

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5381
issued to Bestel, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 981438-TC
ORDER NO. PSC-99-1180-FOF-TC
ISSUED: June 8, 1999

The following Commissioners participated in the disposition of
this matter:

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

ORDER REINSTATING PAY TELEPHONE CERTIFICATE NO. 5381 AND
APPROVING SETTLEMENT

Bestel, Inc. (Bestel) currently holds Certificate of Public Convenience and Necessity No. 5381, issued by the Commission on July 18, 1997, authorizing the provision of Pay Telephone service. Bestel has 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. Also, accrued statutory penalties and interest charges for the year 1997 have not been paid. Pursuant to 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 Pay Telephone service. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

DOCUMENT NUMBER-DATE

07017 JUN-89

PSC-RECORDS/REPORTING

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Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fees is due. Bestel has been given adequate opportunity to pay. The Commission's correspondence regarding the RAFs was signed for and delivered to Bestel on December 13, 1997.

On January 26, 1999, Order No. PSC-99-0160-FOF-TC was issued, imposing a \$500 fine and requiring payment of the fine and past due RAFs, along with statutory penalties and interest charges accrued, by February 23, 1999. The Order further stated that failure to comply would result in the cancellation of Bestel's Pay Telephone Certificate No. 5381. When the Order was not protested; and the fine and past due amount were not paid, the certificate was canceled and the docket was closed.

However, after the docket was closed, our staff was advised that the company had paid its 1997 RAFs on January 6, which was after the January 5, 1999 Agenda Conference, but prior to the Order being issued. Subsequently, our staff sought to contact the company's president, Mr. David Corsair, who advised that the company wanted to keep its certificate, would pay the 1998 RAFs, which were still outstanding, and would make a settlement offer. The Division of Administration's records reflect that the company has now paid the 1998 RAFs. In addition, the company proposed to pay future regulatory assessment fees by the due date of each year and offered a \$100 settlement to resolve this case.

On April 30, our staff was made aware that this company's certificate had been canceled on February 23, after the original Order became final. The April 22, 1999, recommendation on the settlement was deferred from the May 4, 1999, Agenda Conference in order for our staff to address the cancellation.

We believe that Bestel has demonstrated the intent to operate in conformance with the Commission's Rules and Orders by submitting the past due regulatory assessment fees for 1997 and 1998, along with accrued statutory penalties and interest charges for the years 1997, and 1998. Accordingly, we find it appropriate to reinstate PATS Certificate No. 5381.

We further believe that the terms of the settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. Bestel must comply with these requirements within five business days from the

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date this Order becomes final. The contribution will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate should be canceled administratively with an effective date of December 31, 1998. Upon remittance of the \$100 contribution, or the cancellation of the certificate, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby approve the reinstatement of Bestel, Inc.'s Pay Telephone Certificate No. 5381. It is further

ORDERED that Bestel, Inc.'s settlement proposal summarized in the body of this Order is hereby approved. It is further

ORDERED that this docket shall remain open pending receipt of the \$100 contribution. The contribution will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further It is further

ORDERED that if Bestel, Inc. fails to pay in accordance with the terms of its settlement offer, Bestel, Inc.'s Pay Telephone Certificate No. 5381 shall be canceled administratively with an effective date of December 31, 1998.

ORDERED that upon receipt of the \$100 contribution, or the cancellation of the certificate, this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 8th day
of June, 1999.

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/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 after the issuance 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.

M E M O R A N D U M

June 7, 1999

RECEIVED-FPSC

99 JUN -7 AM 10:39

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *kmp CB*

RE: DOCKET NO. 981438-TC - Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5381 issued to Bestel, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

99-1180-FOF
~~*99-1133-FOF*~~

Attached is an ORDER REINSTATING PAY TELEPHONE CERTIFICATE NO. 5381 AND APPROVING SETTLEMENT to be issued in the above-referenced docket. (Number of pages in order - 4)

KMP/slh
Attachment
cc: Division of Communications
I:\981438rs.kmp

SA (verbal)

0/1

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Number of Originals 4 Date 6/9/99 Copies Per Original 19
 Requested By Perth

Item Presented _____
 Agenda For (Date) _____ Order No. 99-1180 In Docket No. 98438
 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

Special Handling Instructions

Distribution/Mailing		Distribution/Mailing	
Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>17</u>	Commission Offices	---	_____
<u>(1)</u>	Docket Mailing List - Mailed	_____	_____
_____	Docket Mailing List - Faxed	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 115 Verified By Michael
 Date and Time Completed 6/10 Job Checked For Correctness and Quality (Initial) U

Mail Room Verification

Date Mailed / Verified By /