

ORIGINAL

DOCKET NUMBER: 971245-TC

WITNESS: KELLY BIEGALSKI

DATED FILED: FEBRUARY 6, 1998

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FPSC-RECORDS/REPORTING

DIRECT TESTIMONY OF KELLY BIEGALSKI

1 Q. Please state your name, position, and business address.

2 A. My name is Kelly Biegalski. My position title is Regulatory
3 Analyst II in the Division of Communications. My business address
4 is 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32352-0850.

5 Q. How long have you been employed at the Florida Public Service
6 Commission?

7 A. I started employment in December of 1996.

8 Q. Please explain your position responsibilities.

9 A. I am responsible for the certification of telecommunications
10 companies as defined in Section 364.02, Florida Statutes.

11 I am also responsible for ensuring that the telecommunications
12 companies comply with the requirements of the Florida
13 Administrative Code and the policies of the Commission.

14 Q. What is the purpose of your testimony?

15 A. The purpose of my testimony is to establish that Mr. James N.
16 Johnson had knowledge that he was delinquent on his regulatory
17 assessment fees for the years 1992 and 1993. Furthermore, my
18 testimony addresses whether Mr. Johnson should be held responsible
19 for these fees and whether Mr. Johnson should be fined or have his
20 certificate canceled for this delinquency.

21 Q. Would you please explain the circumstances that brings this
22 matter before the Commission?

23 A. Mr. Johnson holds Pay Telephone Certificate Number 212. On
24 October 4, 1985, the Commission granted Mr. Johnson his
25

CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

1 certificate. This Commission order is attached to my testimony as
2 an exhibit identified as KB-1. To date, Mr. Johnson has yet to
3 provide pay telephone service.

4 On June 3, 1997, the Division of Administration mailed a
5 certified letter to Mr. Johnson informing him that he was
6 delinquent on his regulatory assessment fees for the years 1992 and
7 1993. The letter was signed for and received, but no response or
8 payment was received as of October 23, 1997, the date staff's
9 recommendation to cancel or fine Mr. Johnson was filed. This
10 letter is attached to my testimony as an exhibit identified as KB-
11 2.

12 Q. Do you believe the Commission should fine Mr. Johnson for his
13 delinquent 1992 and 1993 regulatory assessment fees?

14 A. No.

15 Q. Why is a fine not appropriate?

16 A. Although the initial staff recommendation to the Commission was
17 to fine or cancel Mr. Johnson's certificate for his delinquent
18 regulatory assessment fees, I now believe that the Commission
19 should simply cancel Mr. Johnson's certificate.

20 Q. Why do you believe the Commission should cancel Mr. Johnson's
21 certificate?

22 A. Since the Commission Agenda Conference on November 5, 1997, it
23 has become apparent from conversations with Mr. Johnson and from
24 his protest that he does not intend to and is allegedly unable to
25

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~~struck-through~~ type are deletions from existing law.

1 | pay the fine proposed by the Commission. He is only willing to
2 | pay his past due 1992 and 1993 regulatory assessment fees. Mr.
3 | Johnson claims that he should not be fined because of his
4 | disability stemming from an auto accident prior to 1990, his lack
5 | of notice of past due fees, and his unfamiliarity with the
6 | deadlines for the payment of regulatory assessment fees. Mr.
7 | Johnson's protest letter also explains that he did not receive
8 | notice of the November 5, 1997, Agenda Conference in enough time so
9 | that he could attend. Mr. Johnson has commenced payment of his
10 | past due fees to the Commission on an informal installment basis.

11 |
12 | Although I sympathize with Mr. Johnson's situation, he does
13 | not appear to possess the ability to hold a payphone certificate in
14 | the public interest as required by Chapter 364, Florida Statutes,
15 | and the Commission's rules. The pertinent Commission rules and
16 | provisions of the Florida Statutes relevant to payphone operator
17 | certification and the annual payment of regulatory assessment fees
18 | are attached to my testimony as an exhibit identified as KB-3.

