

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
PATS Certificate No. 4589 issued
to Jeff & Sandi Lund d/b/a Lund
Communications for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 020479-TC
ORDER NO. PSC-02-0944-PAA-TC
ISSUED: July 15, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING PAY TELEPHONE CERTIFICATE INVOLUNTARILY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein 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.

Jeff & Sandi Lund d/b/a Lund Communications (Lund
Communications) currently holds Certificate of Public Convenience
and Necessity No. 4589, issued by the Commission on April 20, 1996,
authorizing the provision of Pay Telephone service. The Division
of the Commission Clerk and Administrative Services advised our
staff that Lund Communications 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 2002.

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. All entities that apply for certification receive a copy of our rules governing PATS service.

On March 11, 2002, Mr. Jeff Lund, co-owner, called our staff and stated that he had forgotten to notify the Commission that he was no longer in the payphone business. He asked our staff to mail him the 2002 RAF return form. Our staff explained that he would need to notify the Commission in writing that he is requesting cancellation of his certificate. The 2002 RAF return form was mailed on March 11, 2002.

On April 1, 2002, the Commission received a note from the company requesting cancellation of its certificate. The company did not include payment of the 2002 RAF or provide a date certain it would be paid. As of June 19, 2002, the 2002 RAF has not been paid and the company has not complied with Rule 25-24.514, Florida Administrative Code.

Lund Communications has not complied with Rule 25-24.514(2), Florida Administrative Code, which states:

(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.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.514(2), Florida Administrative Code, or we involuntarily cancel the certificate, Lund Communications is responsible for the RAFs. As of July 8, 2002, Lund Communications continues to be in violation of our rules for nonpayment of RAFs for the year 2002.

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For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we deny Lund Communications's request for voluntary cancellation of PATS Certificate No. 4589 for failure to comply with the provisions of Rule 25-24.514(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Lund Communications's certificate, effective March 11, 2002, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since Lund Communications is no longer in business, there would be no purpose in requiring Lund Communications to pay a penalty. By involuntarily canceling Lund Communications's certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes Lund Communications's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. If Lund Communications's certificate is canceled in accordance with this Order, Lund Communications shall immediately cease and desist providing PATS services in Florida. We are 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 we hereby deny Jeff & Sandi Lund d/b/a Lund Communications's request for voluntary cancellation of Pay Telephone Certificate No. 4589. It is further

ORDERED that pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we hereby cancel Jeff & Sandi Lund d/b/a Lund Communications's Pay Telephone Certificate No. 4589, effective March 11, 2002, for failure to comply with Rule 25-24.514(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the cancellation of the certificate in no way diminishes Jeff & Sandi Lund d/b/a Lund Communications's obligation to pay applicable delinquent Regulatory Assessment Fees, and any accrued statutory penalties and interest charges. The collection

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of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. It is further

ORDERED that if Jeff & Sandi Lund d/b/a Lund Communications's certificate is canceled in accordance with this Order, Jeff & Sandi Lund d/b/a Lund Communications shall immediately cease and desist providing Pay Telephone services in Florida. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, 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 the Commission Clerk and Administrative Services, 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th Day of July, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(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 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 5, 2002.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.