

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 6053
issued to Royal Payphones, Inc.
for violation of Rules 25-
4.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies;
25-4.043, F.A.C., Response to
Commission Staff Inquiries; and
25-24.520, F.A.C., Reporting
Requirements.

DOCKET NO. 010096-TC
ORDER NO. PSC-01-1031-PAA-TC
ISSUED: April 26, 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

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING PAY TELEPHONE CERTIFICATE
FOR VIOLATION OF RULES 25-4.0161, 25-4.043, AND
25-24.520, FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein, cancelling pay
telephone certificate, 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.

DOCUMENT NUMBER-DATE

05212 APR 26 2001

REG. REPORTS/REPORTING

BACKGROUND

On April 20, 1999, Royal Payphones, Inc. (Royal Payphones) was granted Certificate No. 6053 to provide pay telephone services in the State of Florida. On March 07, 2000, Royal Payphones reported intrastate operating revenues of \$241,965 for the period of January 01, 1999 through December 31, 1999 on its Regulatory Assessment Fee Return.

The Division of Records and Reporting sent Royal Payphones an information update request letter on April 14, 2000. From September 6, 2000 through November 16, 2000, our staff conducted evaluations of eight pay telephones operated by Royal Payphones and subsequently mailed four letters (two certified) to Royal Payphones informing the company of pay telephone service violations pursuant to Rule 25-24.515, Florida Administrative Code, and requesting that Royal Payphones submit the necessary violation correction forms to our staff.

On November 17, 2000, our staff called Mr. Blake Harbison of Royal Payphones and he requested that our staff fax the letters and the pay telephone evaluation forms to him. Mr. Harbison also stated he is removing the pay telephones and he would fax a response. On November 30, 2000, both certified letters mailed on November 14 and 16 were returned to the Florida Public Service Commission (FPSC) marked "refused" on the envelope. A notice informing the sender of a new address was also pasted on the envelope. Apparently, Royal Payphones has not updated its mailing address in violation of Rule 25-24.520, Florida Administrative Code.

The information was faxed to Royal Payphones again on December 1, 2000. Royal Payphones was contacted on December 5, 2000 and Mr. Harrison stated that he would fill out the violation correction forms and mail them to this Commission.

The 2000 Regulatory Assessment Fee (RAF) notice was mailed on December 12, 2001, by the Division of Administration with payment due by January 30, 2001. Mr. Harbison was contacted on December 13, 2000 and he stated that he would fax the information.

On December 19, 2000, the telephone numbers for each of the eight pay telephones in question were dialed and it was determined

that all of the lines have been disconnected. Because the phones are not in service, a show cause for payphone service violations is not necessary.

A certified letter was mailed to Royal Payphones on December 20, 2000, requesting a response to the pay telephone evaluations and inquiring about the status of Royal Payphones operations. The certified letter was returned and marked "refused" on January 8, 2001. This docket was opened on January 24, 2001, to initiate cancellation of Royal Payphones' Certificate of Public Convenience and Necessity.

The Division of Administration mailed a delinquent RAF notice on February 21, 2001. As of March 19, 2001, the past due RAFs, including statutory penalty and interest charges, remain unpaid.

This Commission is vested with jurisdiction over these matters pursuant to Sections 364.17, 364.183, 364.336, 364.3375, and 364.285, Florida Statutes.

CANCELLATION OF PAY TELEPHONE CERTIFICATE

Section 364.285, Florida Statutes, authorizes this Commission to impose a fine or revoke a company's certificate if a company refuses to comply with our rules. Rule 25-24.514(1)(b), Florida Administrative Code, authorizes this Commission to cancel a company's certificate for violation of Commission Rules or Orders. Royal Payphones has apparently violated three of the our rules.

1. Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of Administration's records show that Royal Payphones has not paid its 2000 RAF, plus statutory penalty and interest charges. RAFs for the calendar year 2000 were due by January 30, 2001, and those fees are currently unpaid. Consequently, it appears that Royal Payphones has not complied with Rule 25-4.0161, Florida Administrative Code.

