

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5041
issued to Pay-Tel Services Inc.
for violation of Rules 25-
24.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies,
and 25-4.043, F.A.C., Response
to Commission Staff Inquiries.

DOCKET NO. 981375-TC
ORDER NO. PSC-00-0213-AS-TC
ISSUED: February 2, 2000

The following Commissioners participated in the disposition of
this matter:

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

ORDER APPROVING AMENDED SETTLEMENT

BY THE COMMISSION:

Pay-Tel Services Inc. (Pay-Tel) currently holds Certificate of
Public Convenience and Necessity No. 5041, issued by the Commission
on January 7, 1997, authorizing the provision of pay telephone
service. Pursuant to Section 364.336, Florida Statutes,
certificate holders must pay a minimum annual Regulatory Assessment
Fees (RAFs) 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 reporting 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 phone 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.

DOCUMENT NUMBER-DATE

01426 FEB-28

FPSC-RECORDS/REPORTING

The Division of Administration advised our staff by memorandum that Pay-Tel had not paid the 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 year 1997. Further, on December 18, 1997, our staff mailed Pay-Tel a letter concerning service evaluation violations and requested a response by January 2, 1998. Due to the failure to respond, our staff made a second attempt by certified mail on January 9, 1998, requesting a response by January 20, 1998.

After this docket was opened, our staff received a call from Mr. Luis Alfaro (Mr. Alfaro), Vice-President of Pay-Tel. He stated that the company would pay all the past due charges, respond to staff's inquiry, and would propose a settlement offer. Mr. Alfaro paid all the past due 1997 RAFs, statutory penalties and interest charges, and submitted a settlement offer. In the settlement offer, Pay-Tel agreed to pay future RAFs in a timely manner, respond to staff inquiries in a timely manner, and offered \$2,500 in settlement. Mr. Alfaro proposed to pay \$500 in April 1999, and the balance to be paid in \$100 monthly installments by no later than the last working day of each month until paid in full.

By Order No. PSC-99-0809-AS-TC, issued April 21, 1999, we approved Pay-Tel's settlement offer. The initial \$500 contribution was due by April 30, 1999. When the contribution was not received by the due date, our staff sought to contact Pay-Tel on May 21, 1999, to remind it that the \$500 was past due. On May 24, 1999, we received a \$600 payment from Pay-Tel, which represented the \$500 initial payment and the May 1999 installment.

Our staff contacted Pay-Tel via telephone on July 20, 1999, and via certified mail on July 21, 1999, informing Pay-Tel that it had failed to remit the June 1999 payment and that both the June 1999 and July 1999 installment were due by July 30, 1999. We received the June and July installments payments, totaling \$200, on July 30, 1999. On October 12, 1999, the Division of Administration advised our staff that we had received a check for \$100, which represented the August 1999 installment.

By Proposed Agency Action Order No. PSC-99-2216-PAA-TC, issued on November 10, 1999, we preliminary canceled Pay-Tel's certificate because we believed that our staff had made every effort to assist Pay-Tel in complying with Order No. PSC-99-0809-AS-TC. Pay-Tel had, however, been repeatedly delinquent on its payments under the

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approved settlement, and had demonstrated a willful disregard for the requirements in the Order. Pay-Tel had until December 1, 1999, to protest our Proposed Agency Action Order.

On December 1, 1999, Mr. Alfaro protested the Order and requested a hearing. In his protest, he stated that the cancellation of the certificate would put him out of business. He further stated that he would pay the full balance in 30 days. However, on December 3, 1999, Mr. Alfaro contacted staff and proposed a new settlement and asked for consideration of this new proposal. He proposed to pay the balance of the original settlement in two payments of \$800.

We believe that the terms of the amended settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. The first \$800 contribution should be received by the Commission by January 31, 2000, and the balance of \$800 should be received by the Commission by February 29, 2000. The contributions should be identified with the docket number and the company name. Upon timely receipt, the contributions 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 Pay-Tel fails to comply with this Order, its certificate will be canceled administratively. Upon remittance of the two \$800 contributions, totaling \$1,600, or cancellation of the certificate, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Pay-Tel Services Inc.'s amended settlement proposal summarized in the body of this Order is hereby approved. It is further

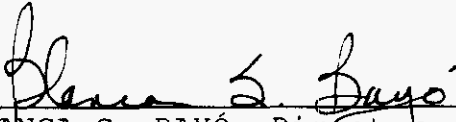
ORDERED that this docket shall remain open pending timely receipt of the final installment of the \$1,600 contribution balance. The contribution will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that if Pay-Tel Services Inc. fails to comply with this Order, its Pay Telephone Certificate No. 5041 will be canceled administratively. It is further

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ORDERED that upon timely receipt of the final installment of the \$1,600 contribution balance or cancellation of the certificate, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 2nd day of February, 2000.



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.