

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5568
issued to Linda C. Moores for
violation of Rule 25-4.0161,
F.A.C.

DOCKET NO. 990434-TC
ORDER NO. PSC-99-1783-PAA-TC
ISSUED: September 10, 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 CANCELING PAY TELEPHONE CERTIFICATE INVOLUNTARILY

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.

Linda C. Moores (Mrs. Moores) currently holds Certificate of Public Convenience and Necessity No. 5568, issued by the Commission on February 7, 1998, authorizing the provision of Pay Telephone service. Mrs. Moores 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 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

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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.

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. Mrs. Moores has been given adequate opportunity to pay. The Commission's correspondence regarding the delinquent RAFs was mailed to Mrs. Moores on March 12, 1999.

By letter dated March 29, 1999, Mrs. Moores responded that she had not been in business since July 1998 and that she was not aware of the RAFs. Subsequently, on April 9, 1999, our staff mailed a letter to Mrs. Moores explaining that until she paid the outstanding RAFs and accrued statutory penalties and interest charges for the year 1998, our staff could not recommend approval of a voluntary cancellation of the certificate. As of the date of this vote, the Division of Administration's records do not show a payment of the past due amount.

Mrs. Moores has not complied with Rule 25-24.514(2), Florida Administrative Code, which states:

(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.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.514(2), Florida Administrative Code, or we involuntarily cancel the certificate, Mrs. Moores is responsible for the RAFs.

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Mrs.

ORDER NO. PSC-99-1783-PAA-TC
DOCKET NO. 990434-TC
PAGE 3

Moore's request for voluntary cancellation of Pay Telephone Certificate No. 5568 for failure to comply with the provisions of 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161 (2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Mrs. Moore's certificate for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since Mrs. Moore is no longer in business, there would be no purpose in requiring Mrs. Moore to pay a fine. By involuntarily canceling Mrs. Moore's certificate, however, we will be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes Mrs. Moore's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges for 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Linda C. Moore's request for voluntary cancellation of Pay Telephone Certificate No. 5568. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Linda C. Moore's Pay Telephone Certificate No. 5568 for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that Linda C. Moore remains obligated for all due and owing regulatory assessment fees for the year 1998, as well as accrued statutory penalties and interest charges for 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 or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

ORDER NO. PSC-99-1783-PAA-TC
DOCKET NO. 990434-TC
PAGE 4

By ORDER of the Florida Public Service Commission, this 10th
day of September, 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 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 October 1, 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.