

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 4314 issued to M.C. Trading & Associates, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.520, F.A.C., Reporting Requirements.

DOCKET NO. 981218-TC
ORDER NO. PSC-98-1735-FOF-TC
ISSUED: December 21, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER REJECTING SETTLEMENT OFFER, IMPOSING FINES OR CANCELING
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 a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

M.C. Trading & Associates, Inc. (M.C. Trading) currently holds Certificate of Public Convenience and Necessity No. 4314, issued by the Commission on November 28, 1995, authorizing the provision of alternative access vendor service. The Division of Administration advised our staff by memorandum that M.C. Trading had not paid the regulatory assessment fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1997, nor statutory penalties and interest charges for late RAFs payments for the years 1996 and 1997.

DOCUMENT NUMBER-DATE

14303 DEC 21 98

PLEASE REPORT TO REPORTING

Under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF 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. All entities that apply for certification receive a copy of our rules governing alternative access vendor service and an affidavit in which the applicants attest that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed. The RAF form was mailed to M.C. Trading in December, 1997, for the period of January 1, 1997, through December 31, 1997. Our correspondence regarding the RAFs was signed for and delivered to M.C. Trading on December 31, 1997.

Our staff attempted to reach the contact person of M.C. Trading by telephone. This effort was unsuccessful, indicating that M.C. Trading may have violated Rule 25-24.520, 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 within ten (10) days of its effectiveness.

After this docket was opened, our staff received a call from Mr. Edward Nnadi, M.C. Trading's liaison. He stated that the company would pay all the past due charges and would propose a settlement offer. M.C. Trading paid all the past due statutory penalties and interest charges, provided the company's new phone number, and submitted a settlement offer. M.C. Trading proposed that it would pay future regulatory assessment fees in a timely manner and contribute \$30 to the State General Revenue Fund.

In previous cases, we have accepted a \$100 settlement in lieu of the cancellation of the certificate for violation of our rules. M.C. Trading's settlement proposal is not consistent with the minimum amount we have accepted previously. Therefore, we find it appropriate to reject M.C. Trading's proposed settlement.

Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. For the reason described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel M.C. Trading's certificate, unless M.C. Trading pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida

ORDER NO. PSC-98-1735-FOF-TC
DOCKET NO. 981218-TC
PAGE 3

Administrative Code; and a \$500 fine for failure to comply with Rule 25-24.520, Florida Administrative Code to the Florida Public Service Commission.

M.C. Trading 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 fines are received, this Docket shall be closed. Should M.C. Trading fail to comply with this Order within five business days from the date this Order becomes final, M.C. Trading shall have its certificate canceled and the Docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that M.C. Trading & Associates, Inc.'s settlement proposal summarized in the body of this Order is hereby rejected. It is further

ORDERED that M.C. Trading & Associates, Inc. must pay a \$500 fine to the Florida Public Service Commission, or have its certificate canceled 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. If M.C. Trading & Associates, Inc. fails to pay the \$500 fine, the fine shall be forwarded to the Office of the Comptroller for collection. It is further

ORDERED that M.C. Trading & Associates, Inc. must 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. If M.C. Trading & Associates, Inc. fails to pay the \$500 fine, the fine shall be forwarded to the Office of the Comptroller for collection. It is further

ORDERED that should M.C. Trading & Associates, Inc. fail to comply with this Order, M.C. Trading & Associates, Inc.'s certificate shall be canceled, and the Docket shall be closed. It is further

ORDER NO. PSC-98-1735-FOF-TC
DOCKET NO. 981218-TC
PAGE 4

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 28-106.201, 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 or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 21st day of December, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

KMP

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-98-1735-FOF-TC
DOCKET NO. 981218-TC
PAGE 5

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 11, 1999.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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.