

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of Pay  
Telephone Certificate No. 7053  
issued to Anthony Narducci for  
violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 001150-TC  
ORDER NO. PSC-01-1157-FOF-TC  
ISSUED: May 21, 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 DENYING SETTLEMENT OFFER AND RENDERING  
ORDER NO. PSC-00-1788-PAA-TC FINAL AND CLOSING DOCKET

BY THE COMMISSION:

Anthony Narducci ("Narducci" or "Company") was granted  
Certificate No. 7053, issued on July 6, 1999, authorizing the  
provision of Pay Telephone service (PATS).

On December 8, 1999, the Division of Administration (DOA)  
mailed the 1999 Regulatory Assessment Fee (RAF) return notice.  
Payment was due by January 31, 2000. The DOA mailed the delinquent  
notice for the 1999 RAF on February 29, 2000.

On September 29, 2000, Order No. PSC-00-1788-PAA-TC was  
issued, which imposed a \$500 fine. The company had until October  
20, 2000, to pay the past due fee, including penalty and interest  
charges, and either pay the \$500 fine or protest the Order. The  
Commission received the company's payment for the 1999 RAF,

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including penalty and interest charges and the company's proposed a settlement on October 20, 2000.

On December 12, 2000, the DOA mailed the 2000 RAF return notice. Payment was due by January 30, 2001. We received the company's 2000 RAF, including penalty and interest charges on February 15, 2001. The company reported revenues in the amount of \$5,552.18 for the period ended December 31, 2000. On February 1, 2001, our staff wrote the company requesting additional information regarding company's settlement offer and advised company that its proposed settlement of \$50 was not one that staff could recommend accepting since it was not consistent with the Commission's previous actions. The company has not provided the additional information requested by our staff.

Pursuant to Section 364.285, Florida Statutes, we may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.514, Florida Administrative Code, establishes the requirements for cancellation of a pay telephone service company certificate. The rule allows us to cancel a certificate on our own motion for violation of Commission Rules and Orders.

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.

Order No. PSC-00-1788-PAA-TC, issued on September 29, 2000, was never consummated because the company paid the 1999 RAF, including penalty and interest charges. In addition, the company included a copy of the 1999 RAF return, which Mr. Narducci stated he had originally mailed to the Commission on March 31, 2000, although we never received it. Mr. Narducci proposed to pay future RAFs on a timely basis and offered to pay a \$50 settlement. The \$50 proposed settlement was not consistent with prior Commission decisions, therefore, our staff called Mr. Narducci. Mr. Narducci stated that he would either provide this Commission with a copy of his check register showing that he had written a check to the

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Commission on March 31, 2000 in the amount of \$59 or increase the settlement amount.

On November 13, 2000, we received a copy of Mr. Narducci's check register showing Check No. 7178 was made out to the Commission in the amount of \$59. After further review, our staff wrote Mr. Narducci on February 1, 2001 and explained that staff could not recommend acceptance of his settlement offer since the copy of check register was insufficient and because the 2000 RAF was now past due. Our staff advised Mr. Narducci that he had three options. One, Mr. Narducci could increase the settlement amount to an amount consistent with prior Commission decisions. Two, he could pursue the \$50 settlement by providing additional documentation proving that Check No. 7178 had not cleared his bank. Or, three, he could pursue the \$50 settlement without providing additional documentation. Mr. Narducci was advised that if he selected the third option, our staff would recommend denial of his settlement offer, which could result in the Commission requiring that the \$500 fine previously imposed would have to be paid. On February 15, the company mailed its 2000 RAF, including penalty and interest charges, but did not provide any additional documentation or increase the settlement amount.

Therefore, we hereby deny the company's settlement offer, which proposed to pay a \$50 contribution and future regulatory assessment fees on a timely basis. In addition, the company has failed to respond to Order No. PSC-00-1788-PAA-TC in accordance with Rule 25-22.029, Florida Administrative Code, by requesting a hearing. Therefore, we find it appropriate to render Order No. PSC-00-1788-PAA-TC, a Final Order. If the company fails to pay the \$500 fine within five business days of the issuance of this Order, Certificate No. 7053 shall be cancelled in accordance with Order No. PSC-00-1788-PAA-TC. If the fine is paid, it shall be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. Whether or not Narducci pays the required fine, this docket shall be closed upon the expiration of five business days after the issuance of this Order.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Anthony Narducci's proposed settlement offer is hereby denied. It is further

ORDERED that Order No. PSC-00-1788-PAA-TC is hereby rendered final and effective as of the date of the issuance of this Order. It is further

ORDERED that Anthony Narducci shall pay a \$500 fine, as required by Order No. PSC-00-1788-PAA-TC, within five business days of the issuance of this Order. It is further

ORDERED that should Anthony Narducci fail to comply with this Order, Anthony Narducci's Certificate No. 7053 shall be canceled administratively, and this Docket shall be closed. It is further

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 21st day of May, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

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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.