

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide pay
telephone service by Florida Payphone
Operations, Inc.

DOCKET NO. 150021-TC
ORDER NO. PSC-15-0177-PAA-TC
ISSUED: May 6, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
JULIE I. BROWN
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING SETTLEMENT OFFER AND GRANTING CERTIFICATE TO
PROVIDE PAY TELEPHONE SERVICES

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.

I. Case Background

In December 2014, Office of Telecommunications staff became aware that Florida Payphone Operations, Inc. (Florida Payphone or company) was providing pay telephone service in Florida without a certificate from the Florida Public Service Commission (Commission). Our staff investigated the company to determine the extent of the statutory and rule violations, and notified the company that it needed to have a certificate to operate a pay telephone company in Florida. The company began operations in December 2013, and currently has 450 pay telephones in operation in Florida.

On January 6, 2015, Florida Payphone filed an application for certificate to provide pay telephone service based on our staff bringing the violation to its attention. The company also acknowledged in response to our staff's data request, that it was unaware that certification with this Commission was necessary.

Pay telephone service providers are required to comply with all applicable provisions of Chapter 364, Florida Statutes (F.S.), and Chapters 25-4 and 25-24, Florida Administrative Code (F.A.C.). This order addresses whether this Commission should accept Florida Payphone's settlement offer of \$1,500 for operating without a certificate and whether we should approve the company's application for certification.

We are vested with jurisdiction in this matter pursuant to Sections 364.285 and 364.3375, F.S., and Rule 25-24.511, F.A.C.

II. Decision

Pursuant to Section 364.3375(1)(a), F.S. "A person may not provide pay telephone service without first obtaining from the Commission a certificate of authority." In December 2014, the Office of Telecommunications staff became aware that Florida Payphone was providing pay telephone service in Florida without a certificate from this Commission. On January 6, 2015, Florida Payphone filed an application for certificate to provide pay telephone service. In addition, the company acknowledged that it was unaware that certification with this Commission was necessary.

We are not aware of a previous occurrence of a pay telephone company operating without a certificate. However, the offer amount is appropriate in lieu of a show cause based on the specific issues and circumstances in this case.

Florida Payphone has been diligent and timely in response to our staff's inquiries to address its violation. Florida Payphone has indicated that it is now aware of the statutes and rules governing pay telephone service providers in Florida. In addition, the number of pay telephones in Florida continues to decline and the company's 450 pay telephones represent approximately five percent of pay telephones currently operating in Florida by certificated pay telephone providers. Further, the company's pay telephones are operated primarily in low-income communities where pay telephone service is vital.

Therefore, we hereby accept the offer of \$1,500 submitted by Florida Payphone Operations, Inc. for violation of Section 364.3375(1)(a), F.S. The \$1,500 settlement shall be remitted to the State of Florida General Revenue Fund pursuant to Section 364.285, F.S.

Certification

In accordance with Section 364.3375(1)(a), F.S., a person may not provide pay telephone service without first obtaining from this Commission a certificate of authority to provide such service. A certificate authorizes the pay telephone service provider to provide services statewide and to provide access to both local and intrastate interexchange pay telephone service. Based on the considerations discussed above, it appears to be in the public interest to grant Florida Payphone Operations, Inc. Certificate No. 8872. Florida Payphone appears to have the financial capability to operate and has committed to abide by the statutes and rules for pay telephone providers in Florida. The company has submitted a settlement offer payment of \$1,500.

If this Order becomes final and effective, it shall serve as Florida Payphone's certificate. Florida Payphone should, therefore, retain this Order as proof of certification.

Pay telephone providers are subject to Chapter 25-24, F.A.C., Rules Governing Pay Telephone Service Provided by Other Than Local Exchange Telephone Companies. Pay telephone providers are also required to comply with all applicable provisions of Chapter 364, F.S., and Chapter 25-4, F.A.C. In addition, under Section 364.336, F.S., certificate holders must pay a minimum annual Regulatory Assessment Fee (RAF) if the certificate was active during any portion of the calendar year. A RAF Return Notice will be mailed each December to Florida Payphone for payment by January 30. Neither the cancellation of the certificate nor the failure to receive a RAF Return notice shall relieve Florida Payphone from its obligation to pay RAFs.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement offer of \$1,500 by Florida Payphone Operations, Inc. be accepted for violation of Section 364.3375(1)(a), Florida Statutes. It is further

ORDERED that we hereby grant Certificate No. 8872 to Florida Payphone Operations, Inc., which shall authorize it to provide Pay Telephone services, subject to the terms and conditions specified in the body of this Order. It is further

ORDERED that this Order shall serve as Florida Payphone Operations, Inc.'s certificate and should be retained by Florida Payphone Operations, Inc. as proof of certification. 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 Commission Clerk, 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 6th day of May, 2015.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 27, 2015.

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.