

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for cancellation of PATS Certificate No. 8130 by Paul Chang, effective March 4, 2005. | DOCKET NO. 050404-TC  
ORDER NO. PSC-05-0828-PAA-TC  
ISSUED: August 16, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER  
VACATING PSC-05-0819-FOF-TC AND CANCELLING PAY TELEPHONE COMPANY  
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.

On August 8, 2005, we issued Order No. PSC-05-0819-FOF-TC to acknowledge that cancellation of the Pay Telephone Certificate of Paul Chang. However, due to a scrivener's error, the Order was not issued as a PAA. Therefore, we find it appropriate to vacate duplicate Order No. PSC-05-0819-FOF TC.

Paul Chang currently holds Certificate No. 8130, issued by this Commission on July 15, 2002, authorizing the provision of pay telephone service. Pursuant to Section 364.336, Florida Statutes, pay telephone companies must pay a minimum annual Regulatory Assessment Fee 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 Regulatory Assessment Fee return 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. In addition, Rule 25-24.514, Florida Administrative Code, provides that a payphone company requesting cancellation of its certificate must state its intent and date to pay the current Regulatory Assessment Fee. All entities that apply for certification receive a copy of our rules governing pay telephone service.

DOCUMENT NUMBER-DATE

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On March 4, 2005, this Commission received a letter from Mr. Paul Chang advising that about a year ago most of his payphones were stolen, that he no longer does business in Florida, and requested cancellation of his certificate. Our staff wrote the company on March 24, 2005, and explained that before a voluntary cancellation of the certificate could be recommended, the 2005 Regulatory Assessment Fee needed to be paid. As of June 23, 2005, the company has not paid the amount due.

For the reasons described above, we deny Paul Chang's request for voluntary cancellation of his certificate. However, we find it appropriate to involuntarily cancel the certificate effective March 4, 2005, on this Commission's own motion for failure to comply with Rule 25-24.514, Florida Administrative Code, and pay the Regulatory Assessment Fee, pursuant to Section 364.336, Florida Statutes.

Since it appears Paul Chang is no longer in business, there would be no purpose in requiring him to pay a penalty. By cancelling the company's certificate on this Commission's own motion, however, we would be able to track the company should it apply for another certificate with us in the future. The cancellation of the certificate in no way diminishes the entity's obligation to pay applicable Regulatory Assessment Fee. If this Order is not protested, the company's PATS Certificate No. 8130 shall be cancelled effective March 4, 2005. The collection of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts. If Paul Chang's certificate is cancelled in accordance with this Order, the company shall immediately cease and desist providing pay telephone service in Florida. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.3375, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED that pursuant to Rule 25-24.514, Florida Administrative Code, Paul Chang's PATS certificate is hereby cancelled effective March 4, 2005, on this Commission's own motion for failure to pay the 2005 Regulatory Assessment Fee, pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the collection of the Regulatory Assessment Fee shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that the cancellation of the certificate in no way diminishes Paul Chang's obligation to pay the applicable Regulatory Assessment Fee. It is further

ORDERED that if Paul Chang's certificate is cancelled in accordance with this Order, Paul Chang shall immediately cease and desist providing pay telephone service 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

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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 receipt of the Regulatory Assessment Fee, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 16th day of August, 2005.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

(SEAL)

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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 September 6, 2005.

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.