

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
PATS Certificates for violation
of Rules 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies and
25-24.520, F.A.C., Reporting
Requirements.

Pay-Tel Services Inc.
Burney Communications Group,
Inc.
Advance Payphones U.S.A., Inc.
Michael R. Spence d/b/a
Constellation Telecom
Fel-Tel Communication, Inc.
Sandra K. Strohl
James Fairhurst
Coastal Phone Services, Inc.

DOCKET NO. 020781-TC
DOCKET NO. 020789-TC

DOCKET NO. 020797-TC
DOCKET NO. 020811-TC

DOCKET NO. 020814-TC
DOCKET NO. 020815-TC
DOCKET NO. 020817-TC
DOCKET NO. 020916-TC

ORDER NO. PSC-02-1614-PAA-TC
ISSUED: November 22, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING PENALTIES, REQUIRING PAYMENT OF DELINQUENT
REGULATORY ASSESSMENT FEES AND REQUIRING INFORMATION IN
ACCORDANCE WITH RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE,
REPORTING REQUIREMENTS OR CANCELING PAY TELEPHONE PROVIDERS
CERTIFICATES

DOCUMENT NUMBER-DATE

12840 NOV 22 02

FPSC-COMMISSION CLERK

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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.

This Order addresses the enforcement actions against pay telephone companies (PATS) for nonpayment of the Regulatory Assessment Fees (RAFs) and not providing us with updated reporting requirements. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, 364.3375, and 364.183, Florida Statutes. The following dockets are addressed in this Order.

1st Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

DOCKET NO. 020781-TC - PAY-TEL SERVICES INC.
DOCKET NO. 020789-TC - BURNEY COMMUNICATIONS GROUP, INC.
DOCKET NO. 020797-TC - ADVANCE PAYPHONES U.S.A., INC.
DOCKET NO. 020811-TC - MICHAEL R. SPENCE D/B/A CONSTELLATION
TELECOM
DOCKET NO. 020814-TC - FEL-TEL COMMUNICATION, INC.
DOCKET NO. 020815-TC - SANDRA K. STROHL
DOCKET NO. 020817-TC - JAMES FAIRHURST
DOCKET NO. 020916-TC - COASTAL PHONE SERVICES, INC.

The pay telephone providers are listed on Attachment A which is hereby incorporated by reference. Each of these providers failed to paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges, in compliance with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code.

In addition, each of these providers have had returned mail and have not updated their information with this Commission within 10 days of a change to their respective address (including street name and address, post office box, city), telephone number and any

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change in the name and address of the individual who is serving as primary liaison with this Commission as required by Rule 25-24.520, Florida Administrative Code. Our staff attempted to call each provider, but was unsuccessful. Therefore, it appears these providers have failed to comply with Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code, and 25-24.520, Florida Administrative Code, Reporting Requirements. Further, these providers have not requested cancellation of their respective certificates in compliance with Rule 25-24.514, Florida Administrative Code. The penalty amounts contained in this Order are consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, we assess a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each provider's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.520, Florida Administrative Code, Reporting Requirements, are not received by this Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a provider does not protest the Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that provider's certificate, as listed on Attachment A, shall be cancelled administratively and the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. If a provider's certificate, as listed on Attachment A, is cancelled in accordance with the Order, the respective provider shall be required to

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immediately cease and desist providing pay telephone services in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the providers listed herein shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$500 penalty to the Florida Public Service Commission for failure to comply with Rule 25-24.0161, Florida Administrative Code, Regulatory Assessment Fees, Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, within 14 days after the issuance of the Consummating Order. The penalties will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that each of the providers listed herein must provide the correct mailing address, liason information, and other information in accordance with Rule 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated and pay a \$500 penalty to the Florida Public Service Commission for failure to comply with Rule 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated, within 14 days after the issuance of the Consummating Order. The penalty will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should any of the providers fail to comply with this Order, that provider's certificate shall be cancelled, effective on the date of the issuance of the Consummating Order, the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts, and the respective docket shall be closed. It is further

ORDERED that if a provider's certificate is canceled in accordance with this Order, that provider shall immediately cease and desist providing pay telephone service in the state of Florida. It is further

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ORDERED that any protest to the action proposed herein shall specify the provider or providers to which it applies. It is further

ORDERED that a protest by one provider to this Order shall not prevent the provisions of this Order becoming final and effective with regards to the other providers where no protest has been filed. 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

By ORDER of the Florida Public Service Commission this 22nd day of November, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

PAC

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 13, 2002.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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1ST Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAF</u> s	<u>Penalty and Interest*</u>
020781-TC	Pay-Tel Services Inc. \$10,525 Revenues 12/31/00	5041	2001	2000 2001
020789-TC	Burney Communications Group, Inc. \$4,055 Revenues 12/31/00	5936	2001	1999 2000 2001
020797-TC	Advance Payphones U.S.A., Inc. \$0 Revenues 12/31/00	7324	2001	2001
020811-TC	Michael R. Spence d/b/a Constellation Telecom \$0 Revenues 12/31/00	7346	2001	2000 2001
020814-TC	Fel-Tel Communication, Inc. No Previous Return Filed	7703	2001	2001
020815-TC	Sandra K. Strohl No Previous Return Filed	7750	2001	2001
020817-TC	James Fairhurst No Previous Return Filed	7774	2001	2001
020916-TC	Coastal Phone Services, Inc. No Previous Return Filed	7690	2001	2001

*Years penalty and/or interest was not paid