



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M- COMMISSION CLERK

DATE: April 6, 2004 040000
TO: Karen Belcher, Finance and Accounting Director III, Division of Commission Clerk and Administrative Services
FROM: Victor S. McKay, Research Assistant, Office of the General Counsel *VSM AK*
RE: Docket No. 030073-TC – Bankruptcy cancellation by the Florida Public Service Commission of PATS Certificate No. 783 issued to Elcotel, Inc., effective December 31, 2002

Request for Permission from Department of Financial Services to Write-Off the RAFs for the year(s) 1997 and 2002 for Elcotel, Inc. (TC696).

On January 24, 2003, Docket No. 030073-TC was established to address TC696's failure to remit RAFs for the year(s) 1997 and 2002. By Order No. PSC-03-0402-PAA-TC, issued on March 24, 2003, the Commission approved the cancellation of TC696's Pay Telephone Certificate No. 783. The Commission further ordered that the outstanding Regulatory Assessment Fees not be sent to the Department of Financial Services for collection, but instead, that the Division of the Commission Clerk and Administrative Services should request permission to write-off the uncollectible amount.

Therefore, staff requests that Bureau of Administrative Services/Fiscal Services Section take the appropriate steps to seek permission from the Department of Financial Services to write-off the uncollectible RAFs for the year(s) 1997 and 2002 for TC696.

VSM

cc: Paula Isler

I:030072rafmemovsm.doc

- AUS _____
- CAF _____
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- MMS _____
- SEC 1
- OTH _____

DOCUMENT NUMBER-DATE

04368 APR-7 3

FPSC-COMMISSION CLERK

**STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
BUREAU OF ACCOUNTING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL
(PLEASE PRINT OR TYPE)**

AGENCY FLORIDA PUBLIC SERVICE COMMISSION DATE APRIL 1, 2004 PAGE 1 OF 2
 CONTACT KAREN BELCHER, FINANCE AND ACCOUNTING DIRECTOR III
 PHONE NUMBER (850) 413-6273
 FLAIR ACCOUNT CODE SAMAS ACCOUNT CODES: 61 50 2 573003 610100 00 000300
61 74 1 000331 610100 00 001200

1. 030073-TC Elcotel, Inc.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
6428 Parkland Drive, Sarasota, FL. 34243-4074					
Last Known Address (Include Zip)					
941-756-6475		0		2.50/.50	3.00
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
§364.366, F.S., §350.113, F.S., Rule 25-4.0161, F.A.C					1997
Penalty/Interest Authority				Date Debt Incurred	Debt Type
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

2. 030073-TC Elcotel, Inc.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
6428 Parkland Drive, Sarasota, FL. 34243-4074					
Last Known Address (Include Zip)					
941-756-6475		50.00		12.50/6.50	69.00
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
§364.366, F.S., §350.113, F.S., Rule 25-4.0161, F.A.C					2002
Penalty/Interest Authority				Date Debt Incurred	Debt Type
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

****DEBIT TYPE CODE****

1. RETURNED CHECK 2. NONPAYMENT FOR STATE GOODS/SERVICES 3. DAMAGE TO STATE PROPERTY
 7. COURT ORDER 8. FINES 9. OVERPAYMENT OF STATE FUNDS

GENERAL INSTRUCTIONS

Provide as much information as possible for each account or returned check listed. Names should include legal entities as well as individuals. Principal Amount is the original amount of the debt excluding any service charge, penalty, and/or interest. Penalty/Interest Amount is the amount of the service charge, penalty, and/or interest due to date on the delinquent account or returned check. For those accounts subject to interest charges, please indicate the interest rate, method of calculation, and whether the rate is subject to change. Penalty/Interest Authority is the Florida Statutory and/or Florida Administrative Code citation authorizing the service charge, penalty, and/or interest on delinquent accounts and returned checks. Date Incurred is the date the account became delinquent: e.g., the date a check was returned marked NSF, the date an invoice was due to be paid, etc. Debt Type must be indicated using the codes listed at the bottom of the form.

In order to properly pursue a delinquent account the Bureau of Accounting and the collection agency, if used, require pertinent information about the debt and debtor. Such information regarding the debt should be provided in the area titled Debt Description and include the purpose of the original payment by check; type of goods/services provided; what, when, and where State property was damaged; when, why and what court ordered a payment; when and why a fine was issued; for what and when were State funds overpaid; etc. Additional Information about the debtor should include, if available, date of birth, driver license number, credit card type and number, names and addresses of relatives, and any other information that may be used to locate the debtor. The more the Bureau and the collection agency know about the debt and debtor the more likely the recovery of the debt.

