

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
PATS Certificate No. 2358 issued
to Telaleasing Enterprises, Inc.
for violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 030686-TC
ORDER NO. PSC-03-1466-AS-TC
ISSUED: December 23, 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

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE COMMISSION:

I. BACKGROUND

Telaleasing Enterprises, Inc. obtained Florida Public Service Commission Pay Telephone Certificate No. 2358 on September 12, 1989. In a separate proceeding, Docket No. 981798-TC was established on December 2, 1998, for violation of pay telephone service standards and nonpayment of the 1997 Regulatory Assessment Fee (RAF). On June 7, 1999, Order No. PSC-99-1134-AS-TC was issued, which accepted the company's settlement proposal to resolve that docket, and other dockets. The company paid the RAFs and settlement amount in full, and the docket was closed.

On July 20, 2000, another proceeding, Docket No. 000897-TC was established for nonpayment of the July 1 through December 31, 1999 RAF. The company paid the past due RAFs and proposed a settlement. On November 7, 2000, Order No. PSC-00-2110-AS-TC was issued, which accepted the company's settlement offer and the docket was closed.

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Again on April 9, 2001, another separate proceeding, Docket No. 010424-TC was established for nonpayment of the July 1 through December 31, 2000 RAF. The company subsequently paid the past due RAF and proposed a settlement. On July 3, 2001, Order No. PSC-01-1430-AS-TC was issued, which accepted the company's settlement proposal. The company paid the settlement amount and the docket was closed.

The Division of the Commission Clerk & Administrative Services (CCA) mailed the January thru June 2002 RAF return notice on June 11, 2002. Payment was due by July 30, 2002. On August 22, 2002, the Office of the General Counsel sent a delinquent notice for nonpayment of the January thru June 2002 RAF via certified mail. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on August 26, 2002.

CCA mailed the July thru December 2002 RAF return notice on December 2, 2002. Payment was due by January 30, 2003. On February 21, 2003, the Office of the General Counsel sent a delinquent notice for nonpayment of the July thru December 2002 RAF via certified mail. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 24, 2003.

On March 19, 2003, CCA notified our Division of Competitive Markets and Enforcement (CME) staff that this company had not paid its 2002 RAF. On May 21, 2003, our CME staff wrote the company and explained that the RAF needed to be paid by June 13, 2003, to avoid an enforcement docket from being established. As of July 25, 2003, payment was not received; therefore, this docket was established. On October 22, 2003, a recommendation was filed to cancel the company's pay telephone certificate since this was the fourth docket established for the same rule violation.

On October 23, 2003, we received a letter, via fax, from Ms. Lin Harvey, Director of Regulatory Affairs, which requested this docket be deferred from the November 3, 2003, Agenda Conference, to allow the company an opportunity to present additional data and information to our CME staff. In addition, Ms. Harvey advised that payment for the past due amount had been sent by over night mail.

On October 24, 2003, we received the company's payment for the 2002 RAF. For the period January 1 through June 30, 2002, the company reported revenues in the amount of \$2,399,470 and for the July 1 through December 31, 2002, period, the company reported revenues in the amount of \$2,516,567. On October 28, 2003, we received payment for the January 1 through June 30, 2003, RAF period. The company reported revenues in the amount of \$1,638,446. This docket was deferred from the November 3, 2003, Agenda Conference.

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

II. SETTLEMENT AGREEMENT

Rule 25-4.0161, Florida Administrative Code¹, which implements Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Our CCA staff notified our CME staff that Telaleasing Enterprises, Inc. had not paid the 2002 RAF. CME staff attempted to collect the fee prior to establishing a docket but was unsuccessful. Since this is the fourth docket established for nonpayment of the RAFs, our staff originally filed a recommendation on October 22, 2003, to cancel the company's certificate. On October 24, 2003, at the company's request, this docket was deferred from the November 3, 2003 Agenda Conference. The same day, we received the company's payment for the past due RAFs, including statutory late payment charges.

On November 10, 2003, we received a letter from Telaleasing Enterprises, Inc.'s General Counsel, Ms. Tammy L. Martin, which is attached as Attachment A and incorporated by reference. Ms.

¹Rule 25-4.0161, Florida Administrative Code, is incorporated by Rule 25-24.505, Florida Administrative Code. To avoid redundancy, hereafter, this Order refers only to Rule 25-4.0161, Florida Administrative Code.

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Martin's letter stated that the company's CEO, Mr. Woody McGee, has "...imposed strict performance requirements directly related to the timely filing of the regulatory report." According to the letter, the report must be submitted to Mr. McGee several weeks before its due date to ensure timely filing. The letter went on to state that "Employees are subject to serious sanctions for noncompliance with this mandate, up to and including termination."

Ms. Martin stated that the company had taken additional steps to ensure that the Commission "...receives timely responses to all of its communications," which include changing the Commission liaison to the General Counsel and implementing a system that logs and tracks all Commission correspondence with appropriate internal due dates. The company offered to make a \$20,000 contribution to resolve this docket. We find that the proposed settlement amount is an appropriate amount since, to our knowledge, this is the first time a company has had four dockets established for the RAF rule violation.

Accordingly, we find the terms of the settlement agreement as summarized herein acceptable. The contribution shall be received by this Commission within fourteen (14) calendar days from the date of this Order and shall identify the docket number and company name. We shall forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of this Order, Certificate No. 2358 shall be cancelled administratively. If Telaleasing Enterprises, Inc.'s certificate is cancelled in accordance with this Order, the company shall be required to immediately cease and desist providing pay telephone services in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telaleasing Enterprises, Inc.'s settlement agreement as described herein and in the letter attached hereto as Attachment A is hereby approved. It is further

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ORDERED that the contribution shall be received by this Commission within fourteen (14) calendar days from the date of this Order and shall identify the docket number and company name. It is further

ORDERED that this Commission shall forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that if Telaleasing Enterprises, Inc. fails to pay in accordance with the terms of this Order, Certificate No. 2358 shall be cancelled administratively. It is further

ORDERED that if Telaleasing Enterprises, Inc.'s certificate is cancelled in accordance with this Order, Telaleasing Enterprises, Inc. is required to immediately cease and desist providing pay telephone services in Florida. It is further

ORDERED that this docket shall be closed upon receipt of the \$20,000 contribution or cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 23rd day of December, 2003.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
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 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 the Commission Clerk and Administrative Services, 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 the Commission Clerk and Administrative Services 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.