

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 6004
issued to David Stover Jr. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 001090-TC
ORDER NO. PSC-00-2109-PAA-TC
ISSUED: November 7, 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

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.

David Stover Jr. (Stover) currently holds Certificate of
Public Convenience and Necessity No. 6004, issued by the Commission
on February 16, 1999, authorizing the provision of Pay Telephone
service. Stover has not paid the Regulatory Assessment Fees
[RAF(s)] required by Section 364.336, Florida Statutes, and Rule
25-4.0161, Florida Administrative Code, for the year 1999. Also,
accrued statutory penalties and interest charges for the year 1999
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

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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. 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. Stover was scheduled to remit its RAFs by January 31, 2000.

On March 17, 2000, the Commission received a letter from the company requesting cancellation of its certificate. After the Commission received the company's letter, which stated that it "had decided not to renew" its certificate, staff wrote the company on April 7, 2000. Staff explained that a voluntary cancellation could not be recommended when there was an outstanding balance. As of September 27, 2000, the company has not paid the 1999 RAF, including statutory penalty and interest charges, or advised when the 2000 fee would be paid.

Stover 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, Stover is responsible for the RAFs. As of the date of this vote, Stover continues to be in violation of our rules for non-payment of RAFs for 1999.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Stover's request for voluntary cancellation of Pay Telephone Certificate No. 6004 for failure to comply with the provisions of 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Stover'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. Stover shall return to this Commission the Order granting authority to provide Pay Telephone services.

Since Stover is no longer in business, there would be no purpose in requiring Stover to pay a fine. By involuntarily canceling Stover'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 Stover's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny David Stover Jr.'s request for voluntary cancellation of Pay Telephone Certificate No. 6004. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel David Stover Jr.'s Pay Telephone Certificate No. 6004, 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

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Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

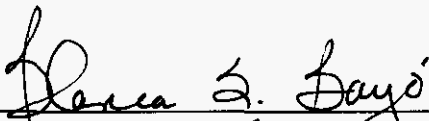
ORDERED that David Stover Jr. shall return to this Commission the Order granting authority to provide Pay Telephone services. It is further

ORDERED that David Stover Jr. remains obligated for all due and owing Regulatory Assessment Fees for the year 1999, as well as accrued statutory penalties and interest charges. 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 7th day of November, 2000.



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 November 28, 2000.

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.