To facilitate the transfer of moneys collected, each agency shall designate one FLAIR revenue account code to which all moneys will be transferred by the journal transfer. Agencies will be provided a detailed listing of amounts collected and collection fees charged for each amount. The Department will also provide instructions in accordance with Generally Accepted Accounting Principles on the appropriate method of recording the difference between any moneys collected and the amount of the delinquent account: i.e., treat the difference as cost of collection or provide approval for adjusting the balance of the account pursuant to Section 17.04, Florida Statutes.

Forms and Questions should be addressed to:

Department of Financial Services

Bureau of Accounting
Room 414 Fletcher Building
200 East Gaines Street
Tallahassee, Florida 32399-0354
(850) 410-9346 / SC 210-9346

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission of PATS Certificate
No. 783 issued to Elcotel, Inc.,
effective 12/31/02.

DOCKET NO. 030073-TC
ORDER NO. PSC-03-0402-PAA-TC
ISSUED: March 24, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CANCELLATION OF PAY TELEPHONE
CERTIFICATE DUE TO CHAPTER 11 BANKRUPTCY

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.

Elcotel, Inc. (Elcotel) currently holds Certificate of Public Convenience and Necessity No. 783, issued by the Commission on 03/28/1986, authorizing the provision of Pay Telephone service.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF of \$50 if the certificate was 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 of our rules governing Pay Telephone service.

On January 23, 2001, the Commission received notice that Elcotel, Inc. had filed for Chapter 11 bankruptcy protection. On January 17, 2003, the Commission received a letter from Mr. William H. Thompson, Trustee for Elcotel, Inc., which advised that the company sold its assets and liquidated its business on December 31, 2001, and requested cancellation of its PAT certificate. In addition, the company stated that it did not have any resources to pay the 2002 Regulatory Assessment Fee.

Therefore, staff believes the Commission should grant the company a bankruptcy cancellation of its PAT Certificate No. 783 with an effective date of December 31, 2002. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2002 RAF and 1997 penalty and interest charges should not be sent to the Florida Department of Financial Services for collection, but that permission for the Commission to write-off the uncollectible amount should be requested. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone services in Florida.

Chapter 11 of Section 109 of the Federal Bankruptcy Code provides for reorganization by business entities. The filing of a bankruptcy petition under Chapter 11 invokes an automatic injunction known as the Automatic Stay, codified in Bankruptcy Code Section 362. Section 362(b)(4) provides that, for governments, the filing of the petition does not operate as a stay of the enforcement of a judgment, other than a money judgment, obtained in an actual proceeding by a governmental unit to enforce such governmental unit's police or regulatory power. Thus, it would appear that we are not enjoined from exercising our police powers to protect public health, safety and welfare, but are enjoined from exercising our regulatory authority seeking to collect a prepetition debt. However, in this case, the company has requested cancellation of its certificate. Under those circumstances, this Commission is free to do so. We note that the Division of the Commission Clerk and Administrative Services will be notified that the past due RAFs should not be sent to the Florida Department of Financial Services for collection, but that permission for the Commission to write-off the uncollectible amount should be requested.

ORDER NO. PSC-03-0402-PAA-TC
DOCKET NO. 030073-TC
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Accordingly, we find it appropriate to cancel Pay Telephone Certificate No. 783, effective 12/31/02. If Elcotel's certificate is canceled in accordance with this Order, Elcotel shall immediately cease and desist providing Pay Telephone services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Elcotel, Inc.'s Certificate No. 783 to provide Pay Telephone services is hereby canceled, effective 12/31/02. It is further

ORDERED that the outstanding Regulatory Assessment Fees should not be sent to the Florida Department of Financial Services for collection. The Division of the Commission Clerk and Administrative Services, instead, shall request for permission to write-off the uncollectible amount. It is further

ORDERED that if Elcotel, Inc.'s Certificate No. 783 is canceled in accordance with this Order, that entity 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.

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By ORDER of the Florida Public Service Commission this 24th
Day of March, 2003.

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

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

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

VSM

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,

ORDER NO. PSC-03-0402-PAA-TC
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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 April 14, 2003.

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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission of PATS Certificate
No. 783 issued to Elcotel, Inc.,
effective 12/31/02.

DOCKET NO. 030073-TC
ORDER NO. PSC-03-0506-CO-TC
ISSUED: April 17, 2003

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-03-0402-PAA-TC, issued March 24, 2003, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order, in regard to the above mentioned docket. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-03-0402-PAA-TC has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 17th day of April, 2003.

/s/ Blanca S. Bayó

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

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

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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 judicial review of Commission orders that is available pursuant to Section 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 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 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 the Commission Clerk and Administrative Services 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.