

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
PATS Certificate No. 7390 issued  
to Tyrone Joseph Clinton d/b/a  
Clinton Enterprises for  
violation of Rules 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies, and 25-24.520,  
F.A.C., Reporting Requirements.

DOCKET NO. 020805-TC  
ORDER NO. PSC-02-1791-PAA-TC  
ISSUED: December 19, 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 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.

Tyrone Joseph Clinton d/b/a Clinton Enterprises (Clinton  
Enterprises) currently holds Certificate of Public Convenience and  
Necessity No. 7390, issued by the Commission on May 10, 2000,  
authorizing the provision of pay telephone service. The Division  
of the Commission Clerk and Administrative Services advised our  
staff that Clinton Enterprises had not paid the Regulatory

DOCUMENT NUMBER-DATE

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Assessment Fees (RAFTs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.505, Florida Administrative Code, for the year 2001. Also, accrued statutory penalties and interest charges for late RAFTs payments for the year 2001 had not been paid. Clinton Enterprises was scheduled to remit its RAFTs by January 30, 2002.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAFT 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. Pursuant to Section 350.113(4), Florida Statutes, the RAFTs 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 fee is due. All entities that apply for certification receive a copy of our rules governing pay telephone service.

On July 17, 2002, we received a letter dated July 9, 2002, from Tyrone Joseph Clinton d/b/a Clinton Enterprises, which requested cancellation of his certificate because he was no longer in the pay telephone business. We wrote the company and explained that it needed to comply with Rule 25-24.514(2)(a), Florida Administrative Code. As of November 27, 2002, the company has not paid the 2001 RAFT, including statutory penalty and interest charges, nor the 2002 RAFT or stated when the 2002 RAFT would be paid. 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.

Clinton Enterprises 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.

Other Commission correspondence to Clinton Enterprises was returned by the United States Postal Service. The return of these materials indicates that Clinton Enterprises may have violated Rule 25-24.520, Florida Administrative Code, which requires the reporting to the Commission of an address change and/or a change in the name, title, or telephone number of the individual responsible for Commission contacts, within ten (10) days of its effectiveness. It has been well over 10 days and Clinton Enterprises has not provided the information required by Rule 25-24.520, Florida Administrative Code, nor has it requested cancellation of its certificate in compliance with Rule 25-24.514, Florida Administrative Code.

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, Clinton Enterprises is responsible for the RAFs. As of the date of the vote, Clinton Enterprises continues to be in violation of our rules for nonpayment of RAFs for the year 2001.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Clinton Enterprises's request for voluntary cancellation of pay telephone Certificate No. 7390 for failure to comply with the provisions of Rule 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Clinton Enterprises's certificate, effective July 17, 2002, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since Clinton Enterprises is no longer in business, there would be no purpose in requiring Clinton Enterprises to pay a penalty. By involuntarily canceling Clinton Enterprises'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

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way diminishes Clinton Enterprises's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. If Clinton Enterprises's certificate is canceled in accordance with this Order, Clinton Enterprises shall immediately cease and desist providing pay telephone services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Tyrone Joseph Clinton d/b/a Clinton Enterprises's request for voluntary cancellation of pay telephone Certificate No. 7390. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Tyrone Joseph Clinton d/b/a Clinton Enterprises's Pay Telephone Certificate No. 7390, effective July 17, 2002, for failure to comply with Rule 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the cancellation of the certificate in no way diminishes Tyrone Joseph Clinton d/b/a Clinton Enterprises's obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. It is further

ORDERED that if Tyrone Joseph Clinton d/b/a Clinton Enterprises's certificate is canceled in accordance with this Order, Tyrone Joseph Clinton d/b/a Clinton Enterprises shall immediately cease and desist providing pay telephone services in Florida. 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

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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

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 19th Day of December, 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 )

LHD

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.

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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 January 9, 2003.

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.