

State of Florida



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-

DATE: May 2, 2005
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Lee Fordham, Senior Attorney, Office of the General Counsel *L.F. BLC*
RE: Request for Permission from Department of Financial Services to Write-Off the Penalty Imposed on Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Docket No. 040703-TC - Bankruptcy cancellation by Florida Public Service Commission of PATS Certificate No. 5878 issued to Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC. effective 4/2/04.

On July 7, 2004, Docket No. 040703-TC was established to address Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC's ("Phoenix") violations of Sections 364.366 and 350.113, Florida Statutes and Rule 25-4.0161, F.A.C. Phoenix failed to remit the penalty levied by Order No. PSC-04-0961-PAA-TC, issued on October 1, 2004. The Commission further ordered that Phoenix should cease and desist providing pay telephone service in Florida. The Commission further ordered that the outstanding penalty be sent to the Department of Financial Services for collection, and, 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 penalty for Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC.

LF/js

cc: Paula Isler
Karen Belcher

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DOCUMENT NUMBER-DATE

04282 MAY-2 05

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 May 2, 2005 PAGE 1 OF 2
 CONTACT KAREN BELCHER, DIRECTOR, FISCAL SERVICES
 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. Docket No. 040703-TC Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
1490 West fork Drive, Suite G; Lithia Springs, GA 30122-1507					
Last Known Address (Include Zip)					
770-819-1600				\$5.00/\$1.00	\$6.00
Home Telephone	Work Phone	Principal Amount	Penalty/Interest	Amount	Total
Sections 364.366 & 350.113, F.S., Rule 25-4.0161, F.A.C.		1998			8
Penalty/Interest Authority		Date Debt Incurred		Debt Type	
Regulatory Assessment Fees					
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

2. Docket No. 040703-TC Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
1490 West fork Drive, Suite G; Lithia Springs, GA 30122-1507					
Last Known Address (Include Zip)					
770-819-1600				\$50.00 \$12.50/\$19.50	\$82.00
Home Telephone	Work Phone	Principal Amount	Penalty/Interest	Amount	Total
Sections 364.366 & 350.113, F.S., Rule 25-4.0161, F.A.C.		2000			8
Penalty/Interest Authority		Date Debt Incurred		Debt Type	
Regulatory Assessment Fees					
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

3. Docket No. 040703-TC Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
1490 West fork Drive, Suite G; Lithia Springs, GA 30122-1507					
Last Known Address (Include Zip)					
770-819-1600				\$50.00 \$12.50/\$13.50	\$76.00
Home Telephone	Work Phone	Principal Amount	Penalty/Interest	Amount	Total
Sections 364.366 & 350.113, F.S., Rule 25-4.0161, F.A.C.		2001			8
Penalty/Interest Authority		Date Debt Incurred		Debt Type	
Regulatory Assessment Fees					
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

**STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
BUREAU OF ACCOUNTING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL
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AGENCY FLORIDA PUBLIC SERVICE COMMISSION DATE May 2, 2005 PAGE 2 OF 2
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4. Docket No. 040703-TC Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
1490 West fork Drive, Suite G; Lithia Springs, GA 30122-1507					
Last Known Address (Include Zip)					
770-819-1600		\$50.00		\$12.50/\$7.50	\$70.00
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
Sections 364.366 & 350.113, F.S., Rule 25-4.0161, F.A.C. 2002					8
Penalty/Interest Authority		Date Debt Incurred		Debt Type	
Regulatory Assessment Fees					
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

5. Docket No. 040703-TC Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
1490 West fork Drive, Suite G; Lithia Springs, GA 30122-1507					
Last Known Address (Include Zip)					
770-819-1600		\$50.00		\$7.50/\$1.50	\$59.00
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
Sections 364.366 & 350.113, F.S., Rule 25-4.0161, F.A.C. 2003					8
Penalty/Interest Authority		Date Debt Incurred		Debt Type	
Regulatory Assessment Fees					
Debt Description, e.g., Drivers License, Property Damage					
Additional Information, e.g., Date of Birth, Drivers License Number, etc					