2. Rule 25-4.043, Florida Administrative Code, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

We have given Royal Payphones several opportunities to reply to pay telephone service evaluations and return the necessary violation correction forms. We have sent two letters, three certified letters, two faxes, and called the company six times to solicit a written reply. The three certified letters were refused by the addressee. The first two letters were sent to the address listed in the Master Commission Directory (MCD). The third certified letter, dated December 20, 2000, was sent to a new address obtained from a "Notify Sender of New Address" label affixed to the previously returned certified letters. All three certified letters were returned with "returned to sender" stamped on the front of the envelope and "refused" written on the envelope as the reason the letters were returned. On each returned letter, the address was crossed through and the bar code on the bottom of the letter was scratched out with a pen.

In addition, our staff spoke to Mr. Blake Harbison of Royal Payphones on three separate days, and each time, Mr. Harbison stated he would send the necessary replies. Our staff's most recent contact was on December 13, 2000; Mr. Harbison stated he would fax the information. As of March 21, 2001, our staff has not received a fax, or any other written communication from Royal Payphones.

3. Rule 25-24.520, Florida Administrative Code, states:

(1) Each pay telephone service company shall file with the Commission's Division of Telecommunications updated information for the following items within ten days after a change occurs:

(a) The street address of the certificate holder including number, street name, city, state and zip code, and the mailing address if it differs from the street address.

(b) Name, title, and phone number of the individual responsible for contact with the Commission.

On April 14, 2000, the Division of Records and Reporting sent an information update request letter to Royal Payphones. The last update entered into the MCD was on April 20, 1999. Two certified letters sent to Royal Payphones at the address listed in the MCD were refused. On October 17, 2000, our staff had a telephone conversation with Mr. Dan Wilson. Mr. Wilson has submitted pay telephone violation correction forms for Royal Payphones in the past, but is no longer servicing the company's pay telephones. During the conversation, Mr. Wilson informed staff that the new contact person for Royal Payphones is Blake Harbison and provided staff with a telephone number where Mr. Harbison could be reached.

Blake Harbison is apparently the new contact person for Royal Payphones. However, James Harbison is listed as the company liaison in the MCD. The telephone number staff used to call Mr. Blake Harbison is different than the telephone number listed in the MCD. Furthermore, two of the certified letters that were refused and returned had a sticker affixed to the front of the envelope informing the addressee (Royal Payphones) to notify the sender of the new address. Our staff has sent Royal Payphones a certified letter to the address printed on the "notify sender of new address" label informing Royal Payphones that it needed to update its company liaison information, but the letter was refused.

Apparently, the company's mailing address, and the name and telephone number of the individual responsible for contact with this Commission have changed. Royal Payphones has not filed the required updated information with the Commission within ten days of the change, and is therefore in apparent violation of Rule 25-24.520, Florida Administrative Code.

Based on Royal Payphones' apparent disregard of our inquiries and other apparent rules violations, and the fact that the pay telephone stations Royal Payphones had been operating are disconnected, we find that Royal Payphones has apparently ceased operations in Florida. Therefore, we hereby cancel Royal Payphones' Pay Telephone Certificate No. 6053 for apparent violation of Rules 25-4.0161, 25-4.043, and 25-24.520, Florida Administrative Code. If the Proposed Agency Action is not protested within 21 days of issuance, the company's certificate shall be canceled administratively upon issuance of the Consummating Order. If the past due regulatory assessment fees, including statutory penalty and interest charges, are not received

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within five business days after issuance of the Consummating Order, the amount shall be forwarded to the Office of the Comptroller for collection.

If no timely protest to this proposed agency action is filed within 21 days of the date of issuance of this Order, this docket shall be closed upon the issuance of the Consummating Order and the cancellation of Pay Telephone Certificate No. 6053.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Royal Payphones, Inc.'s Certificate No. 6053 to provide Pay Telephone services shall be canceled upon the issuance of a Consummating Order. It is further

ORDERED that the provision of this Order, cancelling Certificate No. 6053 to provide Pay Telephone services, is issued as proposed agency action and 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 Royal Payphones, Inc. shall return to this Commission the Order granting authority to provide Pay Telephone services and remit Regulatory Assessment Fees for the year 2000. It is further

ORDERED that if the past due regulatory assessment fees, including statutory penalty and interest charges, are not received within five business days after issuance of the Consummating Order, the amount shall be forwarded to the Office of the Comptroller for collection. It is further

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

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By ORDER of the Florida Public Service Commission this 26th
day of April, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JKF

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 May 17, 2001.

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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.