

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-04-0938-PAA-TC ISSUED: September 23, 2004
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The following Commissioners participated in the disposition of this matter:

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

REISSUANCE OF NOTICE OF PROPOSED AGENCY ACTION OF VOLUNTARY CANCELLATION OF CERTIFICATE AND ORDERING GARY E. AKERS D/B/A JB TELECOM TO IMMEDIATELY CEASE AND DESIST PROVIDING SERVICE

BY THE COMMISSION:

This is a reissuance of Order No. PSC-04-0888-PAA-TC issued on September 13, 2004. This order supercedes the previous order issued in this matter. Due to a scrivener's error, the Order initially issued failed to include requisite language identifying it as a Proposed Agency Action. The order is therefore being reissued to include such language and to give the affected parties appropriate notice and opportunity to respond.

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, we 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

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cancellation. This docket was subsequently deferred from the June 29, 2004, Agenda Conference. On July 13, 2004, we received the company's payment and the 2004 Regulatory Assessment Fee return form. The company reported zero revenues for the years 2003 and 2004.

We are 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.

This docket is closed upon cancellation of the certificate as no other issues need to be addressed by us. If the company's certificate is cancelled in accordance with this Order, Gary E. Akers d/b/a JB Telecom must immediately cease and desist providing pay telephone services in Florida, if it has not already done so.

Based on the foregoing it is

ORDERED by the Florida Public Service Commission that Gary E. Akers d/b/a JB Telecom's certificate is hereby cancelled and the company must 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 upon payment of the penalties, and fees, or upon cancellation of the certificate.

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By ORDER of the Florida Public Service Commission this 23rd day of September, 2004.

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

By: 
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 14, 2004.

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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.