

STATE OF FLORIDA

Commissioners:
J. TERRY DEASON, CHAIRMAN
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ



DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

October 19, 2000

Mr. George Leyva d/b/a
National Payphone of Florida
3948 NE 169th Street
North Miami Beach, FL 33160-3212

Re: Docket No. 001077-TC

Dear Mr. Leyva:

This is a follow up to our telephone conversation concerning the above docket, which was opened for nonpayment of the 1999 regulatory assessment fee (RAF) and for not providing the Commission with a change of address. As information, Commission rules provide that the RAF is due each year by January 30 for the previous year, unless the 30th falls on a weekend, then the due date is the next working day. For example, the 1999 fee was due January 31, 2000. In addition, Commission rules provide that a certificate holder must provide the Commission with any change of address, telephone number, or liaison within 10 days of a change.

You advised me in our telephone conversation that your new address is the 3948 NE 169 Street address. That is the address that the Commission has had at least five pieces of mail that was returned by the US Postal Service. I am enclosing a copy of a couple of the envelopes for your review. You may wish to discuss this with your local post office to find out why the mail is being returned if it is a good address.

Commission records show that as of this date, the 1999 RAF has not been paid. The 1999 RAF return is attached. Please complete and return it along with your check for the past due amount in full. The RAF is .0015% of your total Florida gross revenues, or \$50.00, whichever is greater. However, if you owe only the minimum amount and if your check is postmarked by October 27, 2000, the 1999 total is \$67.00 (\$50.00 fee, \$12.50 penalty, and \$4.50 interest). If your check is postmarked between October 28 and November 26, 2000, the interest increases to \$5.00, or a total minimum amount of \$67.50. Our records also show that you have a penalty and interest balance in the amount of \$2.00 from the 1998 RAF. You paid the \$50.00 fee and the \$10.00 penalty, but you did not pay the \$2.00 interest charge for the late payment.

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FPSC-RECORDS/REPORTING

October 19, 2000

The Commissioners voted on this docket at the October 17 Agenda Conference to impose a \$500 fine for failure to pay the RAF and a \$500 fine for not providing the Commission with updated reporting requirements, for a total of \$1,000. At this point, you have three options.

- (1) Cancel the certificate voluntarily - Pay all past due charges in full, pay the current year's (2000) RAF or provide a date certain that it will be paid (such as 30 days from the date of the Commission Order cancelling your certificate), and write a letter requesting cancellation and reference the docket number. A copy of our rule is attached.
- (2) Do nothing - In this case, your certificate will be cancelled on the Commission's own motion. All outstanding RAFs, including penalty and interest charges, will be turned over to the Comptroller's Office for collection. In addition, Rule 25-24.511(5), F.A.C., states that "Only one certificate per applicant will be granted. A new certificate will not be granted to any applicant who has previously had a certificate involuntarily cancelled." This means that if you choose this option, you could not reapply for a new certificate at a later date.
- (3) File a petition for a formal proceeding in the form provided by Rule 28-106.201, F.A.C., copy attached. This petition must be filed with the Commission after the Order is issued and within the protest period. The Order is scheduled to be issued by November 6, 2000. Rule 28-106.201(2)(g) states that the petition must include "A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action." This means that you may wish to propose a settlement. If you propose a settlement, your petition must include the following:
 - Docket number;
 - A check for the past due amount in full;
 - A statement that it has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are;
 - Your current address, telephone number, and liaison;
 - A statement that you will provide the Commission with updated reporting requirements within 10 days of a change; and
 - Make a specific monetary settlement.

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Any settlement offer should be addressed to Ms. Blanca Bayó, Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The proposed settlement amount should **not** be paid at this time, instead only the past due regulatory assessment fee, plus penalty and interest charges should be paid. The settlement amount, if approved by the Commission, will become due after the Commissioners vote on this issue.

If you file a timely petition proposing a settlement, a new Agenda Conference date will be scheduled. If the settlement is accepted, at that time, the Commissioners will vote on whether or not to accept your settlement offer. An Order will then be issued and you will have 10 business days from the date of the Order to pay the settlement. If the settlement is not paid timely, your certificate will be cancelled.

Please let me know what your decision is by November 3, 2000. If you have any questions, just let me know. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at pisler@psc.state.fl.us.

Sincerely,



Paula J. Isler, Research Assistant
Bureau of Service Quality & Compliance

Enclosures

cc: Docket No. 001077-TC
Division of Legal Services (Elliott)

FLORIDA PUBLIC SERVICE COMMISSION
Instructions For Filing Regulatory Assessment Fee Return
(Pay Telephone Service Provider)

1. **WHEN TO FILE:** For companies which owed a total of \$10,000 or more of assessment fee for the preceding calendar year, this Regulatory Assessment Fee Return and payment must be filed or postmarked:

*On or before July 30 for the six-month period January 1 through June 30, AND
On or before January 30 for the six-month period July 1 through December 31.*

For companies which owed a total of less than \$10,000 of assessment fee for the preceding calendar year, this Regulatory Assessment Fee Return and payment must be filed or postmarked:

On or before January 30 for the prior twelve-month period January 1 through December 31.

However, if July 30 or January 30 falls on a Saturday, Sunday, or holiday, the Regulatory Assessment Fee may be filed or postmarked on the next business day, without penalty.