19 | First, Mr. Johnson has held his payphone certificate since
20 | 1986. To the present date, he has yet to install and operate a
21 | single payphone in this state. Second, his payment history
22 | indicates a consistent inability to pay his regulatory assessment
23 | fees in a timely fashion, if at all. Mr. Johnson's payment history
24 | is attached to my testimony as an exhibit, identified as KB-4. Mr.
25 |

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1 Johnson has consistently failed to pay past due fees as well as the
2 penalty and interest assessed for such delinquency. Past due
3 amounts are as much as seven years late. Finally, Mr. Johnson has
4 received regular and adequate notice of his delinquent fees. This
5 fact is confirmed by the certified notice mailings signed for by
6 his wife or himself. Accordingly, I believe that Mr. Johnson's
7 certificate should be cancelled.

8
9 Q. Has Mr. Johnson ever been sanctioned by the Commission prior to
10 this proceeding for violations of its rules or policies?

11 A. Yes. This proceeding is not the first time Mr. Johnson has
12 been brought before the Commission for violation of its rules or
13 policies. In August, 1996, the Commission brought an action to
14 cancel Mr. Johnson's certificate or fine him \$250 for delinquent
15 regulatory assessment fees for 1995. He has since paid the fee and
16 fine but has failed to pay the penalty and interest. Mr. Johnson's
17 record further underscores my opinion that his certificate should
18 be cancelled.

19 Q. Does that conclude your testimony?

20 A. Yes.
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of James N. Johnson for a pay telephone certificate.)	DOCKET NO. 850416-TC
)	ORDER NO. 14928
)	ISSUED: 9-11-85

The following Commissioners participated in the disposition of this matter:

JOHN R. MARKS, III, Chairman
 JOSEPH P. CRESSE
 GERALD L. GUNTER
 KATIE NICHOLS
 MICHAEL McK. WILSON

NOTICE OF PROPOSED AGENCY ACTIONORDER GRANTING PAY TELEPHONE CERTIFICATE

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 formal proceeding pursuant to Rule 25-22.29, Florida Administrative Code.

On July 31, 1985, James N. Johnson (Company) filed an application for a certificate to provide pay telephone service (PATS). This application was filed pursuant to Section 364.33, Florida Statutes (1983), which provides that no person can begin construction or operation of a telephone line, plant or system without first obtaining from this Commission a certificate of public convenience and necessity.

By Order No. 14132, this Commission authorized the provision of competitive pay telephone service on a toll-only basis in addition to the PATS that is currently provided by the local exchange companies. Effective June 24, 1985, Section 364.33(4), Florida Statutes (1983), was amended to expand our authority to grant to PATS providers the authority to offer local PATS in addition to the previously allowed toll PATS. In Order No. 14132, we set forth the requirements for certification of PATS providers as well as the terms, conditions, service standards and rates that apply to the provision of PATS. Additionally, we required PATS providers to comply with the requirements of Section 350.113, Florida Statutes, which imposes a regulatory assessment fee. We also required each PATS provider to report to the Commission the number of pay telephone instruments that it operates in Florida. This report should be filed in conjunction with a PATS provider's payment of its regulatory assessment fee to this Commission. Further, in order to obtain service from a local exchange company for a PATS instrument, each PATS provider must specifically request a coin access line from the serving local exchange company.

In reviewing the application of the Company we find that it contains the information required for certification as set forth in Order No. 14132. Based on the foregoing we propose to grant to the Company a certificate to provide toll and local public pay telephone service consistent with the conditions and requirements that we set forth in Order No. 14132, issued February 27, 1985.

This docket will be closed unless an appropriate petition for hearing is filed by one whose substantial interests may or will be affected by this proposed agency action, as provided by Florida Administrative Code 25-22.29.

