

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 1550 issued to La Nueva Estrella Restaurant, Inc., for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees, and Rule 25-24.520, Florida Administrative Code, Reporting Requirements.

DOCKET NO. 971244-TC
ORDER NO. PSC-97-1447-FOF-TC
ISSUED: November 17, 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 IMPOSING FINE, REQUIRING PAYMENT OF REGULATORY ASSESSMENT FEES AND REQUIRING INFORMATION IN ACCORDANCE WITH RULE 25-24.520, FLORIDA ADMINISTRATIVE CODE, OR CANCELING PAY TELEPHONE CERTIFICATE AND DIRECTING CERTIFICATED LOCAL EXCHANGE COMPANIES TO DISCONTINUE 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.

La Nueva Estrella Restaurant, Inc. (La Nueva Estrella) currently holds Certificate of Public Convenience and Necessity Number 1550, issued by the Commission on April 25, 1987, authorizing the provision of pay telephone service. La Nueva

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-97-1447-FOF-TC
DOCKET NO. 971244-TC
PAGE 2

Estrella has not paid the regulatory assessment fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1996. The regulatory assessment fee form was mailed to La Nueva Estrella in December, 1996, for the period of January 1, 1996, through December 31, 1996. 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. La Nueva Estrella was notified of its delinquency on June 3, 1997. La Nueva Estrella has been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was signed for and received. To date, La Nueva has not paid the required fee(s).

The return of these materials indicates that La Nueva Estrella may have violated Rule 25-24.520(1)(a), Florida Administrative Code, which requires the reporting to the Commission of an address change within ten (10) days of its effectiveness. Accordingly, Commission staff attempted to reach the contact person of La Nueva Estrella by telephone. This effort was unsuccessful, indicating that La Nueva Estrella may have also violated Rule 25-24.520(1)(b), Florida Administrative Code, which requires the reporting to the Commission of a change in the name, title, or telephone number of the individual responsible for Commission contacts.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel La Nueva Estrella's certificate, unless La Nueva Estrella pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, Rule 25-4.0161, Florida Administrative Code, and remits all past due regulatory assessment fees, along with statutory penalties and interest charges. We also find it appropriate to cancel La Nueva Estrella's certificate unless it pays a \$500 fine for failure to comply with Rule 25-24.480 (2), Florida Administrative Code, and provides the information required by Rule 25-24.520, Florida Administrative Code, to the Florida Public Service Commission. La Nueva Estrella must comply with these requirements within five business days from the date this Order becomes final. The fines will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, required information, and fines are received, this docket shall be closed. Should La Nueva Estrella fail to comply with this Order within five business days from the date this Order becomes

ORDER NO. PSC-97-1447-FOF-TC
DOCKET NO. 971244-TC
PAGE 3

final, La Nueva Estrella shall have its certificate canceled and the docket will be closed. The cancellation of the certificate and the closing of the docket in no way diminishes La Nueva Estrella's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

Should La Nueva Estrella's certificate be canceled, all certificated local exchange companies are instructed to discontinue service to La Nueva Estrella, pursuant to Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. Any certificated local exchange company providing service to La Nueva Estrella must contact the Commission at the conclusion of the response period indicated herein in order to determine if La Nueva Estrella's certificate has been canceled.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that La Nueva Estrella Restaurant, Inc. shall pay the past due regulatory assessment fee(s), statutory penalties, interest charges, and a \$500 fine to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that La Nueva Estrella Restaurant, Inc. shall provide the correct mailing address, liaison information, and other information in accordance with Rule 25-24.520, Florida Administrative Code, and pay a \$500 fine to the Florida Public Service Commission for failure to comply with Rule 25-24.520, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should La Nueva Estrella Restaurant, Inc. fail to comply with this Order, La Nueva Estrella Restaurant, Inc.'s certificate shall be canceled, and the docket shall be closed. It is further

ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes La Nueva Estrella Restaurant, Inc.'s obligation to pay applicable delinquent

ORDER NO. PSC-97-1447-FOF-TC
DOCKET NO. 971244-TC
PAGE 4

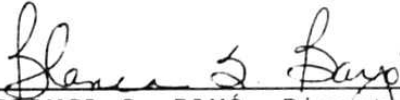
regulatory assessment fees, statutory penalties, and interest charges. It is further

ORDERED that all certificated local exchange companies shall discontinue service to La Nueva Estrella Restaurant, Inc. upon verification of the cancellation of the certificate at the conclusion of the response period set forth in this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon payment of the fines, and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 17th day of November, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

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.

ORDER NO. PSC-97-1447-FOF-TC
DOCKET NO. 971244-TC
PAGE 5

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 December 8, 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. 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.