

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Gary E. Akers d/b/a JB Telecom for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 040400-TC
ORDER NO. PSC-04-0888-PAA-TC
ISSUED: September 13, 2004

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING VOLUNTARY CANCELLATION

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.

Rule 25-4.0161, Florida Administrative Code, 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 penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts. Rule 25-24.514, Florida Administrative Code, provides that companies must request cancellation in writing and provide a date certain the current year's Regulatory Assessment Fee will be paid.

On March 2, 2004, this Commission received payment of the company's 2003 Regulatory Assessment Fee, along with statutory penalty and interest charges. In addition, the company included a letter requesting cancellation of its certificate as it was no longer in the payphone business. Our staff wrote the company on March 5, 2004, concerning payment of the 2004 Regulatory Assessment Fee and requested a response by March 31, 2004. The company did not respond; therefore, our staff filed a recommendation on June 17, 2004, to deny the company a voluntary cancellation. This docket was subsequently deferred from the June 29, 2004, Agenda Conference. On July 13, 2004, this Commission received the company's payment

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and the 2004 Regulatory Assessment Fee return form. The company reported zero revenues for the years 2003 and 2004.

This Commission is vested with jurisdiction over these matters pursuant to Sections 364.285, 364.336, and 364.3375, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the company's 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 cancellation year. Accordingly, we grant the company a voluntary cancellation of its certificate with an effective date of March 2, 2004.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gary E. Akers d/b/a JB Telecom a voluntary cancellation of its Pay Telephone Certificate No. 4264 with an effective date of March 2, 2004 is hereby granted. It is further

By ORDER of the Florida Public Service Commission this 13th day of September, 2004.

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

By: Kay Flynn
Kay Flynn/Chief
Bureau of Records

(S E A L)

JPR

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 October 4, 2004.

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.

