

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5526
issued to Gloria Clockedile for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 000425-TC
ORDER NO. PSC-00-1710-FOF-TC
ISSUED: September 25, 2000

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

ORDER CANCELING PAY TELEPHONE CERTIFICATE

BY THE COMMISSION:

On December 5, 1997, Gloria Clockedile (Clockedile) was granted PATS Certificate No. 5526. On February 26, 1999, this Commission received Clockedile's payment for the 1998 regulatory assessment fee (RAF). On December 8, 1999, our Division of Administration (DOA) mailed the regulatory assessment fee (RAF) notice. The due date was January 31, 2000. Our DOA mailed a delinquent letter to Clockedile on February 29 2000. On February 13, 2000, this Commission received correspondence from Clockedile that advised it had been out of business since July 1999 and had filed for bankruptcy on August 15, 1999, and asked for cancellation of its certificate.

On April 5, 2000, this Commission received a notice from Clockedile advising that it had filed for protection under Chapter 7 of the Federal Bankruptcy Code. We note that this Commission was never formally served notice of bankruptcy proceedings for Clockedile.

DOCUMENT NUMBER-DATE

11985 SEP 25 8

FPSC-RECORDS/REPORTING

Chapter 7 of Section 109 of the Federal Bankruptcy Code provides for total liquidation of the business entity. The filing of a bankruptcy petition under Chapter 7 invokes an automatic injunction known as the Automatic Stay, codified in Bankruptcy Code Section 362. Upon such filing, an interim Trustee in Bankruptcy is immediately appointed who has the duty to collect and secure the non-exempt assets of the debtor and distribute them to creditors in the manner set forth in the Bankruptcy Code. Secured creditors are given the highest priority in the distribution and, normally, receive all of the distributed assets. Regulatory fees and penalties owed by a company to the Florida Public Service Commission are not secured debts and, as a practical matter, are uncollectible in a Chapter 7 proceeding.

This Commission is prevented by the automatic stay provision of the Bankruptcy Code from taking action against Clockedile for its failure to pay regulatory assessment fees. Although this Commission does not typically grant a cancellation of a telecommunications certificate when there is an outstanding balance, a cancellation should be granted in this case, since Clockedile requested cancellation of its certificate and filed for protection under Chapter 7 of the Bankruptcy Code.

Accordingly, we believe that a "bankruptcy cancellation" of Clockedile's Certificate No. 5526 is appropriate, with an effective date of April 5, 2000. In addition, the DOA will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that permission for this Commission to write-off the uncollectible amount will be requested.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gloria Clockedile's Certificate No. 5526 to provide Pay Telephone services is hereby canceled, effective April 5, 2000. It is further

ORDERED that this Docket is closed.

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By ORDER of the Florida Public Service Commission this 25th
day of September, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

FRB

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.