2. **FEES:** Each company shall pay 0.0015 of its gross operating revenues derived from intrastate business, as referenced in Rule 25-4.0161(1), F.A.C. Gross Operating Revenues are defined as the total revenues before expenses. Gross Intrastate Operating Revenues are defined as revenues from calls originating and terminating within Florida. Do not deduct any expenses, taxes, or uncollectibles from these amounts other than the amount on Line 3.

On Line 3, deduct any amount paid to another telecommunications company for the use of any telecommunications network (including installation charges) to provide service to its customers. ***Do not deduct any taxes, federal subscriber line charges, interstate long distance access charges, or amounts paid for nonregulated services such as voice mail, inside wire maintenance, or equipment purchases/rentals.*** **DEDUCTIONS MUST BE INTRASTATE ONLY AND MUST BE VERIFIABLE.**

3. **FAILURE TO FILE BY DUE DATE:** Failure to file a return by the established due date will result in a penalty being added to the amount of fee due, 5% for each 30 days or fraction thereof, not to exceed a total penalty of 25% (Line 6). In addition, interest shall be added in the amount of 1% for each 30 days or fraction thereof, not to exceed a total of 12% per year (Line 7). A Regulatory Assessment Fee Return must be completed, signed, and filed even if there are no revenues to report or if the minimum amount is due.

When a company fails to timely file a Regulatory Assessment Fee Return, the Commission has the authority to order the company to pay a penalty and/or cancel the company's certificate. The company will have an opportunity to respond to any proposed Commission action.

4. **EXTENSION:** A request for an extension of time up to 30 days may be made by filing the enclosed *Request for Extension to File Regulatory Assessment Fee Return* form (PSC/ADM-124), two weeks prior to the filing date. When an extension is granted, a charge shall be added to the amount due:

0.75% of the fee to be remitted for an extension of 15 days or less, or
1.5% of the fee for an extension of 16 to 30 days.

In lieu of paying the charges outlined above, a company may file a return and remit payment based upon estimated gross operating revenues. If such return is filed by the normal due date, the company shall be granted a 30-day extension period in which to file and remit the actual fee due without paying the above charges, provided the estimated fee payment remitted is at least 90% of the actual fee due for the period. An automatic 30-day extension to file an actual return may be obtained by checking the "Estimated Return" space in the top left-hand corner on the reverse side.

5. **FEE ADJUSTMENTS:** You will be notified as to the amount and reason for any adjustment. Penalty and interest charges may be applicable to additional amounts owed the Commission by reason of the adjustment. The company may file a written request for a refund of any overpayments. The request should be directed to Fiscal Services at the below-referenced address.
6. **MAILING INSTRUCTIONS:** Please complete this form, make a copy for your records, and return the original in the enclosed preaddressed envelope. Use of this envelope should assure a more accurate and expeditious recording of your payment. **Make your check payable to the Florida Public Service Commission.** If you are unable to use the envelope, please address your remittance as follows:

Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 ATTENTION: Fiscal Services
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7. **ADDITIONAL ASSISTANCE:** If you need additional information or assistance in preparing your Regulatory Assessment Fee Return, please contact the Division of Auditing and Financial Analysis at (850) 413-6480.

For assistance with Item 9, please contact the Division of Communications at (850) 413-6502.

Both divisions may be contacted at the above-referenced address, directing correspondence to the attention of the division.

25-24.514 Cancellation of a Certificate.

- (1) The Commission may cancel a company's certificate for any of the following reasons:
 - (a) Violation of the terms and conditions under which the authority was originally granted;
 - (b) Violation of Commission rules or orders;
 - (c) Violation of Florida Statutes; or,
 - (d) Failure to provide service for a period of six (6) months.

- (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.

- (3) Cancellation of a certificate shall be ordered subject to the holder providing the information required by subsection (2).

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 350.127(1), 364.03, 364.285, 364.337, 364.345 FS.

History--New 1-5-87.

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 ½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

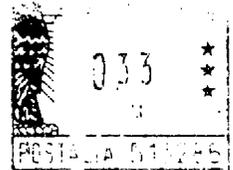
(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

FLORIDA PUBLIC SERVICE COMMISSION
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850



POSTAGE WILL BE PAID BY ADDRESSEE
FIRST CLASS PERMIT NO. 1000 FT. LAUDERDALE, FL
FT 6002
CARRIER - E.C.

TG424
National Payphone of Florida
3948 N.E. 169th Street
North Miami Beach, FL 33160-3212

2000 APR -4 AM 10:27
COMMUNICATIONS

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850



- RETURN TO SENDER
- RETURN TO ADDRESSEE
- RETURN TO POST OFFICE
- UNCLAIMED
- NO POSTAGE
- NO SUFFICIENT POSTAGE
- NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES
- ADDRESSES CHANGED
- NO POSTAGE REQUIRED

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National Payphone of Florida
3948 N.E. 169th Street
North Miami Beach FL 33160-3212

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CARRIER-E.C.

State of Florida
Public Service Commission

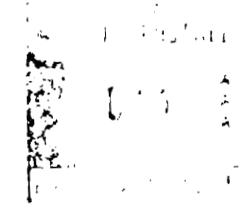
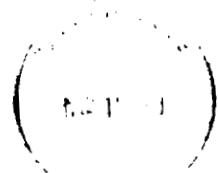
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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(George Leyva dba)

March 14, 2000

National Payphone of Florida
3948 N.E. 169th Street
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