6. Docket No. 040703-TC Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
1490 West fork Drive, Suite G; Lithia Springs, GA 30122-1507					
Last Known Address (Include Zip)					
770-819-1600		\$50.00			\$50.00
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
Sections 364.366 & 350.113, F.S., Rule 25-4.0161, F.A.C. 2004					8
Penalty/Interest Authority		Date Debt Incurred		Debt Type	
Regulatory Assessment Fees					
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

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida
Public Service Commission of PATS
Certificate No. 5878 issued to Phoenix
Telecom, LLC d/b/a Phoenix Payphones, LLC,
effective 4/2/04.

DOCKET NO. 040703-TC
ORDER NO. PSC-04-0961-PAA-TC
ISSUED: October 1, 2004

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING CANCELLATION OF CERTIFICATE DUE TO 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.

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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts. Rule 25-24.514, Florida Administrative Code, establishes the requirements for requesting cancellation of a company's pay telephone certificate.

This Docket was opened on July 7, 2004, when we received notice that Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC had filed for Chapter 11 bankruptcy protection. In addition, we also received a letter from the company, which advised that it had no customers and requested cancellation of its certificate and asked that any unpaid Regulatory Assessment Fees (RAFs) be written-off as no funds exist.

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

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ORDER NO. PSC-04-0961-PAA-TC
DOCKET NO. 040703-TC
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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 pre-petition debt. However, in this case, the company has requested cancellation of its pay telephone certificate. Under those circumstances, this Commission is free to do so.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC's request for cancellation of its Florida Public Service Commission PATS Certificate No. 5878 is granted. It is further

ORDERED that, because no funds exist with this company from which to pay same, permission be sought from the Department of Financial Services to write off any unpaid Regulatory Assessment Fees owed this Commission. 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 1st day of October, 2004.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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ORDER NO. PSC-04-0961-PAA-TC
DOCKET NO. 040703-TC
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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 October 22, 2004.

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 PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida Public Service Commission of PATS Certificate No. 5878 issued to Phoenix Telecom, LLC d/b/a Phoenix Payphones, LLC, effective 4/2/04.	DOCKET NO. 040703-TC ORDER NO. PSC-04-0961A-PAA-TC ISSUED: October 5, 2004
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AMENDATORY ORDER

BY THE COMMISSION:

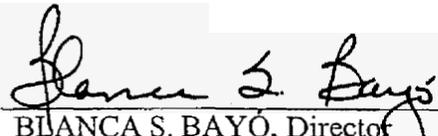
On October 1, 2004, we issued Order No. PSC-04-0961-PAA-TC, granting cancellation of PATS Certificate No. 5878 due to bankruptcy. However, due to a scrivener's error, the specific cancellation date was omitted. Therefore, Order No. PSC-04-0961-PAA-TC is amended to reflect that the effective date of the cancellation shall be April 2, 2004.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-04-0961-PAA-TC is hereby amended to reflect that the effective date of the cancellation shall be April 2, 2004. It is further

ORDERED that Order No. PSC-04-0961-PAA-TC is reaffirmed in all other respects.

By ORDER of the Florida Public Service Commission this 5th day of October, 2004.



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

(SEAL)

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida
Public Service Commission of PATS
Certificate No. 5878 issued to Phoenix
Telecom, LLC d/b/a Phoenix Payphones, LLC,
effective 4/2/04.

DOCKET NO. 040703-TC
ORDER NO. PSC-04-1048-CO-TC
ISSUED: October 26, 2004

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-04-0961-PAA-TC, issued October 1, 2004, and Order No. PSC-04-0961A-PAA-TI, issued October 5, 2004, 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 Nos. PSC-04-0961-PAA-TC and PSC-04-0961A-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 26th day of October, 2004.



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

(SEAL)

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ORDER NO. PSC-04-1048-CO-TC
DOCKET NO. 040703-TC
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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.