

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
PATS Certificate No. 5569 issued
to Timothy J. Bryant d/b/a
Brytel Communications for
violation of Rule No. 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 001037-TC
ORDER NO. PSC-01-0186-FOF-TC
ISSUED: January 22, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER RENDERING ORDER NO. PSC-00-1787-PAA-TC
FINAL AND CLOSING DOCKET

BY THE COMMISSION:

Timothy J. Bryant d/b/a Brytel Communications (Brytel)
currently holds Certificate of Public Convenience and Necessity No.
5569, issued on February 7, 1998, authorizing the provision of Pay
Telephone service (PATS).

The Division of Administration advised our staff by memorandum
that Brytel 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 1999. Also, accrued
statutory penalties and interest charges for late RAFs payments for
the years 1998 and 1999 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

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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 our rules governing PATS service.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms, for the period of January 1, through December 31, are mailed to the entities at least 45 days prior to the date that payment of the fee is due. Brytel has been given adequate opportunity to pay.

Therefore, by Order No. PSC-00-1787-PAA-TC, issued on September 29, 2000, we imposed a \$500 fine or canceled the company's certificate for violation of Rule 25-4.0161, Florida Administrative Code, and Section 364.336, Florida Statutes. Failure to comply or protest the Order would result in the cancellation of its certificate. Order No. PSC-00-1787-PAA-TC was never consummated because Brytel responded to the Order on October 6, 2000. Brytel indicated that it had not pursued the pay telephone business since its certificate was issued. Further, Brytel indicated that there should not be any penalties regarding the certification. Further, Brytel asserts that a letter was issued in 1998 stating the request for cancellation of its certificate 5569.

Our staff obtained a copy of Brytel's 1998 RAF Return and copy of its check dated February 11, 1999 for the minimum \$50 fee. The RAF return showed no payphones in operation at the end of the period covered, December 31, 1998, but there was also no notation on the RAF return or check requesting cancellation of the certificate. In addition, our staff confirmed with the Division of Administration that no correspondence was received with the RAF Return and payment.

On October 30, 2000, our staff wrote Brytel and explained that the Commission did not have record of receiving any request for cancellation of its' certificate. Our staff requested a copy of Brytel's 1998 correspondence requesting cancellation of the certificate so that it could be reviewed. As of December 13, 2000, the Commission has not heard from Brytel.

ORDER NO. PSC-01-0186-FOF-TC
DOCKET NO. 001037-TC
PAGE 3

We note that Brytel's response to the Commission's Proposed Agency Action did not comply with Rule 28-106.201, Florida Administrative Code, and did not request a hearing. Instead, Brytel advised that it had previously requested a cancellation of its certificate. Therefore, for the reasons described above, we find it appropriate to render Order No. PSC-00-1787-PAA-TC a Final Order. If Brytel fails to pay in full the required fees, including statutory penalty and interest charges, within five business days of the issuance of this Order, Brytel's Certificate No. 5569 shall be canceled effective October 6, 2000 and in accordance with Order No. PSC-00-1787-PAA-TC. Whether or not Brytel pays the required fine, this docket shall be closed upon the expiration of the five business days as no further action by the Commission is required. If Brytel fails to pay the 1999 RAFs, plus the 1998 and 1999 statutory penalty and interest charges, the unpaid fees should be forwarded to the Office of Comptroller for further collection efforts. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-00-1787-PAA-TC is hereby rendered final and effective as of the date of the issuance of this Order. It is further

ORDERED that Timothy J. Bryant d/b/a Brytel Communications must pay a \$500 fine, as required by Order No. PSC-00-1787-PAA-TC, within five business days of the issuance of this Order. It is further

ORDERED that should Timothy J. Bryant d/b/a Brytel Communications not pay the required \$500 fine, the 1999 RAFs and the statutory penalty and interest charges for 1998 and 1999, the unpaid fees shall be forwarded to Office of the Comptroller for further collection. It is further

ORDERED that should Timothy J. Bryant d/b/a Brytel Communications fail to comply with this Order, Timothy J. Bryant d/b/a Brytel Communications' Certificate No. 5569 shall be canceled administratively, and this Docket shall be closed. It is further

ORDER NO. PSC-01-0186-FOF-TC
DOCKET NO. 001037-TC
PAGE 4

ORDERED that this docket shall be closed five business days from the issuance date of this Order.

By ORDER of the Florida Public Service Commission this 22nd day of January, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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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

ORDER NO. PSC-01-0186-FOF-TC

DOCKET NO. 001037-TC

PAGE 5

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.