

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Alternative Local Exchange
Telecommunications Certificate
No. 5733 issued to American
Phone Corporation for violation
of Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 990670-TX
ORDER NO. PSC-99-1484-PAA-TX
ISSUED: August 3, 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.

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF DELINQUENT
REGULATORY ASSESSMENT FEES, OR CANCELING ALTERNATIVE LOCAL
EXCHANGE TELECOMMUNICATIONS 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.

American Phone Corporation (American Phone) obtained
Alternative Local Exchange Telecommunications (ALEC) Certificate
No. 5733 on November 18, 1998. American Phone 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 1998. Also, accrued statutory penalties and interest
charges for the year 1998 have not been paid. Pursuant to Section

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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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 local exchange telecommunications 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 regulatory assessment fee 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 fee is due. American Phone has been given adequate opportunity to pay. To date, American Phone has not paid the required fees.

For the reason described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel American Phone's certificate for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless American Phone pays a \$500 fine and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. American Phone must comply with these requirements within five business days after the end of the 21-day protest period. The fine 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, and fine are received, this Docket shall be closed. Should American Phone fail to comply with this Order within five business days after the conclusion of the 21-day protest period, American Phone shall have its certificate canceled, effective on the date of issuance of the Consummating Order, and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes American Phone's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that American Phone Corporation must pay the past due regulatory assessment fees, 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 after the end of the 21-day protest period. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that pursuant to Rule 25-24.820(1)(b), Florida Administrative Code, should American Phone Corporation fail to comply with this Order, American Phone Corporation's Certificate No. 5733 shall be canceled, effective on the date of issuance of the Consummating Order, and the Docket shall be closed. It is further

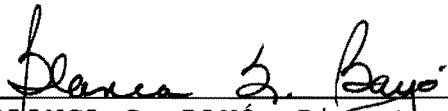
ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes American Phone Corporation's obligation to pay applicable delinquent Regulatory Assessment Fees for the year 1998, and accrued statutory penalties and interest charges for the year 1998. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order 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" attached hereto. It is further

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

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By ORDER of the Florida Public Service Commission this 3rd day of August, 1999.



BIANCA 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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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. 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 August 24, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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.