

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
PATS Certificate No. 5016 issued
to The Train-Tel Company for
violation of Rule 25-4.161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 030702-TC
ORDER NO. PSC-03-1158-PAA-TC
ISSUED: October 20, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING PENALTY AND REQUIRING PAYMENT OF
DELINQUENT REGULATORY ASSESSMENT FEES, OR
CANCELING PAY TELEPHONE CERTIFICATE

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.

The Train-Tel Company (Train-Tel) currently holds Certificate
of Public Convenience and Necessity No. 5016, issued by the
Commission which became effective on December 27, 1996, authorizing
the provision of Pay Telephone (PATS) service. The Division of the
Commission Clerk and Administrative Services advised our staff that
Train-Tel had not paid the Regulatory Assessment Fees (RAFs)
required by Section 364.336, Florida Statutes, and Rule 25-4.0161,
Florida Administrative Code, for the 2002. Also, accrued statutory

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penalties and interest charges for late RAFs payments for the 2001 and 2002 had not been paid.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF 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 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 fee is due. All entities that apply for certification receive a copy of our rules governing PATS service.

Docket No. 990783-TC was established on June 17, 1999, for violation of the pay telephone service standards and nonpayment of the 1998 RAF. On August 11, 1999, Order No. PSC-99-1579-SC-TC was issued, which required the company to show cause why it should not be fined \$1,400 for violation of the service standards and on September 22, 1999, Order No. PSC-99-1579A-SC-TC was issued, which required the company to show cause why it should not be fined \$500 for violation of the RAF rule. The company responded to the Show Cause Orders by correcting the service violations, paying the RAF, and proposing a \$1,000 settlement. On January 7, 2000, Order No. PSC-00-0057-AS-TC was issued, which accepted the company's settlement offer. The company subsequently paid the settlement and the docket was closed.

Docket No. 010685-TC was established on May 4, 2001, for nonpayment of the 2000 RAF. The company paid the past due RAF and proposed a \$500 settlement. On September 24, 2001, Order No. PSC-01-1902-AS-TC was issued, which accepted the company's settlement offer. In its settlement offer, the company proposed to pay future RAFs in a timely manner. The company subsequently paid the settlement and the docket was closed.

Since this is the third docket established for nonpayment of the RAFs, the company should be well aware when the fees are due each year. The cancellation of a certificate for a third offense is consistent with a prior Commission decision. In Docket No. 000968-TC, by Order No. PSC-00-1815-PAA-TC, issued October 4, 2000, the Commission cancelled James M. Bracewell d/b/a Southern Tele-

Communications' pay telephone certificate for violating the RAF rule in three separate dockets (Nos. 971340-TC, 981273-TC, and 000968-TC). Based on the above, we find that cancellation of this company's certificate is appropriate. There are no outstanding consumer complaints against Train-Tel.

Therefore, it appears Train-Tel has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and is not in compliance with its previous settlement proposal. 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 cancel Train-Tel's PATS Certificate No. 5016 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Florida Department of Financial Services for further collection efforts. If our Order is not protested, the company's PATS Certificate No. 5016 should be cancelled administratively. If Train-Tel's certificate is cancelled in accordance with our Order from this recommendation, Train-Tel is required to immediately cease and desist providing pay telephone services in Florida.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.3375, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that The Train-Tel Company's Certificate No. 5016 shall be canceled, effective on the date of issuance of the Consummating Order and 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 The Train-Tel Company shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges

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to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within 14 days after the issuance of the Consummating Order. It is further


ORDERED that the cancellation of the certificate in no way diminishes The Train-Tel Company's obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

ORDERED that The Train-Tel Company 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 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 20th Day of October, 2003.



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

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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 November 10, 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.