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It is, therefore,

ORDERED by the Florida Public Service Commission that James H. Johnson's application to provide public pay telephone service is hereby granted. It is further

ORDERED that the action proposed herein is preliminary in nature and will not become effective or final, except as provided by Florida Administrative Code Rule 25-22.29. It is further

ORDERED that any person adversely affected by the action proposed herein may file a petition for a formal proceeding, as provided by Florida Administrative Code Rule 25-22.29. Said petition must be received by the Commission Clerk on or before October 3, 1985, in the form provided by Florida Administrative Code Rule 25-22.30(7)(a) and (f). It is further

ORDERED that in the absence of such a petition, this order shall become effective on October 4, 1985 as provided by Florida Administrative Code Rule 25-22.29(6).

ORDERED that if this order becomes final and effective on October 4, 1985, any party adversely affected may request judicial review by the Florida Supreme Court by the filing of a notice of appeal with the Commission Clerk and the filing of a copy of the notice and the filing fee with the Supreme Court. This filing must be completed within 10 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.

By ORDER of the Florida Public Service Commission, this 11th day of SEPTEMBER, 1985.


STEVE TRIBBLE
COMMISSION CLERK

(S E A L)

MSD

Is your RETURN ADDRESS completed on this reverse side?

SENDING:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can mail the card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

TC 124
 James N Johnson
 P.O. Box 1694
 Ft. Pierce, FL 34954

4a. Article Number

P174 241004

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified

7. Date of Delivery

5. Received By: (Print Name)

6. Signature (Addressee or Agent)

[Handwritten Signature]

8. Addressee's Address (Only if registered and fee is paid)



Thank you for using Return Receipt Services.

364.336 Regulatory assessment fees.--

Notwithstanding any provisions of law to the contrary, each telecommunications company licensed or operating under this chapter, for any part of the preceding 6-month period, shall pay to the commission, within 30 days following the end of each 6-month period, a fee that may not exceed 0.25 percent annually of its gross operating revenues derived from intrastate business. Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon motion by the commission, be immediately paid or refunded. Fees under this section may not be less than \$50 annually. Such fees shall be

deposited in accordance with s. 360.113. The commission may by rule establish criteria for payment of the regulatory assessment fee on an annual basis rather than on a semiannual basis.

History.--ss. 33, 48, ch. 90-244; s. 4, ch. 91-428; s. 22, ch. 95-403.

364.337 Alternate local exchange telecommunications companies; intrastate interexchange telecommunications services; certification.--

(1) Upon this act becoming a law, a party may file an application for a certificate as an alternative local exchange telecommunications company before January 1, 1998, and the commission shall conduct its review of the application and take all actions necessary to process the application. However, an application shall become effective no sooner than January 1, 1998. The commission shall grant a certificate of authority to provide alternative local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. In no event may an alternative local exchange telecommunications company offer basic local telecommunications services within the territory served by a company subject to s. 364.052 prior to January 1, 2001, unless the small local exchange telecommunications company elects to be regulated under s. 364.051 or provides cable television programming services directly or as video dial tone applications authorized under 47 U.S.C. s. 214, except as provided for in compliance with part II. It is the intent of the Legislature that the commission act expeditiously to grant certificates of authority under this section and that the grant of certificates not be affected by the application of any criteria other than that specifically enumerated in this subsection.

(2) Rules adopted by the commission governing the provision of alternative local exchange telecommunications service shall be consistent with s. 364.01. The basic local telecommunications service provided by an alternative local exchange telecommunications company must include access to operator services, "911" services, and relay services for the hearing impaired. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed. A certificated alternative local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest. In no event shall alternative local exchange telecommunications companies be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.3381.

(3) The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

(4) Rules adopted by the commission governing the provision of intrastate interexchange telecommunications service shall be consistent with s. 364.01. A certificated intrastate interexchange telecommunications company may petition the commission for a waiver for some or all of the requirements of this chapter, except s. 364.16, s. 364.335(3), or subsection (5). The commission may grant such petition if determined to be in the public interest. In no event shall intrastate interexchange telecommunications companies be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.14, 364.17, 364.18, 364.183(1), and 364.3381.

(5) The commission shall have continuing regulatory oversight over the provision of basic local exchange telecommunications service provided by a certificated alternative local exchange telecommunications company or a certificated alternative access vendor for purposes of establishing reasonable service quality criteria, assuring resolution of service complaints, and ensuring the fair treatment of all telecommunications providers in the telecommunications marketplace.

