

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation of Pay
Telephone Certificate No. 4479
by Jesus B. Vargas and Vincent
Garcia and application for
certificate to provide pay
telephone service by Tapatio's
Restaurante Mexicano Inc.

DOCKET NO. 970861-TC
ORDER NO. PSC-97-0960-FOF-TC
ISSUED: August 12, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELLING PAY TELEPHONE CERTIFICATE
NUMBER 4479 AND GRANTING CERTIFICATE NUMBER 5438
TO PROVIDE PAY TELEPHONE SERVICE

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.

Jesus B. Vargas and Vincent Garcia, holders of Pay Telephone
Certificate of Public Convenience and Necessity Number 4479, have
requested that Certificate Number 4479 be cancelled and applied for
a certificate to provide pay telephone service, pursuant to Section
364.3375, Florida Statutes, for their company, Tapatio's
Restaurante Mexicano Inc.

Jesus B. Vargas and Vincent Garcia shall return their
certificate to this Commission. In addition, under Section
364.336, Florida Statutes, certificate holders must pay a minimum
annual regulatory assessment fee of \$50 if the certificate was
active during any portion of the calendar year. A Regulatory
Assessment Fee Return notice will be mailed to Jesus B. Vargas and

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Vincent Garcia; however, neither the cancellation of their certificate nor the failure to receive their Regulatory Assessment Fee Return notice shall relieve Jesus B. Vargas and Vincent Garcia from their obligation to pay due and owing regulatory assessment fees.

Tapatio's Restaurante Mexicano Inc. has applied for a certificate to provide pay telephone service pursuant to Section 364.3375, Florida Statutes. Upon consideration of the application, it appears to be in the public interest to grant Pay Telephone Certificate Number 5438 to Tapatio's Restaurante Mexicano Inc.

If this Order becomes final and effective, it shall serve as Tapatio's Restaurante Mexicano Inc.'s certificate. It should, therefore, be retained as proof of certification.

Non-local exchange company pay telephone service providers are subject to Chapter 25-24, Florida Administrative Code, Part XI, Rules Governing Pay Telephone Service Provided by Other Than Local Exchange Telephone Companies. They are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapter 25-4, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request by Jesus B. Vargas and Vincent Garcia to cancel Pay Telephone Certificate Number 4479 is hereby approved. It is further

ORDERED that Jesus B. Vargas and Vincent Garcia shall return their certificate and remit all due and owing regulatory assessment fees. It is further

ORDERED that we hereby grant to Tapatio's Restaurante Mexicano Inc. Certificate Number 5438 to provide pay telephone service, subject to the terms and conditions specified in the body of this Order. It is further

ORDERED that this Order shall serve as Tapatio's Restaurante Mexicano Inc.'s certificate and this Order should be retained as proof of certification. It is further

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.

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 and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 2, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court.

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This filing must be completed within thirty (30) days of the effective date 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.