

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 5467  
issued to KoinPhone Inc. for  
violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 991157-TC  
ORDER NO. PSC-01-0328-FOF-TC  
ISSUED: February 6, 2001

The following Commissioners participated in the disposition of  
this matter:

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

ORDER VACATING IN PART ORDER NO. PSC-99-2205-PAA-TC AND  
CONSUMMATING ORDER NO. PSC-99-2347-CO-TC

BY THE COMMISSION:

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee (RAFs) 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.

KoinPhone, Inc. (KoinPhone) had not paid the 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 had not been paid for the years 1997 and 1998. For the reason described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we issued Order No. PSC-99-2205-PAA-TC on November 9, 1999, to cancel KoinPhone's and other entities' certificates for failure to comply with Section

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364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless each entity paid a \$500 fine and remitted all past due RAFs, along with accrued statutory penalties and interest charges. Each entity had to comply with these requirements within five business days after the conclusion of the 21-day protest period. Since we did not received a protest from KoinPhone, we issued Consummating Order No. PSC-99-2347-CO-TC on December 3, 1999, to acknowledge that Order No. PSC-99-2205-PAA-TC had become effective and final. KoinPhone's certificate was cancelled effective the date of issuance of the Consummating Order.

On December 8, 2000, KoinPhone Inc.'s President, Mr. Moises Rodriguez, contacted our staff and advised that a collection agency had contacted him concerning the 1998 and 1999 RAFs. He advised that when he paid his 1997 RAF, he wrote a note on the check and on the RAFs form requesting cancellation. Therefore, Mr. Rodriguez contested his owing the 1998 and 1999 RAFs. Mr. Rodriguez subsequently faxed staff a copy, front and back, of his cancelled check, which supports his statement. Our staff then requested a copy of KoinPhone's 1997 RAFs return from the Division of Administration. Again, our copy of the actual return supports Mr. Rodriguez's statement.

Accordingly, we find it appropriate to vacate that portion of Order No. PSC-99-2205-PAA-TC, which imposed a \$500 fine for the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, as it relates to KoinPhone Inc. We further find it appropriate to grant KoinPhone a retroactive cancellation date of December 31, 1997, for Pay Telephone Certificate No. 5467. Furthermore, the Comptroller's Office shall be notified that KoinPhone is not responsible for the 1998 and 1999 RAFs in order to stop the collection action.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby vacate in part Order No. PSC-99-2205-PAA-TC, issued on November 9, 1999, as specified in the body of this Order. It is further

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ORDERED that KoinPhone Inc.'s Certificate No. 5467 to provide Pay Telephone services is hereby canceled, effective December 31, 1997. It is further

ORDERED that the Office of the Comptroller shall be notified that collection action should cease because KoinPhone is not responsible for the 1998 and 1999 RAFs. It is further

ORDERED that Order No. PSC-99-2205-PAA-TC and Order No. PSC-99-2347-CO-TC are reaffirmed in all other respects.

By ORDER of the Florida Public Service Commission, this 6th day of February, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

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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 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.