(6)(e) The Legislature finds the provision of alternative access vendor services to be in the public interest, and the commission may authorize the provision of such service. For the purposes of this section, effective January 1, 1998, "alternative access vendor services" means the provision of private line service between an entity and facilities at another location, whether

owned by the entity or an unaffiliated entity or access service between an end-user and an interexchange carrier by other than a local exchange telecommunications company. For purposes of this chapter, "private line service" means any dedicated point-to-point or point-to-multipoint service for the transmission of any public telecommunications service.

(b) No person shall provide alternative access vendor services without first obtaining a certificate from the commission. Any certificated alternative access vendor as of the date this act becomes a law wishing to provide alternative local exchange telecommunications service in addition to the services authorized in its certificate may do so, effective January 1, 1986, upon furnishing written notice to the commission.

(7) Each amount paid by an interexchange telecommunications company or a pay telephone company to a telecommunications company providing local service for use of the local network shall be deducted from gross operating revenues for purposes of determining the amount of the regulatory fee assessed the interexchange telecommunications company pursuant to s. 350.112 or s. 364.336.

History.—ss. 4, 5, ch. 82-51; s. 1, ch. 84-83; s. 30, ch. 85-81; ss. 6, 7, ch. 88-163; ss. 34, 48, 49, ch. 90-244; s. 4, ch. 91-422; s. 23, ch. 95-403.

364.3375 Pay telephone service providers.—

(1)(a) No person shall provide pay telephone service without first obtaining from the commission a certificate of public convenience and necessity to provide such service, except that the certification provisions of this subsection do not apply to a local exchange telecommunications company providing pay telephone service.

(b) In granting such certificate the commission, if it finds that the action is consistent with the public interest, may exempt a pay telephone provider from some or all of the requirements of this chapter. However, the commission may exempt a pay telephone provider from this section only to prevent fraud or if it finds the exemption to be in the public interest.

(c) A certificate authorizes the pay telephone provider to provide services statewide and to provide access to both local and intrastate interexchange pay telephone service, except that the commission may limit the type of calls that can be handled.

(2) Each pay telephone station shall:

(a) Receive and permit coin-free access to the universal emergency telephone number "911" where operable or to a local exchange company toll operator.

(b) Receive and provide coin-free or coin-return access to local directory assistance and the telephone number of the person responsible for repair service.

(c) Designate a party responsible for processing refunds to customers.

(d) Be equipped with a legible sign, card, or plate of reasonable permanence which provides information determined by the commission, by rule, to adequately inform the end-user.

(e) Be eligible to subscribe to flat-rate, single-line business local exchange services.

(3) Each pay telephone station which provides access to any interexchange telecommunications company shall provide access to all locally available interexchange telecommunications companies and shall provide for the completion of international telephone calls under terms and conditions as determined by the commission. The commission may grant limited waivers of this provision to pay telephone companies or operator service providers to prevent fraud or as otherwise determined in the public interest.

(4) A pay telephone provider may charge, as a maximum rate for local coin calls, a rate equivalent to the local coin rate of the local exchange telecommunications company.

(5) A pay telephone provider shall not obtain services from an operator service provider unless such operator service provider has obtained a certificate of public convenience and necessity from the commission pursuant to the provisions of s. 364.3376.

History.—ss. 35, 49, ch. 90-244; s. 4, ch. 91-422; s. 1, ch. 92-128; s. 24, ch. 95-403.

