Order No. PSC-99-1031-PAA-TC, filed by Vertex Enterprize & Investment, Inc., is hereby dismissed. It is further

ORDERED that Order No. PSC-99-1031-PAA-TC shall be reinstated as a final order, effective November 30, 1999, as modified in the body of this Order. It is further

ORDERED that Certificate No. 4606, held by Vertex Enterprize & Investment, Inc., is canceled, effective on the issuance date of this Order. It is further

ORDERED that all Florida-certificated local exchange companies shall discontinue service to Vertex Enterprize & Investment, Inc. in accordance with Rule 25-24.510, Florida Administrative Code. It is further

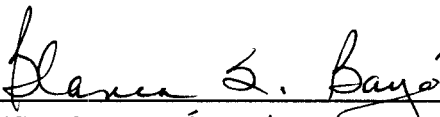
ORDERED that all past due regulatory assessment fees, along with statutory penalties and interest, shall be forwarded to the Office of the Comptroller for further collection efforts. It is further

ORDERED that the 1999 regulatory assessment fees for Vertex Enterprize & Investment, Inc. Shall also be forwarded to the Office of the Comptroller for further collection efforts if the 1999 regulatory assessment fees become past due. It is further

ORDERED that this docket shall be closed.

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

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

CLF

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/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 after the issuance 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.

RECEIVED-PPSC

M E M O R A N D U M

99 DEC 20 PM 3:41

December 17, 1999

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (FORDHAM) *clt. h/c*

RE: DOCKET NO. 981294-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 4606 ISSUED TO VERTEX ENTERPRIZE & INVESTMENT, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

2500-FOF

Attached is an FINAL ORDER DISMISSING PROTEST OF ORDER NO. PSC-99-1031-PAA-TC AND CANCELING PAY TELEPHONE CERTIFICATE, to be issued in the above-referenced docket. (Number of pages in order - 4)

CLF/anc  
Attachment  
cc: Division of Communications  
I: 981294fo.clf

*pg 1 + 3*

*forced - 12/10  
wanted -*