

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-99-1242-FOF-TC
ISSUED: June 24, 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

BY THE COMMISSION:

M.C. Trading & Associates, Inc. (M.C. Trading) held Certificate of Public Convenience and Necessity No. 4314, issued by the Commission on November 28, 1995, authorizing the provision of pay phone service. 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. Also, accrued statutory penalties and interest charges for the years 1996 and 1997 had 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

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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.

Pursuant to Section 350.113(4), Florida Statutes, the RAF 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. The Commission's 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(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.

After this docket was opened, our staff received a call from Mr. Edward Nnadi, M.C. Trading's President. 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 Commission with its correct address and telephone number, and submitted a settlement offer. M.C. Trading agreed to pay future regulatory assessment fees in a timely manner, provide the Commission with updated reporting requirements within 10 days of a change, and contribute \$30 to the State General Revenue Fund. By Order No. PSC-98-1735-FOF-TC, issued on December 21, 1998, we denied M.C. Trading's settlement proposal and ordered it to pay a \$1,000 fine or have its certificate canceled. M.C. Trading had until January 11, 1999, to respond to this Order and until January 18, 1999, to pay the fine and the past due fees.

On December 31, 1998, Mr. Nnadi responded to our Order by proposing to pay future regulatory assessment fees in a timely manner and offered a \$200 settlement to resolve this matter. However, our staff inadvertently did not forward a copy of this

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letter to the Division of Records and Reporting, who, unaware of the new settlement proposal, closed the docket, pursuant to the Order.

On January 21, 1999, our staff requested that the docket be reopened to address the new settlement offer. We accepted the new settlement offer at the March 30, 1999, Agenda Conference and Order No. PSC-99-0826-AS-TC was issued in the disposition of this matter on April 22, 1999. M.C. Trading paid the \$200 settlement on April 13, 1999. However, M.C. Trading's certificate had been canceled on January 18, 1999, after the original Order became final. The cancellation did not come to our attention until May 4, 1999.

We believe that M.C. Trading has demonstrated the intent to operate in conformance with the Commission's Rules and Orders by submitting the past due regulatory assessment fees, along with accrued statutory penalties and interest charges, and by submitting the \$200 contribution. Accordingly, we find it appropriate to reinstate PATS Certificate No. 4314. Further, we find it appropriate to reaffirm our decision reflected in Order No. PSC-99-0826-AS-TC accepting the settlement proposal.

Based on the foregoing, it is

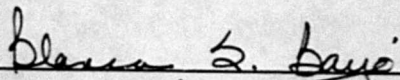
ORDERED by the Florida Public Service Commission that we hereby approve the reinstatement of M.C. Trading & Associates, Inc.'s Pay Telephone Certificate No. 4314. It is further

ORDERED that Order No. PSC-99-0826-AS-TC, issued on April 22, 1999, accepting M.C. Trading & Associates, Inc.'s \$200 settlement proposal, is reaffirmed in all other respects. It is further

ORDERED that this docket is closed.

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By ORDER of the Florida Public Service Commission this 24th
day of June, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.