364.3376 Operator services.—

(1)(a) No person shall provide operator services as defined in s. 364.02 without first obtaining

PART II

A. RECORDS AND REPORTS

- 25-4.016 Gross Intrastate Operating Revenue Report (Repealed)
- 25-4.0161 Regulatory Assessment Fees; Telecommunication Companies
- 25-4.0166 Implementation of Uniform System and Classification of Accounts (Repealed)
- 25-4.017 Uniform System and Classification of Accounts
- 25-4.0171 Allowance for Funds Used During Construction
- 25-4.0176 Uniform System and Classification of Accounts - Depreciation
- 25-4.0175 Depreciation
- 25-4.0176 Recovery Schedules to Promote an Economical and Efficient Telecommunications Network (Repealed)
- 25-4.0178 Retirement Units
- 25-4.018 Annual Report (Repealed)
- 25-4.0185 Periodic Reports
- 25-4.019 Records and Reports in General
- 25-4.020 Location and Preservation of Records
- 25-4.0201 Audit Access to Records
- 25-4.021 System Maps and Records
- 25-4.022 Complaint - Trouble Reports, Etc.
- 25-4.023 Report of Interruptions
- 25-4.024 Held Applications for Service
- 25-4.0245 Rate of Return Report (Repealed)

GENERAL

25-4.016 Gross Intrastate Operating Revenue Report.
 Specific Authority: 350.127(2), F.S.
 Law Implemented: 364.17 F.S.
 History: New 7/3/74, Repealed 5/4/81, formerly 25-4.16.

25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) As applicable and as provided in s. 350.113, F.S. s. 364.336, F.S., and s. 364.337, F.S., each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of 0.0015 of its gross operating revenues derived from intrastate business. For the purpose of determining this fee, each interexchange telecommunications company and each pay telephone company shall deduct from gross operating revenues amounts paid for use of the local network to a telecommunications company providing local service. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee of \$50 shall be imposed.

(2) Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year. The regulatory assessment fee and appropriate form shall be filed no later than July 30 for the preceding period of January 1 through June 30, and no later than January 30 of the following year for the period of July 1 through December 31. Telecommunication companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the subsequent year for the current calendar year operations.

(3) If the due date falls on a Saturday, Sunday, or legal holiday, the due date is extended to the next business day. If the fees are sent by registered mail, the date of the registration is the United States Postal Service's postmark date. If the fees are sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the United States Postal Service's postmark date. The postmarked certified mail receipt is evidence that the fees were delivered. Regulatory assessment fees are considered paid on the date they

are post marked by the United States Postal Service or received and logged in by the Commission's Division of Administration in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage, and post marked no later than the due date.

(4) Commission Form PSC/CMU 25 (07/96), entitled "Communication Company Regulatory Assessment Fee Return," applicable to local exchange telecommunications companies; Form PSC/CMU 26 (07/96), entitled "Pay Telephone Service Provider Regulatory Assessment Fee Return"; Form PSC/CMU 34 (07/96), entitled "Shared Tenant Service Provider Regulatory Assessment Fee Return"; Form PSC/CMU 153 (07/96), entitled "Interexchange Company Regulatory Assessment Fee Return"; and Form PSC/CMU 1 (07/96), entitled "Alternative Access Vendor Regulatory Assessment Fee Return"; and Form PSC/CMU 7 (07/96), entitled "Alternative Local Exchange Company Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of Administration.

(5) Each telecommunications company shall have up to and including the due date in which to submit the applicable form and:

- (a) Remit the total amount of its fee or
- (b) Remit an amount which the company estimates is its full fee.

(6) Where the company remits less than its full fee, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90 percent of the total regulatory assessment fee, include interest as provided by subsection (8)(b) of this rule.

(7) A company may request from the Division of Administration a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return form.

(a) The request for extension must be written and accompanied by a statement of good cause.

(b) The request for extension must be received by the Division of Administration at least two weeks before the due date.

(c) Where a telecommunications company receives an extension of its due date pursuant to this rule, the telecommunications company shall remit a charge in addition to the regulatory assessment fees, as set out in s. 350.113(5), F.S.

(d) The return forms may be obtained from the Commission's Division of Administration. The failure of a telecommunications company to receive a return form shall not excuse the company from its obligation to timely remit the regulatory assessment fees.

(8) The delinquency of any amount due to the Commission from the telecommunications company pursuant to the provisions of s. 350.113, F.S., and this rule, begins with the first calendar day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in s. 350.113, F.S., shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

Specific Authority: 350.127(2), F.S.

Law Implemented: 350.113, 364.336, 364.337(4), F.S.

History: New 5/18/83, formerly 25-4.161, Amended 10/16/86, 1/1/91, 12/29/91, 1/8/95, 12/26/95, 07/08/96.

25-4.0166 Implementation of Uniform System & Classification of Accounts.

Specific Authority: 350.127(2), F.S.

Law Implemented: 350.113, 364.17, F.S.

History: New 4/25/88, Repealed 2/10/92.

25-4.017 Uniform System of Accounts.

(1) Each telecommunications company shall maintain its accounts and records in conformity with the Uniform System of Accounts for Telecommunications Companies (USOA) as prescribed by the Federal Communications Commission in Title 47, Code of

PART II

**RULES GOVERNING PAY TELEPHONE SERVICE PROVIDED
BY OTHER THAN LOCAL EXCHANGE TELEPHONE COMPANIES**

- 25-24.500 Reserved
- 25-24.505 Scope
- 25-24.510 Certificate of Public Convenience and Necessity Required
- 25-24.511 Application for Certificate
- 25-24.512 Improper Use of a Certificate
- 25-24.513 Application for Approval of Sale, Assignment or Transfer of Certificate (Repealed)
- 25-24.514 Cancellation of a Certificate
- 25-24.515 Pay Telephone Service
- 25-24.516 Non-Local Exchange Company Pay Telephone Rate Caps
- 25-24.520 Reporting Requirements

25-24.500 Reserved.

25-24.505 Scope.

(1) This part applies to any person other than a local exchange company providing pay telephone service. As provided by Rules 25-4.002, 25-9.001, and 25-14.001, no provision of Chapters 25-4, 25-9, or 25-14 shall apply to pay telephone service companies, except the following: 25-4.003 (Definitions), 25-4.0161 (Regulatory Assessment Fees; Telecommunications Companies), 25-4.019 (Records and Reports In General), 25-4.020(2) (Location and Preservation of Records), and 25-4.043 (Response to Commission Staff Inquiries).

(2) To the extent these rules are inconsistent with provisions of Chapter 364, Florida Statutes, as regards pay telephone service, companies subject to this part are exempted from such provisions or are subject to different requirements than otherwise prescribed for telephone companies under the authority of Section 364.337, Florida Statutes.

(3) Any applicant may petition for exemption from applicable portions of Chapter 364, Florida Statutes, or for application of different requirements than otherwise prescribed for telephone companies by Chapter 364, Florida Statutes, under the authority of Section 364.337, Florida Statutes.

Specific Authority: 350.127(2), F. S.

Law Implemented: 350.113, 350.115, 350.117, 364.01, 364.016, 364.02, 364.17, 364.18, 364.183, 364.185, 364.32, 364.337, F.S.

History: New 1/5/87, Amended, 11/13/95.

25-24.510 Certificate of Public Convenience and Necessity Required.

No person shall provide pay telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment for services be collected until the effective date of a certificate, if granted. However, acquisition of equipment and facilities, advertising and other promotional activities may begin prior to the effective date of the certificate at the company's risk that it may not be granted. In any customer contacts or advertisements prior to certification, the company must advise the customer that certification has not and may never be granted.

Specific Authority: 350.127(2), F. S.

Law Implemented: 364.32, 364.33, 364.335, 364.337, 364.345, F.S.

History: New 1/5/87, Amended 5/15/89.

25-24.511 Application for Certificate.

(1) An applicant shall submit an application on Form PSC/CMU 32 (1/91), which is incorporated into this rule by reference. Form PSC/CMU 32 (1/91), entitled "Application Form for Certificate to Provide Pay Telephone Service Within

the State of Florida," may be obtained from the Commission's Division of Communications. An application fee of \$100.00 must accompany the filing of all applications. This is a non-refundable fee to cover the costs of processing the application and it has no relevance on the approval or denial of a certificate.

(2) An original and five (5) copies of the application shall be filed with the Division of Records and Reporting.

(3) Any pay telephone service authority previously granted or granted hereafter is subject to the following:

(a) Authority granted is statewide.

(b) Authority is to provide both local and intrastate toll pay telephone service. A certificate to provide pay telephone service does not carry with it the authority to provide local exchange or interexchange service. A separate application must be made for such authority.

(4) A certificate will be granted if the Commission determines that grant of the application is in the public interest. One certificate per applicant will be granted unless the applicant shows that granting of additional certificates is in the public interest. A new certificate will not be granted to any applicant who has previously had a certificate involuntarily cancelled unless the applicant shows that granting of the new certificate is in the public interest.

Specific Authority: 350.127(2), F.S.

Law Implemented: 364.32, 364.33, 364.335, 364.337, 364.3375, 364.345, F.S.

History: New 1/5/87. Amended 9/28/89, 4/8/91, 11/20/91, 12/21/92.

25-26.512 Improper Use of a Certificate.

No certificate of public convenience and necessity authorizing pay telephone service shall be sold, assigned or transferred.

Specific Authority: 350.127(2), F. S.

Law Implemented: 364.32, 364.33, 364.335, 364.337, 364.345, F.S.

History: New 1/5/87, Amended 5/15/89.

25-26.513 Application for Approval of Sale, Assignment or Transfer of Certificate.

Specific Authority: 350.127(2), F. S.

Law Implemented: 364.32, 364.33, 364.335, 364.337, 364.345, F.S.

History: New 1/5/87, Repealed 5/15/89.

25-26.514 Cancellation of a Certificate.

(1) The Commission may cancel a company's certificate for any of the following reasons:

(a) Violation of the terms and conditions under which the authority was originally granted.

(b) Violation of Commission rules or orders;

(c) Violation of Florida Statutes; or,

(d) Failure to provide service for a period of six (6) months.

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

(3) Cancellation of a certificate shall be ordered subject to the holder providing the information required by subsection (2).

Specific Authority: 350.127(2), F. S.

Law Implemented: 350.113, 350.127(1), 364.03, 364.285, 364.337, 364.345, F.S.

History: New 1/5/87.

25-26.515 Pay Telephone Service.

(1) Pay stations shall be lighted during the hours of darkness when light from other sources is not adequate to read instructions and use the instrument.

(2) Each telephone station shall return any deposited amount if the call

**Payment History
James N. Johnson
TC124**

RAF Period	RAF Paid	Postmark Date	Days Late	P&I Due	Paid	Unpaid Balance
1991	\$25.00	03/09/92	See Note 2	\$27.75	\$0.00	\$52.75
1992	\$50.00	12/05/97	1770	\$42.00	\$0.00	\$42.00
1993	\$50.00	01/06/98	1437	\$38.50	\$27.00	\$9.50
1994	\$50.00	03/28/95	57	\$6.00	\$0.00	\$6.00
1995	\$50.00	07/31/96	122	\$16.00	\$6.00	\$10.00
1996	\$50.00	03/14/97	0	\$6.00	\$0.00	\$6.00
1997	\$0.00	Unpaid	0	\$0.00	\$0.00	\$50.00
	\$275.00			\$134.25	\$33.00	\$176.25

Note 1: It is assumed that the RAF due for each year is the Minimum fee of \$50.00.

Note 2: For 1991, the penalty and interest due is the sum of the P&I assessed on the paid and the unpaid portion of RAF Fees. For the Unpaid RAF, the penalty and interest rates are calculated assuming a payment is made by 01/30/98. The break down is as follows:

1991	RAF Paid:	\$25.00	Penalty and Interest Due:	\$ 3.00	39	Days Late
1991	RAF Unpaid:	\$25.00	Penalty and Interest Due:	\$24.75	2122	Days Late

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 212
issued to James N. Johnson for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees.


DOCKET NO. 971245-TC

DATED: FEBRUARY 6, 1998

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Testimony
of Kelly Biegalski, in the above reference docket, has been served
by U.S. Mail this 6th day of February, 1998, to the following:

James N. Johnson
100 Camelot Drive
Ft. Pierce, Florida 34946



WILLIAM P. COX
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6199